**U. S. Environmental Protection Agency**
# E-Clips
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Table of Contents

## Tuesday, May 4, 2010


ADMINISTRATOR JACKSON ..... 3
- Jacksonville, Fla., Selected as One of Nine Environmental Justice Communities (*EP Magazine*) ..... 3
- Obama Holds British Petroleum Responsible For Spill As Administration Struggles With Response (*All Headline News*) ..... 4
- Oil, EPA don't mix at energy hearings (*Ethanol Producer Magazine*) ..... 5
- Spill worries turn to compensation (*Washington Post*) ..... 6
- Administrator returns home 'in a unique position to make a real difference' (*Greenwire*) ..... 8
- Kentucky Permits May Mark Early Showdown Over EPA Mountaintop Guide (*Inside EPA*) ..... 10
- Gulf Oil Spill Creates Complications For Drilling Advocates, Climate Bill (*Inside EPA*) ..... 13
- Is Climate Change a Game Changer for Industry?" (*Waste Age*) ..... 17
- Rush scorches Obama for slow oil-spill response (*WND.com*) ..... 18

EDITORIAL / OP-ED / COMMENTARY / LETTERS ..... 21
- Don't worry about chlorine levels in D.C. water (*Washington Post*) ..... 21
- Flushing out misconceptions about chlorine in D.C. water (*Washington Post*) ..... 22

AIR ..... 23
- Air-quality officials ramp up efforts (*Denver Post*) ..... 23
- New federal rule targets harmful mercury emissions (*Associated Press*) ..... 24
- Story also appeared: *Las Vegas Sun* ..... 24
- EPA's role in BioWatch significantly reduced (*BioPrepWatch.com*) ..... 26
- Penske Chooses Freightliner Cascadia For EPA 2010 (*Truckinginfo*) ..... 26
- Lake County tops state for clean air (*Lake County Record Bee*) ..... 27
- Atlanta Arts Building In National Contest to Save Energy (*GPB*) ..... 28
- New air pollutants rules will cost Wright-Patt (*Dayton Daily News*) ..... 29

AWARDS ..... 30
Region 7 Awards $2 M for Stormwater, Wastewater Projects (*EP Magazine*) ..... 30
CLIMATE CHANGE / GLOBAL WARMING ..... 31
Cuccinelli demands files from U-Va (*Washington Post*) ..... 31
Va. attorney general demands climate researcher's documents (*Greenwire*) ..... 33
ENERGY ..... 34
JCPenney Sets Goal to Reduce Energy Use 20 Percent by 2015 (*Bradenton Herald*) ..... 34
FUEL ..... 36
Maryland researchers turn poplar trees into biofuel (*Baltimore Sun*) ..... 36
GENERAL ..... 40
OPM's OpenGov Plan (*Next Gov*) ..... 40
GRANTS ..... 40
Waterfront project in BF moves ahead (*Brattleboro Reformer*) ..... 40
Bridgeport schools get $25,000 federal grant for recycling (*Bridgeport News)* ..... 42
Brownfields Grants Awarded (*Hartford Courant*) ..... 42
HAZARDOUS WASTE ..... 43
Daniels seeks info on ArcelorMittal waste (*South Bend Tribune*) ..... 43
PESTICIDES ..... 44
EPA gives Pioneer OK for new corn seed (*DesMoines Register*) ..... 44
DuPont says EPA approves Optimum AcreMax I seeds (*Reuters*) ..... 45
POLITICAL ..... 46
Gov't oversight posts remain empty (*Politico*) ..... 46
WATER ..... 49
White House Defends Response To Gulf Oil Leak (*Wall Street Journal*) ..... 49
Let the rivers run through it (*Baltimore Sun*) ..... 50
BP chief defends spill response, blames rig owner for accident (*Greenwire*) ..... 52
Housing bust exacerbates sediment problems (*Greenwire*) ..... 55
Oil Spill Casts Pall Over Offshore-Oil Conference In Houston (*Wall Street Journal*) ..... 56
Tough answer to GE dredging claims (*Albany Times Union*) ..... 58
Dredging peer review panels begin today; EPA posts addendum to evaluation report (*The Saratogian*) ..... 60
OK depends on water tests (*Boston Globe*) ..... 60
Oil Agency Draws Fire (*Wall Street Journal*) ..... 63
EPA launches web tools to inform public about Clean Water Act violations (*Water Tech Online*) ..... 66
Progress toward Gulf oil well cap (*Reuters*) ..... 67
Muddy waters (*The Free Lance-Star*) ..... 70
YUCCA MOUNTAIN ..... 71
The Demise of Yucca Mountain (*Independent Review*) ..... 71

**ADMINISTRATOR JACKSON**

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**Jacksonville, Fla., Selected as One of Nine Environmental Justice Communities (*EP Magazine*)**

- **May 04, 2010**

The U.S. Environmental Protection Agency selected the city of Jacksonville, Fla., as one of 10 communities nationwide to highlight ways to address environmental justice challenges.

As part of this effort, EPA has committed $100,000 to provide seed money for projects in Jacksonville's Health Zone 1 over the next two years. Health Zone 1 encompasses ZIP codes 32202, 32204, 32206, 32208, 32209 and 32254.

EPA Administrator Lisa Jackson announced that, under the initiative, Jacksonville will be one of the national models for EPA's commitment to environmental justice efforts. Environmental justice refers to the disproportionate environmental burdens placed on low-income and minority communities.

Each of the selected showcase communities will use collaborative, community-based approaches to improve public health and the environment.

Over the next two years, EPA will collaborate with a wide range of stakeholders, including residents, community organizations, the city of Jacksonville, Duval County, the state of Florida and other federal agencies to implement public health and environmental improvement projects. The projects may range from efforts that address water quality concerns and increase community capacity for green jobs, to activities that improve indoor air quality in schools and reduce asthma and toxics exposure. EPA signed a memorandum of understanding with Communities in Schools, an organization that strives to address children's unmet needs, to work collaboratively throughout the pilot to address health disparities.

"We can achieve much more collectively, when we combine and leverage our resources, than as stand-alone organizations working independently," said Greg Strong, Florida Department of Environmental Protection's Northeast District director.

The other nine locations selected as Environmental Justice Showcase Communities include: Bridgeport, Conn., Staten Island, N.Y., Washington, D.C., Milwaukee, Wis., Port Arthur, Texas, Kansas City, Mo. and Kansas City, Kan., Salt Lake City, Utah, Los Angeles Area Environmental Enforcement Collaborative, Calif., and Yakima, Wash.

**Obama Holds British Petroleum Responsible For Spill As Administration Struggles With Response (*All Headline News*)**

May 2, 2010 10:16 p.m. EST
Tejinder Singh - AHN News Correspondent
Washington, DC, United States (AHN) - President Barack Obama, standing in front of cameras, in pouring rain minced no words putting the blame squarely on BP, the owner company of the oil well, saying, “BP is responsible for this leak, BP will be paying the bill.”

With rain water dripping from his face, Obama vowed, “Your government will do whatever it takes for as long as it takes to stop this crisis,” cautioning of a “massive and potentially unprecedented environmental disaster,”

During the flight en route Gulf Coast, abroad Air Force One, the White House Press Secretary Robert Gibbs told journalists, “the President has asked this team since the beginning of this incident to do everything humanly possible as aggressively as we can, to manage and deal with this emergency.”

Gibbs reiterated Obama’s determination saying, “he's here today to make sure that we are continuing to do all that is humanly possible, focusing on, as I said, many different aspects, whether it's capping the well, whether it's dealing with the spill as it gets to the surface, and so forth.”

Obama said after a Coast Guard briefing in Venice, a Gulf Coast community serving as a staging area for the response, “we're going to do everything in our power to protect our natural resources, compensate those who have been harmed, rebuild what has been damaged, and help this region persevere like it has done so many times before.”

In the same vein, EPA Administrator Lisa P. Jackson joined President Obama at a briefing with National Oceanic and Atmospheric Administration Jane Lubchenco and Coast Guard Commandant Thad Allen and also held a conference call with New Orleans officials to discuss the importance of coordinating response efforts.

"Local responders and EPA staff in our Emergency Operations Center at headquarters are working around to clock to assess and confront human health concerns, mitigate immediate environmental impacts, and prepare for the long-term effects of the BP Spill. We continue to offer the fullest measure of support to the ongoing response effort,” said Jackson.

"Even in the face of unprecedented challenges, I have been inspired by the hard work and outpouring of support from the local community and around the country. The people of the Gulf Coast -- even at a time of considerable anxiety and anger -- have stepped up to assist the response and lift each other up. Their example of hopeful persistence and

hard work are the standards we must meet as we continue to address the BP Spill," EPA administrator added.

With the oil spill threatening not only the environment but also the region's abundant fishing industry, called respectively as “one of the richest and most beautiful ecosystems on the planet,” and “the heartbeat of the region's economic life,” by Obama, the president promised “to do everything in our power to protect our natural resources, compensate those who have been harmed, rebuild what has been damaged, and help this region persevere like it has done so many times before.”

Read more: http://www.allheadlinenews.com/articles/7018574234#ixzz0mwpGDmWM

From the May 2010 Issue

**Oil, EPA don’t mix at energy hearings (*Ethanol Producer Magazine*)**

by Kris Bevill
Posted May 3, 2010
In his April 28 testimony to the House Subcommittee on Energy and the Environment, Charles Drevna, president of the National Petrochemical & Refiners Association, warned subcommittee members not to financially pressure the domestic oil industry through clean energy policies. “I don’t believe Congress wants to over-tax or over-regulate the industry into extinction, only to see them replaced by their foreign competitors exporting their products to our shores,” he said. “But make no mistake: Overzealous policies could have disastrous effects and become a self-inflicted wound as our country struggles to climb out of the Great Recession,” he added.

The subject of the subcommittee’s hearing was “Clean Energy Policies that Reduce U.S. Dependence on Oil.” Drevna, who was defensive in his testimony from the beginning, suggested that the focus be altered to review “affordable” and “economically sensible” policies, which includes an increase of domestic oil production. “It’s indisputable that petroleum-based fuels are abundant, easily accessible and very efficient,” he said. “Until alternative energy sources can make that claim, we not only should, but must and will continue to use these resources wisely and efficiently for decades to come.”

Drevna painted a grim picture of what the U.S. economy would experience if the U.S. EPA is allowed to regulate GHG emissions under the Clean Air Act. “Regulation of stationary sources under the CAA would overwhelm state and local permitting offices, halting business growth and expansion,” he said. “New business and industry would not be built, and existing business would not expand. Further, refining and petrochemical facility upgrades and related equipment modifications, including those to comply with future fuel regulations and those to modernize facilities, would likely be hamstrung by CAA GHG control regulations and permitting requirements.”

Earlier in the hearing, EPA Administrator Lisa Jackson reminded subcommittee members that if Congress nullifies the EPA's endangerment finding on GHGs, it will also severely impact the U.S. automotive industry by removing the EPA's tailpipe emissions standard. "Eliminating the EPA standard would forfeit one-quarter of the combined EPA-U.S. Department of Transportation program's fuel savings and one-third of its greenhouse gas emissions cuts," Jackson said. "California and other states that have adopted California's greenhouse gas emissions standard would almost certainly respond by enforcing that standard within their jurisdictions, leaving the automobile industry without the nationwide uniformity that it has described as vital to its business."

On the Senate side of the chamber, Energy Secretary Steven Chu testified at a Senate Energy and Water Development Subcommittee hearing April 28, where he stressed the importance of developing a domestic clean energy sector. "China largely missed out on the IT revolution, but it is playing to win in the clean energy race," Chu said. "For the sake of our economy, our security, and our environment, America must develop decisive policies that will allow us not only to compete in this clean energy race, but to become the leader in providing clean energy technology to the world."

Chu recommended that legislators develop policies with two priorities: accelerating innovation and driving private sector investment in clean energy. Among other items, he testified that carbon capture and sequestration barriers need to be addressed and overcome, and that the government must financially support research and development of clean energy technologies.

After reciting his list of recommendations, Chu finished by stating that the one key element which must be included in U.S. energy policy is a cap on carbon emissions that becomes more stringent over time, which will provide industry the regulatory certainty that is currently lacking. He provided an example of a hypothetical utility company that must replace an old, coal-fired power plant, but has to decide whether to make the investment now or later. "Eventually, there will be a [carbon] cost, but if you didn't know when, you would try to limp along with the old coal plant until you knew what the costs would be and how they would be structured," Chu said. "Providing certainty will drive investment and job creation today as well as the changes we need in our energy mix over the long term."

This article originally appeared at www.industrialghg.com

**Spill worries turn to compensation (*Washington Post*)**

May 4, 2010 Tuesday
Suburban Edition
A-SECTION; Pg. A10
Maryland

Spill worries turn to compensation;
Repair work moves ahead Some question what damage BP will pay for

BY: Juliet Eilperin
Even as BP finished construction on one massive containment dome Monday and started drilling a relief well to cope with the oil leaking from crumpled pipes at the bottom of the Gulf of Mexico, lawmakers and Gulf Coast residents began questioning whether the company will take full responsibility for the economic losses stemming from the spill.

The incremental steps forward -- the company finished one four-story, 74-ton dome and hopes to complete two others on Tuesday -- came as company and Obama administration officials predicted it might take up to three months to seal off the spill threatening the Gulf Coast's sensitive ecosystem.

The prospect of an extended leak has intensified concerns over what compensation BP is willing to pay, since a law passed after the 1989 Exxon Valdez spill requires companies to pay for cleanup costs but no more than $75 million for other damage.

BP posted a fact sheet on its Web site saying it will take responsibility for the spill cleanup as well as provide compensation for "legitimate and objectively verifiable" claims for property damage, personal injury and commercial losses. On a day when the stock market rose sharply, the company's shares fell $1.96, or 3.8 percent, to close at $50.19. It was the third worst performing stock in the S&P 500.

In his daily briefing Monday, White House press secretary Robert Gibbs underscored the administration's "commitment" to affected residents that BP will pay them for their economic suffering. "That's part of the law. Absolutely," Gibbs said. "The economic damages that are incurred are part of the cost of this incident. Absolutely."

Also on Monday, four members of Obama's Cabinet -- Homeland Security Secretary Janet Napolitano, Interior Secretary Ken Salazar, **Environmental Protection Agency** Administrator Lisa P. Jackson and Energy Secretary Steven Chu -- met with BP chief executive Tony Hayward and Lamar McKay, BP America chairman and president, to discuss the ongoing response to the spill.

Meanwhile, a group of Democratic senators including Robert Menendez (N.J.) and Bill Nelson (Fla.) introduced legislation Monday to raise oil companies' liability limit retroactively to $10 billion.

The economic implications of the disaster are potentially mammoth -- but highly uncertain. The annual commercial seafood harvest in the gulf is $661 million, recreational fishing contributes $757 million and nearly 8,000 jobs, and tourism related to wildlife adds $517 million, according to the Harte Research Institute for Gulf of Mexico Studies.

It remained unclear Monday how much damage those industries will incur from the oil

spill, and how long that damage will last. The research group estimates that $1.6 billion in annual economic activity is tied to the wetlands directly exposed to the spill.

"The question is if the marshes are impacted and how long they will be impacted," said David Yoskowitz, an economist at the institute. "It's all kind of up in the air right now until we really start to see the oil coming to shore and see what happens. There is no doubt that there will be some economic impact."

If economic activity were reduced by only a few billion dollars, it would be damaging for the regional economies of Louisiana, Mississippi and Alabama, but would be a drop in the bucket of the $14 trillion U.S. economy.

But some analysts see the potential for even more dire outcomes. David R. Kotok, chief investment officer of Cumberland Advisors, laid out scenarios in a note to clients that range from damages in the tens of billions of dollars and years of cleanup to a cost in the hundreds of billions of dollars that leaves the gulf as a "damaged sea" for a generation.

The spill, he said, has made the likelihood of a dip back into recession higher than it had been. "A 'double-dip' recession probably has been made more likely by this tragedy," Kotok wrote.

Staff writers Neil Irwin, Joel Achenbach and Steven Mufson contributed to this report.

**Administrator returns home 'in a unique position to make a real difference' (*Greenwire*)**

(05/03/2010)
Robin Bravender, E&E reporter
SHELL BEACH, La. -- Lisa Jackson remembers fishing with her father and her older brother in this tiny town about 30 miles east of her native New Orleans.

Now the U.S. EPA administrator, Jackson returned to the village in the wake of a massive oil spill that threatens to devastate Gulf Coast fisheries and tourism.

Louisiana shut down fishing last week, and the Obama administration restricted fishing yesterday for at least 10 days in federal waters, where oil is gushing from BP PLC's capsized Deepwater Horizon rig. BP and federal officials are struggling to stem the flow of oil and to mitigate its threat to natural resources and the regional economy.

Jackson walked through a parking lot paved with crushed oyster shells here Saturday, greeting fishermen who are hoping to be hired by BP to assist with the cleanup efforts. Jackson and other officials have been urging the oil giant to hire fishermen to help lay

booms in the effort to keep oil out of the marshes and away from other sensitive marine resources.

The trip here was one of several in Louisiana after she was dispatched as part of the White House's oil-response team. Throughout the weekend, she met with state and local officials and with community and religious leaders and joined President Obama during his visit to the Gulf Coast yesterday.

Jackson's agency is monitoring regional air and water quality. It is also prepared to assist with the cleanup once the oil reaches the shoreline.

In the meantime, Jackson, who grew up in New Orleans' Pontchartrain Park, said she is hoping to soothe a community ravaged by environmental disasters, most notably, Hurricane Katrina in 2005.

"There's a sense of sort of panic and fear in their eyes that isn't normal for an oil spill, even normal for a hurricane," she said. "But this is like another repeat concern."

At a meeting Saturday with community members in New Orleans' Lower 9th Ward -- one of the areas hit hardest by post-Katrina flooding -- scared and angry residents pressed Jackson about what they called a scarcity of information about the oil spill.

Residents say they want to be included in the spill recovery in a way they believe they were excluded after Katrina. "We need to have people that we can trust to bring information to us," Mary Fontenot of the group All Congregations Together told Jackson.

Alice Craft-Kerney of the Lower 9th Ward Health Clinic urged the administration to protect the mental health of residents affected by the spill. "We are not well," she told Jackson.

The spill is not adding insult to injury, she said, "it's adding injury to injury."

In an interview after the meeting, Jackson said she feels determined to reach out to Gulf Coast communities.

"We're dealing with a population that needs extra love and extra attention and consideration because of what they have been through," Jackson said.

"They just feel like they've been through wars, so they're overly sensitized," she said. "Everything causes them to be panicky and prickly and a little bit paranoid because they don't know who to trust, and they don't know if really there's something much worse going on but they're just not being told because people don't want them to know, and that's all fair."

That is part of the reason that BP hiring fishermen is a victory, she said.

"They're being mobilized to actually respond, so they're not standing on the side just feeling like they've been swooped in on," she said.

Jackson said she is glad she can be here to offer her support during the crisis. That is something she was not around to do after Katrina.

The house where Jackson grew up was badly damaged during the hurricane, according to an Associated Press report, and Jackson did not return to help her mother with the cleanup because she was under consideration to be then-New Jersey Gov. Jon Corzine's (D) top environmental aide.

"The last time, I had a job that didn't allow me to come back," she said. "This one not only allows me to come back, it sort of demands that I come back, and I feel like I'm in a unique position to make a real difference."

**Kentucky Permits May Mark Early Showdown Over EPA Mountaintop Guide (*Inside EPA*)**

State regulators in Kentucky are proposing to issue water permits for mining operations that do not include the strict salinity standards that EPA called for in its recently issued guidance on the subject, setting the stage for a showdown with the agency over its controversial steps to limit mountaintop mining in Appalachia.

If EPA objects to the permits, the state would have an opportunity to address the agency's concerns. But if EPA finds the state's modifications unsatisfactory, EPA could take over the authority to issue the permits with more stringent controls -- a step that environmentalists have already petitioned EPA to take.

Some industry sources have worried that EPA would use the requirements in its mining guidance as a "back door way" to take over all coal-mining permitting, without having to completely take over state water permitting programs for other operations, although state sources are more skeptical that would be the case. Nevertheless, industry sources say EPA review of the pending Kentucky permits could provide a mechanism to sue the the agency over the guidance's provisions, a move they are not able to do now because EPA has only issued it in "interim" form.

Since EPA April 1 unveiled its sweeping water quality guidance, Kentucky has proposed to issue, renew or modify more than a dozen National Pollutant Discharge Elimination System (NPDES) permits for surface mining. EPA has the authority to review or object to such permits, and in its guidance, the agency said surface mining permits that did not contain numeric conductivity limits -- a measure of water salinity -- likely would draw such objections. EPA said projects that would cause conductivity levels to rise above 500 microsiemens per centimeter (uS/cm) generally would trigger violations of water

quality standards, which the agency would block, while levels below 300 uS/cm would generally be acceptable.

Sources say other states in the region also are likely to issue draft permits that conflict with EPA's guidance, but no others appear to have issued new permits since the guidance was released April 1. The guidance applies to operations in Kentucky, West Virginia, Virginia, Ohio, Tennessee and Pennsylvania.

In an April 27 letter to EPA Administrator Lisa Jackson, Kentucky Energy and Environment Secretary Leonard Peters asks more than 30 questions about how the guidance will be applied and what information EPA relied on in crafting it. Peters asks what legal authority the guidance has and whether it represents a final agency action subject to judicial review, as well as requesting what data "specific to Kentucky" EPA relied on in outlining the harms to water quality caused by surface mining and asking EPA's justification in applying the guidance to only six states.

Peters also notes that EPA has presented the guidance in the context of targeting just mountaintop mining, which takes place mainly in those six Appalachian states, although the document itself references all surface mining. "Is the guidance for mountaintop mining or for surface mining operations as a whole?" Peters asks. "Is it U.S. EPA's determination that surface coal mining is restricted to Appalachia?"

Essentially, state and industry sources say EPA in its guidance creates a presumption that surface coal mining in the region has a reasonable potential to cause or contribute to an exceedance of water quality limits for conductivity, often expressed in narrative terms, thereby necessitating numeric water quality limits.

Peters asks whether EPA has made such a presumption and if the agency has determined that Clean Water Act permits may not be conditioned on requirements that data be collected during a mine's operation to perform a reasonable potential analysis that could force the permit to be modified once such an analysis is complete -- an approach the state is taking. And he asks if it is EPA's position that states are prohibited from using other approaches to implement narrative standards, such as whole effluent testing or best management practices, "in lieu of a numeric limit."

**Kentucky Draft Permits**

Kentucky in its draft permits does not make such a presumption, saying it "does not believe that a statewide or regional numerical interpretation of the narrative standard is appropriate" for conductivity. Instead, the state says site-specific determinations are more appropriate and says it plans to collect necessary data for such determinations by requiring conductivity monitoring on outfalls, monitoring specific chemical constituents and performing toxicity tests on representative outfalls and developing a stream assessment plan to evaluate the "physical, chemical and biological condition" of downstream waters.

The draft permits note that the “approach is consistent with the comments recently received from EPA regarding similar sites.” But those earlier permits were issued prior to EPA’s guidance, meaning the new draft permits that have been released for comment will mark a first-time test of how EPA plans to apply the parameters outlined in the guidance.

Narrative standards tend to be less precise and based on on descriptions of how waterbodies should function, as opposed to stricter numeric limits that do not allow discharges that would exceed a certain level.

An EPA spokeswoman says, “We will review each proposed permit to ensure that they are consistent with the law and the recent mining guidance. We have the discretion to object to any permits that are not consistent with the Clean Water Act.”

While EPA Administrator Lisa Jackson has said that she does not want to block mining, just mining pollution, industry and state sources have raised numerous questions about the potential reach of the guidance. They argue that it could affect permitting decisions for an array of industries beyond just mountaintop mining and that its limits are so strict as to essentially outlaw any new surface mining in the region.

At the same time, stakeholders have complained that EPA is shielding itself from judicial review of the guidelines by issuing them in an “interim” guidance memo to regional administrators -- a move that is not considered a final agency action -- but implementing the new criteria immediately. EPA will be accepting public comment on the guidance until Dec. 1, as it also conducts peer review this summer of two new scientific reports it is using to justify the limits outlined in the guidance. Sources worry that in applying the new criteria immediately, even as it leaves open the possibility of revising the standards once it finalizes the guidance, EPA may be subjecting permittees to harsher standards in the interim months than would eventually be applied over the long term.

An expected objection by EPA to one or more Kentucky permits could provide an avenue for an industry lawsuit -- because the objection would be considered a final action -- or it could offer a more formal venue for the state to argue its case through the formal review process, sources say. Sources have suggested that industry could file a lawsuit challenging the guidance itself -- based on an argument that its implementation makes it a final agency action regardless of what EPA is calling it -- but other sources suggest industry may wait until the agency actually relies on the guidance to block a permit, to provide firmer legal footing for a court challenge.

“There’s a whole host of legal questions that need to be resolved and thought through in terms of delegated states and their authorities and their rights relative to what EPA is doing,” one state source says.

The lack of numeric conductivity limits in the Kentucky draft permits “will be the central rub” when EPA weighs in, “and everything else is probably okay,” the state source says.

Even before EPA issued the guidance, environmentalists petitioned the agency to withdraw Kentucky's permitting authority and mandate the conductivity limits in any permit the agency issues. The activists March 15 petition calls on EPA to move forward with the conductivity triggers, citing an award-winning, but controversial EPA Region III study to argue that conductivity impairment could be harmful to streams. "There is overwhelming evidence in an EPA peer-reviewed study that mining operations are strongly associated with biological impairment due to high" total dissolved solids, which is strongly related to conductivity, the petition says (*Inside EPA*, March 19).

EPA has up to 90 days to comment on the draft permits, at which point it could either outline its concerns and ask state regulators to address them or formally object to the permits. If EPA objects, it triggers a process in which the agency could decide to issue the permit itself.

The state source also worries that an EPA objection and decision to issue the permit itself could dramatically slow permitting in the region, because EPA does not face any deadline by which it would have to issue a permit. The source says a previous permit objection took 10 years to resolve. "You're kind of held hostage at that point in time, in the minds of some," the source says. -- *Nick Juliano*

**Gulf Oil Spill Creates Complications For Drilling Advocates, Climate Bill (*Inside EPA*)**

The worsening Gulf Coast oil spill is raising fresh questions about the viability of a Senate climate and energy bill, with some observers saying that long-expected provisions to promote offshore drilling in order to win senators' support could now be more of a political liability then a boost for the broader package.

Still, the scuttled release of the bill -- due to a dispute over the timing of Senate immigration legislation -- could give the climate legislation's sponsors time to assess their response to the spill. The disaster has already prompted some environmentalists and lawmakers to call for a scaling back of the legislation's anticipated offshore drilling provisions, which could have helped win the votes of senators in states that would benefit from the industry.

White House senior adviser David Axelrod said April 30 that President Obama will not allow new offshore drilling until an investigation into the spill is complete, potentially complicating the administration's recently announced plan to expand offshore drilling. But the spill is also complicating the Senate climate legislation.

"We would suggest the Gulf Spill has made the political hurdles [for the legislation] . . . even higher," says an April 30 analysis from ClearView Energy Partners, an energy consulting firm. The group, which has consistently deemed Senate passage of a climate

bill as a possibility this year, poses the question on whether expected drilling provisions, once thought to be a political lubricant for the broader bill, has become a “political toxin.” Another backer of climate emissions legislation says “it has got to hurt” prospects for the climate package.

Senate Majority Leader Harry Reid (D-NV), while stopping short of that assessment, in an April 30 statement said, “This terrible event will, undoubtedly, require us to re-examine how we extract our nation’s offshore energy resources and will have to be taken into consideration with any legislation that proposes to open new areas to development.”

At the same time, the Obama administration is reaffirming its support for “comprehensive” climate and energy legislation, while acknowledging that the massive oil spill in the Gulf of Mexico will undoubtedly influence the congressional debate over the matter.

At an April 29 news conference held in response to the burgeoning environmental disaster, which has seen up to 5,000 barrels of oil a day leak into the Gulf, White House climate and energy adviser Carol Browner conceded the disaster “will become part of the debate” over climate legislation. “That goes without saying,” she remarked.

But Browner, flanked by EPA Administrator Lisa Jackson and other top administration officials, said the White House remains committed to “comprehensive energy reform.” In reference to the spill, “I don’t think it means we can’t get the kind of comprehensive legislation” the administration has been advocating, Browner added.

In remarks the previous day at the Center for a New American Security, Browner reiterated support for a comprehensive legislative approach and acknowledged that a number of prior or current proposals could inform that effort, including “very important provisions” on renewable energy, nuclear power and efficiency standards for buildings already included in Senate energy committee-approved legislation. “We are going to continue to work with all the senators who are interested in this issue. We believe this is important and we are going to work hard to make it happen.”

Meanwhile, other proponents of the Senate push on climate change are scrambling to defend the legislative effort as a necessary step in creating a low-carbon economy and promoting national security, with some environmental groups downplaying the bill’s drilling language while emphasizing the clean-energy benefits of other likely provisions in the bill. Senate progress on a combined measure was already thrown into uncertainty after Sen. Lindsey Graham (R-SC) bowed out of a planned April 26 unveiling of the climate proposal.

Another observer not opposed to drilling surmises that the recent oil rig disaster could have played a subordinate role in Graham’s pullback, to the extent he saw expanded drilling initiatives as threatened.

**‘Deader Than A Doornail’**

One environmentalist opposed to additional offshore drilling says it is “possible” that the side effect of the delay in unveiling the climate measure will be a renewed opportunity for environmentalists to seek a scaling back of offshore drilling provisions. “With the drilling, [the bill] is deader than a doornail. . . . Congress responds to current events,” the source says. But the source dismisses the notion that the oil spill was a significant factor in the initial delay of the bill’s release, calling them two “separate events,” while adding that the spill nevertheless presented the senators with an awkward backdrop for releasing legislation that could include drilling incentives.

To date, the Obama administration and other proponents of comprehensive energy and climate legislation have argued that expanded drilling could be an important incentive for winning final passage. It is unclear how drilling language presumed to be part of that plan, but still not released, could be scaled back without threatening that effort.

In an interview with *The Washington Post*, Sen. Benjamin Cardin (D-MD) suggested that senators are reevaluating the drilling measures in the climate bill; he also said the administration should reevaluate its own position. “You saw what just happened in the most sophisticated rig that we have,” Cardin said. “It shows that this is a high-risk issue, and when the administration said they were protecting the most important shorelines of America, they were wrong.”

On April 28, Cardin followed up on those remarks with a Senate floor statement saying he is a “strong proponent” of Senate efforts to develop climate legislation addressing the problems of national security, environment and jobs -- problems that could be addressed “without this drilling.” In remarks focused explicitly on recent administration decisions to open up additional areas for energy exploration, Cardin criticized such efforts and showcased recent photos taken from space of the growing damage in the Gulf. “I have heard the advocates of offshore drilling say, well, modern technology has substantially reduced the risk, that we now know how to deal with this issue . . . let me share with you this photo,” he said.

The drilling accident has already prompted at least one congressional investigation into whether the oil industry needs tougher requirements for environmental response plans.

House Energy & Commerce Committee Chairman Henry Waxman (D-CA) and oversight subcommittee Chairman Bart Stupak (D-MI) sent letters to BP America and Transocean, the two companies involved with the oil rig that exploded April 20 off the coast of Louisiana, requesting information about the risks of drilling at the site and the adequacy of the companies’ response plans.

Sens. Bill Nelson (D-FL), Frank Lautenberg (D-NJ) and Robert Menendez (D-NJ) in an April 26 letter to the chairmen and ranking members of both the Senate energy and commerce committees call for a review of the federal government’s response to the accident, which could affect the shorelines of Mississippi, Florida, Louisiana and

Alabama. In an April 29 letter to Obama, Nelson said he is introducing legislation that would "for the first time prohibit the Interior Department from acting on your administration's plans to expand offshore drilling, including seismic testing and other exploratory options" until the administration completes its investigation into the spill.

**Senate Bill Delay**

Sen. John Kerry (D-MA), Graham and Sen. Joseph Lieberman (I-CT) had been working for months on a bipartisan bill expected to include carbon emissions curbs, including a cap on the utility sector and a broad short-term goal of reducing emissions 17 percent by 2020. The highly anticipated bill was expected to include a number of industry-backed proposals as a way to broaden support for the plan, including provisions for expanded offshore drilling designed to court the backing of major oil companies and energy security hawks, including Republican lawmakers.

After the delay in the unveiling of their proposal -- but before the latest estimates on the scope of the drilling disaster -- Kerry downplayed the delay in remarks to reporters April 27. "We are full speed ahead folks, notwithstanding this, call it a public stall," Kerry told reporters April 27. "There is an awful lot of this that is happening privately and quietly," he said, adding that draft legislative language would be sent to EPA for review with Graham's consent.

A source familiar with the matter says a draft proposal was sent to the agency on April 28, but EPA says it received a "description," not a legislative text. EPA says it is examining that description to see if it contains enough information for the agency to begin its analysis of the proposal, which could take up to eight weeks.

Reid recently suggested the Senate might move on immigration before taking up energy and climate legislation, though on April 28 he told reporters "I am going to move forward on energy first."

With the drilling disaster now not expected to be under control for at least several weeks, proponents of moving a comprehensive energy and climate plan have been scrambling to defend the plan as a long-term strategy for reducing the nation's dependence on oil. We Can Lead -- a business coalition in support of climate and energy legislation -- held a press conference April 28 to release a letter from over 170 businesses calling for the Senate to move forward with the bill to "finish what we started." The letter states, "we have a historic opportunity to finally enact measures that will break our dependence on foreign oil, help create jobs and increased energy independence."

An April 26 statement from Sierra Club, a longtime opponent of offshore drilling, cites the accident in the Gulf and the recent deaths of coal miners in West Virginia as "human and environmental disasters that put our desperate need for a new clean energy policy in stark relief. . . . We join our colleagues in saying that every day the Senate fails to

pass clean energy and climate policy we put or economy, our national security and our environment at risk."

Sierra Club was one of 30 environmental and other groups that signed an April 26 "open letter" urging senators "not to squander the great promise of bipartisan action we've witnessed over the last six months." In an illustration of the balancing act environmentalists face in backing the measure -- assuming it is even still viable -- a follow up release from the group one day later notes that "offshore drilling has no place in a clean energy future."

Sen. Mary Landrieu (D-LA), a proponent of offshore drilling provisions that would boost revenue to coastal states, told reporters April 27 that the drilling accident was a horrible tragedy that needs to be investigated, but that it should also not be allowed to distract from efforts to develop a comprehensive energy plan. Landrieu called for "perspective" on the issue. -- *Doug Obey & Andrew Restuccia*

**Is Climate Change a Game Changer for Industry?" (*Waste Age*)**

May 3, 2010 2:46 PM
With new greenhouse gas (GHG) regulations from the U.S. Environmental Protection Agency (EPA) taking effect earlier this year, many waste companies are wondering how they will be affected. As attendees of this WasteExpo session learned, landfills, transfer stations and other waste facilities are stationary sources of GHG subject to Prevention of Significant (PSD) and Title V permitting. In addition, new rules could impact flares and waste-to-energy facilities, regulate fugitive emissions, adjust threshold levels and applicability, and extend regulations to closed landfills. Efforts also are underway to establish Best Available Control Technologies (BACT) for the waste industry, which facilities will be expected to have in place in the near future.

Matt Stutz, P.E., of Weaver Boos Consultants LLC, led discussion of the new Mandatory GHG Reporting Rule. It affects 31 emissions sources, including municipal solid waste (MSW) landfills that exceed 25,000 metric tons of carbon dioxide equivalent (CO2e) annually that accepted waste after Jan. 1, 1980. The monitoring requirement took effect Jan. 1 of this year and the first report must be submitted electronically by March 31, 2011.

According to Stutz, the report will be comprised of a range of information, including GHG emission calculations, landfill cover material and acreages, waste depths, and much more. To collect this data, many waste firms will likely need to obtain new equipment — flow meters, data recorders, gas analyzers, scales — or adjust calibration and maintenance schedules. Stutz noted that the EPA estimates for labor, capital, and operations and maintenance are far too low, but that the costs of non-compliance are far higher and more than justify the expense.

David Friedland, an attorney with Beveridge & Diamond, P.C., summarized legislation, rules, and judicial decisions that led to the current regulations, noting that Endangerment and Cause or Contribute Findings were the initial building blocks of all subsequent GHG rules. He also summarized the petitions to EPA and judicial challenges that have been filed by industry organizations (including NSWMA and SWANA).

Friedland highlighted potential pitfalls before GHG reports are due, including debates over a "grandfather" or transition period, and gaps between the federal rules and state permitting requirements. He also explained the PSD/Title V Tailoring Rule, which seeks to adjust statutory thresholds to more manageable levels to prevent an "absurd" number of PSD and Title V permit applications (NSWMA and SWANA, for their part, have filed comments arguing that these adjusted thresholds are still far to low).

Friedland concluded with a recap of EPA Administrator Lisa Jackson's recent testimony to congress, which provided more precise hints at how the agency plans to roll out GHG oversight in the next one to three years.

Monday, May 03, 2010

BLACK-GOLD BLUES
WorldNetDaily

**Rush scorches Obama for slow oil-spill response (*WND.com*)**

'What has EPA been doing after rig exploded in Gulf of Mexico?'
Posted: May 03, 2010
8:51 pm Eastern
WorldNetDaily Talk-radio icon Rush Limbaugh today blasted President Obama and his appointees for the extended time period before there was a significant response to the oil well explosion off the coast of Louisiana, an event that has been described by some as potentially the biggest environmental threat to the U.S.

He also took swipes at the mainstream media for their kid-gloves treatment of the president regarding his responsibility to lead the nation.

"He said on Thursday, February 11th of this year, 'Until jobs are being created to replace those that we've lost, until America is back to work, my administration will not rest and this recovery will not be finished.' Well, he's resting," said Limbaugh.

"He's playing golf. He waited 12 days to head down to Louisiana. I don't know how many rounds of golf, how many pickup basketball games he's played since then," he said.

"Do we have an EPA? We do. It's the Environmental Protection Agency. I've looked into what the director, the administrator has been doing during these 12 days, and the answer is 'not much,' I mean to do with the slick. I'll just ask you point-blank: What has the EPA been doing after a BP rig exploded in the Gulf of Mexico? What have they been doing? What has the EPA done? What have they done?"

*(Story continues below)*

The drilling rig Deepwater Horizon exploded killing 11 workers April 20. Experts say it will be months before a cause of the problem is determined and its ultimate environment impact remains to be seen.

But Limbaugh said the leadership of the United States needs to do better than it is.

He cited the activities of Lisa P. Jackson, the administrator of the EPA.

*Read a story of romance: how the U.S. media has fallen for a president, in "A Slobbering Love Affair: The True (And Pathetic) Story of the Torrid Romance Between Barack Obama and the Mainstream Media."*

"On April 22nd, not one word from the EPA administrator about the Gulf oil rig explosion. She's out bragging about Earth Day, EPA, super funds, climate change, the coal mine disaster. Nothing about the Gulf," Limbaugh said.

The following day, the same result, he said.

"Three days, not one mention. April 25th, four days after the rig blew: 'Five to six p.m., remarks at an Earth Day concert. National Mall Earth Day, network stage, 8th Street Northwest between Independence and Constitution Avenue.' April 26th, five days after the rig: Lisa Jackson's schedule, nine to 9:45 a.m., 'EPA NASA MOU signing, Howard University Middle School of Mathematics and Science, Washington, DC. Five to seven p.m., Daily Show taping, Daily Show studios, New York, New York,'" Limbaugh said.

"There is a YouTube video available of her performance on The Daily Show. Not one word was mentioned about the environmental disaster that was going on in the Gulf, but she had a great time yukking it up about Earth Day and other things… That's April 26th, five days after the rig," he said.

"Today is the 3rd. May 1st or 2nd she flies over the oil slick, lands, and 'spent much of her time dealing with residents' memories about Hurricane Katrina and the slow federal response to that disaster," he said.

He pinpointed what he believes is the reason for the actions – or inaction – by Obama and his appointees.

"Earth Day mattered more because it's not about managing America's problems, not about being president, not about being executive; it's about implementing an agenda, it's about transforming the American way of life, the American culture, the American economy and anything that happens that helps us do that along the way, well, we're going to take advantage of it," he said.

"The president's spokesman said, yep, we got our boots on BP's throat on this one. And the president says it's BP's fault, they're going to pay for it, BP's fault. Nevertheless, I have to do something about it, while he does nothing about it," he continued.

"Even the New York Times, even though they did it on a Saturday: 'Unanswered Questions On The Spilll – a White House as politically attuned as this one should have been conscious of two obvious historical lessons. One was the Exxon Valdex, where a late and lame response by both industry and the federal government all but destroyed one of the country's richest fishing grounds and ended up costing billions of dollars. The other was President George W. Bush's hapless response to Hurricane Katrina. Now we have another disaster in more or less the same neck of the woods, and it takes the administration more than a week to really get moving,'" he said.

Limbaugh poked fun at the media, too.

"They're having trouble there at the Drive-By Media, State-Controlled Media, 'How do we treat this very uncomfortable position that we find ourselves in here.' They are very uncomfortable. They're twitchy, talking about the media here, but they are trying to smile while being totally uncomfortable because the poor babies are conflicted.

"See, it would have been easy if a Republican were president. … It was so easy for eight years just to blame everything on Bush…

"The Obama media, "Yeah, we love the world, we love the earth, we love Earth Day, we love Dumbo, too,' meaning Obama. 'But, gosh, you see the New York Times editorial, why did he wait 12 days? I mean rivulets of oil head toward the sacred fragile wetlands of Louisiana, the sugar white beaches of Alabama, Mississippi, and Florida, why did he wait, oh, please there must be an answer because he's so much smarter than we are there must be an answer we don't see. Why did he wait?' If it were Bush – ha-ha-ha-ha-ha – they wouldn't be waiting. They would already be firing up impeachment hearing demands. They're asking themselves at all their editors meetings, 'Should we comment on this? Kind of uncomfortable, I mean the guy didn't do anything for 12 days, there's gotta be a reason, oh, he's so much smarter than we are, I mean he went to Harvard, Columbia, and so did we, but he's gotta know more than we do, there's gotta be a reason.' Even the New York Times story does not mention Obama's name. They have kept his name out of it. They just talk about the slow government response."

According to a report in the Birmingham News, the government actually had a plan to deal with such a situation, but was unprepared to implement it.

The report said an "In-Situ Burn" plan was produced by federal agencies in 1994 and calls for responding to a major oil spill in the Gulf with the immediate use of fire booms.

But in this case, the government had no such booms, and had to purchase one from a company in Illinois to begin, the report said.

A spokesman for a company that produces them, Jeff Bohleber of Elastec, told the newspaper a single fire boom can burn up to 1,800 barrels of oil an hour, or 75,000 gallons an hour, and the report raised the possibility that the spill might have been contained at the site of the accident – some 100 miles from shore – had the government been prepared to follow its own plan.

"This is absolutely the asset of first use," he told the newspaper. "Get in there and start burning oil before the spill gets out of hand. If they had six or seven of these systems in place when this happened and got out there and started burning, it would have signficiantly lessened the amount of oil that got loose."

In a government statement today, Department of Homeland Security Secretary Janet Napolitano, Secretary of the Interior Ken Salazar, Environmental Protection Agency Administrator Lisa Jackson and Department of Energy Secretary Stephen Chu said they met with BP CEO Tony Hayward and BP American Chairman and President Lamar McKay to discuss ongoing, coordinated response efforts and receive an update on BP's spill mitigation plans for potentially affected Gulf Coast states.

"As President Obama has made clear, BP will be held accountable for the costs associated with this tragic event," the statement said.

If you'd like to sound off on this issue, please take part in the WorldNetDaily poll.

**EDITORIAL / OP-ED / COMMENTARY / LETTERS**

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**Don't worry about chlorine levels in D.C. water (*Washington Post*)**

*By Fred M. Reiff*
*Chevy Chase*

As a former public health official in both the U.S. Public Health Service and the World Health Organization/Pan American Health Organization directly involved in drinking-water quality, I wish to correct the misinformation in Rose Overbey's April.25 Local Opinions article, "That chlorine smell means trouble in D.C.'s water."

Chlorine is a vital part of the system that brings clean, germ-free water to local homes. Chlorine-based disinfectants provide a residual level, required by the Environmental

Protection Agency to help protect treated water all the way to the consumer's tap. According to the Centers for Disease Control and Prevention and the WHO, drinking water chlorination remains one of the most significant advances in public health protection.

Furthermore, Ms. Overbey's claim about chlorine and the resulting risk of cancer or asthma is misleading. The EPA sets regulations to limit byproduct formation and establish their acceptable levels. When used to kill germs in water, chlorine creates byproducts — as do all disinfectants that produce a residual.

It's also important to note that the D.C. Water and Sewer Agency Web site shows that during the flushing period, chlorine levels never exceeded EPA's drinking-water standard, a level EPA has established to pose "no known or expected health risk [including] an adequate margin of safety."

**Flushing out misconceptions about chlorine in D.C. water (*Washington Post*)**

May 4, 2010 Tuesday
Regional Edition
EDITORIAL COPY; Pg. A22
Maryland

As a former public health official in both the U.S. Public Health Service and the World Health Organization/Pan American Health Organization directly involved in drinking-water quality, I wish to correct the misinformation in Rose Overbey's April 25 Local Opinions article, "That chlorine smell means trouble in D.C.'s water."

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Fred M. Reiff, Chevy Chase

**AIR**

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**Air-quality officials ramp up efforts (*Denver Post*)**

By Bruce Finley
The Denver Post
Posted: 05/04/2010 01:00:00 AM MDT

Trevor Noel, a communications coordinator at the Regional Air Quality Council, demonstrates a battery-powered grass mower. (Karl Gehring, The Denver Post ) Denver regional air quality overseers — facing public health concerns and tighter federal smog standards — are ramping up efforts to persuade residents to drive less, fuel vehicles only after dark and stop using gas-powered lawn mowers.

"We're making a lot of progress. It's just that now, with these lower standards, we're going to need to do more," Regional Air Quality Council director Ken Lloyd said.

"Every little bit helps. If I take the bus this morning, will that have an impact? Probably not. But it's the right thing to do. As more people do that, then you will probably have an impact."

As part of the push, air council staffers subsidized purchases of battery-powered lawn mowers. Some 475 owners of gas-powered mowers took advantage Saturday of an option to trade them for battery-powered mowers for $150 to $250 (retail prices: $299-$399).

About 80 more mowers were available Monday in the "mow down pollution" exchange (information can be found at ozoneaware.org). All mowers sold out.

Last year, the air council swiftly distributed 565 of the battery-powered mowers but could not afford to expand the program.

**A stricter federal standard**

In August, federal Environmental Protection Agency officials plan to implement an unprecedented ozone standard between 60 and 70 parts per billion.

Denver has been deemed out of compliance with a previous standard of 80 parts per billion and is struggling to attain the current 75 parts per billion standard.

The EPA can punish failure by withholding federal highway funds and imposing limits on new industry. It rarely has done so. Local officials hope to have an "implementation plan" to the EPA by 2013.

The American Lung Association recently issued a report warning that people in Denver and along the Front Range are breathing dangerously high levels of ozone pollution.

Ground-level ozone forms when nitrogen-oxide gases and volatile organic compounds, such as gasoline vapors from vehicles and factories, react in the sunlight and heat. Breathing ozone can irritate lungs, causing wheezing, coughing and asthma attacks.

**Lung association helps out**

Lung association officials planned to team with the air quality council in a campaign to spur action, said Natalia Swalnick, the association's air quality program manager in Colorado.

One way to reduce the pollution is to switch to cleaner lawn mowers, Swalnick said.

"Operating a dirty piece of gas-powered lawn equipment for an hour puts out more ozone precursors than a round-trip drive from Denver to Fort Collins," she said.

*Bruce Finley: 303-954-1700 or bfinley@denverpost.com*

**New federal rule targets harmful mercury emissions (*Associated Press*)**

**Story also appeared: *Las Vegas Sun***

Tuesday, May 4, 2010 | 12:19 a.m.

The Obama administration says 5,000 deaths could be prevented each year under new rules announced Friday to limit the amount of mercury and other harmful pollutants released by industrial boilers and solid waste incinerators.

The planned rules would reduce mercury emissions more than 50 percent by requiring steep and costly cuts from companies operating some 200,000 industrial boilers, heaters and incinerators.

The Environmental Protection Agency proposed the rules Friday and must seek public comment before they are made final.

Industrial boilers and heaters are the second largest source of mercury emissions in the United States, after coal-fired power plants. The boilers burn coal and other fuels to generate heat or electricity and are used by petroleum refiners, chemical and

manufacturing plants, paper mills, municipal utilities and even shopping malls and universities.

The incinerators burn waste to dispose of it, and some also turn it into energy.

The EPA said the new federal limits would save lives and prevent up to 36,000 asthma attacks each year by reducing air pollution.

Once airborne, mercury eventually settles in water, where it builds up in ocean and freshwater fish and can be highly toxic to people who eat them. Mercury can damage the brain and nervous system, especially in children and fetuses.

The estimated cost of installing and operating the required pollution controls total about $3.6 billion per year, the EPA said.

Some lawmakers representing industrial states have protested placing the added burden on businesses when many are struggling because of the recession.

Sen. Robert Casey, D-Penn., wrote in a March 17 letter to the EPA that forcing companies to spend so much "will only result in plant closings and further loss of jobs."

A spokesman for Casey said Friday the senator was reviewing the new rule and had no immediate comment.

The EPA estimated the rules would lead to savings of $18 billion to $44 billion annually, measured in work days not missed, hospital visits avoided and illnesses prevented.

EPA administrator Lisa Jackson called the proposed rule "a cost-effective, common-sense way to protect our health and the health of our children, and get America moving into the clean economy of the future."

Frank O'Donnell, president of the advocacy group Clean Air Watch, said the rules are "a huge step toward protecting children from toxic mercury and other hazards from smokestack pollution."

The limits would take effect after a 45-day public comment period. A hearing is likely in June.

On the Net:

EPA mercury rule: http://www.epa.gov/airquality/combustion/

**EPA's role in BioWatch significantly reduced (*BioPrepWatch.com*)**

By Rita Uplend on May 3, 2010
EPA
The role of the Environmental Protection Agency in the BioWatch program has been significantly reduced by the U.S. Environmental Protection Agency's Office of Inspector General following a recent review.

The Department of Homeland Security has assumed control for the major components of BioWatch that the EPA was responsible for following the review, which significantly reduced the EPA's role from where it was set during a 2005 review.

The EPA will no longer be tasked with the sampling portion of the program or the issuance of grants to state and local air monitoring agencies to conduct daily monitoring activities.

Filter collection and analysis will now be performed by the Centers for Disease Control and Prevention as well as local public health labs.

At its introduction in 2003, the BioWatch program designated the EPA's Office of Air and Radiation with responsibilities that were a crucial part of the BioWatch program. Among its responsibilities were monitor deployment, site security, oversight and assessment of monitor technology.

The EPA was found to have not provided adequate oversight of the sampling operations to ensure quality assurance guidance was adhered to, the OIG's 2005 report said, which could potentially affect the quality of the samples.

In Fiscal Years 2004 and 2005, the EPA received $26.8 million from the DHS for its BioWatch activities. For the period between January 2009 and January 2010, the EPA received $780,000.

5/4/2010

**Penske Chooses Freightliner Cascadia For EPA 2010 (*Truckinginfo*)**

Penske Truck Leasing has ordered 750 Freightliner Cascadia tractors with BlueTec selective catalytic reduction (SCR) emissions technology, making Freightliner the majority supplier of 2010 EPA-compliant tractors to Penske.

Penske's order includes 50 Cascadia 113-inch single-axle day cab tractors equipped with Detroit Diesel DD13 engines; 450 Cascadia 125-inch tandem-axle day cab tractors with DD13 engines; and 250 Cascadia 125-inch tractors with a 72-inch raised roof and Detroit Diesel DD15 engines.

Penske Truck Leasing customers have also ordered an additional 132 Freightliner Business Class M2 106 trucks with SCR-equipped Cummins engines and 50 Cascadia tractors to date, equipped with a combination of Cummins ISX, DD13 and DD15 engines.

According to Freightliner, BlueTec emissions technology - Daimler's solution for meeting the 2010 EPA emissions standards - reduces emissions to near-zero levels of NOx and particulate matter as measured at the tailpipe and increases fuel economy by up to 5 percent over other emission treatment systems.

"Based on our own research and field testing, we determined that SCR emissions technology was the right fit for Penske and our customers to comply with the 2010 standards," said Marc Althen, senior vice president, administration and procurement for Penske Truck Leasing.

Penske Truck Leasing and Freightliner Trucks hosted a 16-city tour in late 2009 to educate Penske customers on the benefits of BlueTec SCR technology.

**Lake County tops state for clean air (*Lake County Record Bee*)**

By Katy Sweeny -- Staff reporter
Updated: 05/03/2010 10:10:37 PM PDT
LAKE COUNTY -- With noticeably clear skies and fresh air, Lake County ranked as having the 10th cleanest air in the nation for the annual particulate average concentrations, according to the American Lung Association's State of the Air Report released Wednesday.

Douglas Gearhart, Air Pollution Control Officer of the Lake County Air Quality Management District, said residents, government and business work together to keep the air as clean as possible.

"We just have a lot of people who really care," Gearhart said. "People think about it and make decisions that improve air quality or minimize degradation of air quality."

Particle pollution is a mix of tiny solid and liquid particles in the air that can increase the risk of heart disease, lung cancer and asthma attacks and can interfere with the growth and work of the lungs, according to the air report.

Lake County was the only California county to rank among the top 10 counties for cleanest air quality. Mendocino, Inyo, and Santa Cruz counties were the other counties in California to make the top 25. Lake County was also awarded an A grade for ozone and B grade for short-term particulate pollution.

The report based grades on three years of continuous air quality monitoring, 2006 through 2008.

"This is great, especially considering the wildfires in 2008," Gearhart said.

In the 2009 State of the Air Report, Lake County was ranked third for cleanest air quality based on the particulate pollution average.

The report measured from 2005 through 2007, so it didn't include the 2008 wildfires as this year's report did.

Fire protection districts and CalFIRE work with the county to limit pollution. Gearhart said a prime example is the burn ban that went into effect Saturday.

Industry also sets high standards to keep the air quality clean. Gearhart said the Geysers have significant regulations to produce low emissions as compared with looser restrictions in Sonoma County.

Gearhart said people can take obvious steps to reduce pollution.

"The biggest thing is to think about what you're doing and how that affects air quality before doing it," Gearhart said.

Gearhart said people could walk to the store versus driving.

"All these little things add up to big things in Lake County," Gearhart said.

"Everyone knows the actions they take are polluting because you can see it or smell it," Gearhart said.

Gearhart said strong local support for clean air measures enabled the county to comply with the Federal Clean Air Standards and with the more rigorous California standards for ozone and other air pollutants for the past 20 years. No other air district in California can match that record.

"It is great to have our local community nationally recognized by the American Lung Association for their desire to have and maintain clean and healthful air in Lake County," he said.

Contact Katy Sweeny at kdsweeny@gmail.com or call her directly at 263-5636, ext. 37.

Mon., May 3, 2010 7:38pm (EDT)

**Atlanta Arts Building In National Contest to Save Energy (*GPB*)**

By Melissa Stiers
Updated: 11 hours ago

ATLANTA — The building that is home to the Atlanta Symphony Orchestra is in a national competition to save energy. It's the first contest of its kind put on the Environmental Protection Agency.
EPA officials say 17 percent of greenhouse gases come from commercial buildings, and they waste thirty percent of their energy.

The EPA wants to show others how to go greener through a friendly competition.

The Woodruff Arts Center in Atlanta is one of 14 selected buildings from a pool of hundreds who applied.

"We have retrofitted all our lights to be energy efficient," says spokesperson for the Woodruff Arts Center Kathleen Covington. "They're all on timers and go off in a certain time. What we hope to is inspire people to help us participate in the competition."

Covington says her coworkers have started to do things like unplug their computers at the end of the day and they're considering eliminating plastic at food kiosks.

The EPA will monitor the building's energy consumption through August.

There's no real prize for the winner, says Covington except the recognition they're doing a good thing for the environment.

**New air pollutants rules will cost Wright-Patt (*Dayton Daily News*)**

To comply, the base will have to spend $75M to $150M.
By Jack Torry, Washington Bureau
11:42 PM Monday, May 3, 2010
WASHINGTON — The federal government's proposed restrictions of toxic air pollutants is likely to cost Wright-Patterson Air Force tens of millions of dollars to upgrade the nine boilers that provide heat and electricity for the sprawling base.

Base officials said they needed to study the proposed regulations by the U.S. Environmental Protection Agency before they could calculate the cost of reducing their toxic emissions.

But Ted Theopolos, a spokesman for Wright-Patterson, said that base officials estimated that it they would have had to pay between $75 million and $150 million to

comply with regulations proposed — but never put into effect — by the Bush administration in 2005.

The rules proposed by the EPA last Friday are much tougher than those backed by the Bush administration. They call for a 50 percent reduction in mercury emissions from tens of thousands of industrial boilers that provide power to factories, hospitals, universities and oil refineries across the country.

Wright-Patterson has six coal-fired boilers and three gas boilers that provide electricity and heat for the sprawling Air Force base. Industrial boilers are second only to coal-fired utility plants in emissions of mercury, which can cause damage to the brains and nervous systems of children.

In addition, John Paul, administrator for the Regional Air Pollution Agency, said Monday that the Cargill and Appleton Paper plants would likely face new costs to upgrade their industrial boilers.

“We have not heard from them that these costs are something that they cannot bear,’’ Paul said. But he said they should more than offset the health costs that hit people living in the area.

The EPA has said it would allow 45 days for public reaction, including hearings.

The EPA is hoping the proposed regulations will go into effect by the end of the year.

Officials at Cargill and Appleton Paper did not return telephone calls seeking comment.

**AWARDS**

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**Region 7 Awards $2 M for Stormwater, Wastewater Projects (*EP Magazine*)**

May 04, 2010
U.S. Environmental Protection Agency Region 7 has awarded $194,000 to East Prairie, Mo., for improvements to the existing storm sewer system, $1,164,000 to Plattsmouth, Neb., for a multi-phased sewer separation project, and $970,000 to Gravois Mills, Mo., for improvements to its existing wastewater system.

East Prairie previously was awarded $194,000 in September 2009.

EPA Region 7 Administrator Karl Brooks said, “Awarding these water infrastructure funds will help prolong the useful life of the existing system. Water infrastructure is a basic necessity to protect community health and prosperity.” The agricultural drainage ditch East Prairie developed was enclosed in a large corrugated metal pipe 80 years ago, and that pipe has begun to fail. Since 2006, four sewer collapses have caused flooding within the city. These grant funds will help construct improvements that will apply a lining to 2,000 feet of the existing storm sewer.

In Plattsmouth, water quality will be improved by removing the sanitary sewage flow from the stormwater currently being discharged to the Missouri River during storm events. The purpose of this project is to separate the sanitary flow from the existing combined sewer. A new sanitary sewer will be constructed to carry sanitary sewage flow to the existing wastewater treatment facility.

Brooks explained that the grant to Gravois Mills will help to protect the water quality of the Lake of the Ozarks by helping to build new sewers and provide sewer service to 360 households.

The project will eliminate individual on-site systems that pollute surface and groundwater with disease-causing organisms, inadequately treated organic matter, and excessive levels of phosphorus and nitrogen.

The Gravois Arm Sewer District in Gravois Mills was formed in 2002 to provide sewer service in an area near the Gravois Arm of the Lake of the Ozarks in Morgan County. The district has about 3,300 homes and 100 businesses and a population of about 3,800.

## CLIMATE CHANGE / GLOBAL WARMING

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### Cuccinelli demands files from U-Va (*Washington Post*)

May 4, 2010 Tuesday
Suburban Edition
METRO; Pg. B01
Maryland
Cuccinelli demands files from U-Va.;
Sought under fraud law Data part of applications for climate study grants
By: Rosalind S. Helderman
RICHMOND
Virginia Attorney General Ken Cuccinelli II is demanding that the University of Virginia turn over a broad range of documents from a former professor to determine whether he defrauded taxpayers as he sought grants for global warming research.

The civil investigative demand asks for all data and materials presented by former professor Michael Mann when he applied for five research grants from the university. It also gives the school until May 27 to produce all correspondence or e-mails between

Mann and 39 other scientists since 1999.

The actions by Cuccinelli (R) -- who has sued the federal government over its regulation of greenhouse gases and has become a leading national voice in alleging that scientists have skewed data to show evidence the Earth is warming -- were cheered by those on the right, who have long targeted Mann as a leading proponent of the theory.

Mann, who works at Penn State, was one of the authors of the "hockey stick" graph, a study that used a variety of data, including tree rings, to chart climate change. His research showed a rapid recent increase in the Earth's temperature.

Mann's work has been repeatedly targeted by global warming skeptics, particularly after an e-mail from him referring to a statistical "trick" he used in his research surfaced in a series of leaked e-mails from the University of East Anglia's Climatic Research Unit. Mann has said the e-mail was taken out of context, and an inquiry by Penn State concluded that there was no evidence Mann has engaged in efforts to falsify or suppress data.

Mann and several academic groups decried Cuccinelli's subpoena as an unprecedented inquisition that could threaten academic freedom.

"I think he's simply trying to smear me as part of a larger campaign to discredit my science," said Mann, who left the University of Virginia in 2005.

Rachel Levinson, senior counsel with the American Association of University Professors, said Cuccinelli's request had "echoes of McCarthyism."

"It would be incredibly chilling to anyone else practicing in either the same area or in any politically sensitive area," she said.

In an interview, Cuccinelli said the request is part of an "open inquiry" into whether there were "knowing inconsistencies" made by Mann as he sought taxpayer dollars to fund research.

"In light of the Climategate e-mails, there does seem to at least be an argument to be made that a course was undertaken by some of the individuals involved, including potentially Michael Mann, where they were steering a course to reach a conclusion," he said. "Our act, frankly, just requires honesty."

Carol Wood, a spokesman for the University of Virginia, confirmed that the school had received the April 23 request. She said that it will take time for the university to decide how to proceed but that "the university has a legal obligation to answer this request and it is our intention to respond to the extent required by law."

According to the document, the demand was issued under the Virginia Fraud Against Taxpayers Act, a 2002 law that gives the attorney general the right to demand

documents and testimony in cases in which tax dollars have allegedly been obtained falsely by state employees. The document indicates that Cuccinelli is investigating possible violations of sections of the act forbidding employees from making false claims for payment, submitting false records for payment or conspiring to defraud the state.

If Cuccinelli were to successfully pursue a civil allegation against Mann, the professor could be forced to return research money or pay a civil fine.

"It's essentially a subpoena," said Steve Benjamin, a Richmond defense attorney who advises the General Assembly on legal issues. "It permits the issuance of that subpoena without the filing of any lawsuit and without the intervention or permission of any court."

Tim Donaghy, a scientific integrity analyst with the Union of Concerned Scientists, said that although Mann and other climate scientists have been called to defend their science before Congress and other bodies, he was not aware of a previous attorney general investigating their work as fraud. "It would be a disturbing precedent," he said.

But Mark R. Levin, president of the Landmark Legal Foundation, a leading group challenging climate change science, said Cuccinelli's inquiry is logical given his suit against the Environmental Protection Agency.

"There is no scientific consensus on global warming or Mann's influence on global warming, if indeed it is occurring," Levin said. "The federal government is relying on junk science. So it's perfectly reasonable the attorney general is raising these issues."

This is not the university's first brush with the political sensitivities of the climate change issue. In 2006, then-Gov. Timothy M. Kaine (D) asked that former Virginia state climatologist and university professor Patrick J. Michaels make clear that he was not speaking on behalf of the state when he publicly offered skepticism about global warming.

Michaels, who is a fellow at the Cato Institute, said: "There was a great deal of academic intolerance shown to me, and, because of that, I don't want to comment on this. That's not the way we should behave."

**Va. attorney general demands climate researcher's documents (*Greenwire*)**

(05/03/2010)
Virginia Attorney General Ken Cuccinelli (R) has ordered the University of Virginia to hand over documents pertaining to the work of Michael Mann, a prominent climatologist involved in the "Climategate" scandal.

Cuccinelli, who has filed a lawsuit challenging U.S. EPA's authority to regulate greenhouse gas emissions, sent a "civil investigative demand" (CID) for Mann's documents on April 23, the university said. The attorney general's office would not confirm or deny the request.

Mann, a Pennsylvania State University professor who created the "hockey stick" graph showing a recent rise in global temperatures, received $484,875 in state-funded grants for climate change research while working at the University of Virginia between 1999 and 2005. Some of his correspondence with researchers at the United Kingdom's University of East Anglia was included in a bundle of private e-mails that was leaked to the public late last year.

Climate skeptics said the correspondence showed the manipulation of data to exaggerate climate change, undermining the scientific basis for greenhouse gas regulation. An internal inquiry at Penn State cleared Mann of wrongdoing (*ClimateWire*, Feb. 4).

"The university has received the CID from the state's attorney general regarding Michael Mann's work," spokeswoman Carol Wood said. "Because of the scope of the request for information it will take some time for us to review it and decide how best to proceed with gathering information. The university has a legal obligation to answer this request, and it is our intention to respond to the extent required by law" (Brian McNeill, Charlottesville [Va.] *Daily Progress*, April 30). **-- GN**

**ENERGY**

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Posted on Mon, May. 03, 2010

**JCPenney Sets Goal to Reduce Energy Use 20 Percent by 2015 (*Bradenton Herald*)**

Company's Commitment to Energy Conservation Prevented 80 Million Pounds of Greenhouse Gas Emissions in 2009

J. C. Penney Company, Inc. (NYSE: JCP) today announced an environmental goal to reduce facility energy consumption 20 percent per gross square foot by 2015 through increasing energy efficiency improvements and driving a company culture which advocates and practices conservation. Over the past decade, the Company has invested more than $130 million to improve the energy efficiency of its existing stores and logistics centers by installing advanced metering technology, building control systems, lighting retrofits and high-efficiency heating, ventilation and air-conditioning (HVAC) systems. In 2009 alone, these combined efforts resulted in a year-over-year elimination of approximately 80 million pounds of greenhouse gas emissions by reducing energy use across comparable stores.

JCPenney has taken an inclusive, “hands-on” approach to addressing the Company’s environmental impact. In 2004, JCPenney launched an Associate awareness and engagement program, now referred to as EMPowered, which encourages and educates every Associate to seek out innovative ways to save energy. Associates are regarded as environmental stewards who are actively involved in helping to reduce the Company’s overall emissions by curtailing unnecessary energy usage. Through EMPowered, JCPenney stores designate an “Energy Captain” who takes responsibility for monitoring energy usage levels, identifying opportunities for improvement and promoting energy-saving efforts throughout the facility. JCPenney logistics centers employ similar initiatives using Associate-based “Green Teams.”

“To become a more sustainable business, we needed to involve our 150,000 Associates whose individual actions and habits can have a profound effect in achieving energy conservation every day,” said Myron E. (Mike) Ullman, III, chairman and chief executive officer of JCPenney. “A true commitment to environmental progress begins with an organization that is willing to take the necessary steps toward a cleaner environment.”

Due to the Company’s comprehensive approach to energy management, JCPenney was the first retailer to earn the ENERGY STAR® Award for Sustained Excellence by the U.S. Department of Energy and the U.S. Environmental Protection Agency. JCPenney recently earned its 100th ENERGY STAR building certification for the JCPenney store in Glenwood Springs, Colo. To be certified, stores must attain an energy efficiency rating in the top quartile for all retail buildings while maintaining appropriate levels of comfort, lighting and air quality. The Company seeks to achieve ENERGY STAR certifications for a total of 200 Stores by the end of 2010 – a significant accomplishment given the average age of JCPenney stores.

**Exploring Renewable Options**

Complementing the Company’s energy management strategy, JCPenney is aspiring over time to obtain 25 percent of its total operating power from renewable sources. JCPenney currently hosts rooftop solar power systems on nine California and New Jersey stores with at least three more locations being planned for this year. In addition, JCPenney hosts 12 Architectural Wind™ turbines at its Manchester, Conn. logistics center as part of a joint project with AeroVironment, Inc. The small, modular turbines are specially designed to harness the building’s aerodynamics to bolster electrical power generation. When the turbines are operating at optimal speed, the expected power generated is equal to the electricity used to light up a 50,000-square-foot warehouse space. JCPenney is also piloting the commercial use of a wind energy project at its Reno, Nev. logistics center. The project utilizes Broadstar Wind Systems™ patented AeroCam wind turbine technology; an innovative cycloturbine design built to generate electricity from multiple blades that turn on a horizontal axis. Installation of a second generation design is expected to be completed later this year.

JCPenney’s energy reduction goal is a reflection of the Company’s commitment to the environment based on a social responsibility platform known as JCPcares™. For

detailed information regarding JCPcares initiatives, JCPenney has released its 2009 Corporate Social Responsibility Report, which is available for download at www.jcpenney.net.

**About JCPenney**

JCPenney is one of America's leading retailers, operating 1,110 department stores throughout the United States and Puerto Rico, as well as one of the largest apparel and home furnishing sites on the Internet, jcp.com, and the nation's largest general merchandise catalog business. Through these integrated channels, JCPenney offers a wide array of national, private and exclusive brands which reflect the Company's commitment to providing customers with style and quality at a smart price. Traded as "JCP" on the New York Stock Exchange, the Company posted revenue of $17.6 billion in 2009 and is executing its strategic plan to be the growth leader in the retail industry. Key to this strategy is JCPenney's "Every Day Matters" brand positioning, intended to generate deeper, more emotionally driven relationships with customers by fully engaging the Company's approximately 150,000 Associates to offer encouragement, provide ideas and inspire customers every time they shop with JCPenney. For more information visit www.jcpenney.net

**FUEL**

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**Maryland researchers turn poplar trees into biofuel (*Baltimore Sun*)**

By Meredith Cohn, The Baltimore Sun
May 3, 2010
In response to a national call for homegrown, Earth-friendly fuels to fill Americans' gas tanks, a couple of University of Maryland researchers are planting trees.

Fuel derived from the hardy, fast-growing common poplar could eventually replace some of the billions of gallons of petroleum-based fuel now pumped a year, say biologist Gary Coleman and engineer Ganesh Sriram, who have partnered to help turn the woody plant into a widely used biofuel.

"Oil is a finite resource," said Coleman, a professor of plant science in the College of Agriculture and Natural Resources. "I don't think there is any doubt in 10 years people will be using advanced biofuels."

The Obama administration has made development of biofuels a priority, citing the national security and environmental concerns with petroleum-based fuel — a problem driven home by the devastating oil spill along the Gulf Coast. The president toured the

Midwest last week to tout renewable energy development, and the U.S. government already has mandated that biofuel production reach 36 billion gallons by 2022, tripling current levels.

Most biofuel now comes from corn in the form of ethanol, which is added to gasoline to increase its octane and decrease its harmful emissions. But the government is moving away from corn kernels, a food source, and has called for at least 60 percent of new biofuel to be derived from other sources.

A portion will come from cellulosic, or fiber-based, biofuel — the kind that comes from trees. To that end, millions in federal funds have been dedicated to research and processing plant construction.

Globally, other crops such as sugar are used to make biofuel. And more, including willow trees, algae and switchgrass, are in the race with poplars to become the next viable crop. But the government and scientists see poplars as having an edge because they naturally grow to about 70 feet in five or six years and grow just about anywhere.

Sugar, used to make biofuel in Brazil, for example, is sensitive to the cold in much of the United States.

Poplars would use up land, too, but not as much as corn and not in place of food crops, said Sriram, a professor of chemical and biomolecular engineering in the A. James Clark School of Engineering. Poplars, also called cottonwood or aspen, already are farmed, but for paper and timber.

"The scientific community already decided that poplars would make a good biofuel," Sriram said. "It's been studied since the '70s."

But after the 1970s oil crisis ended and gas prices dropped, so did the sense of urgency and research dollars, he said. Enough technology developed to turn trees into ethanol for use as a gas additive, but there's a lack of infrastructure and the cost would be high.

New research aims to make a cheaper and more advanced biofuel that could replace gasoline. Making that possible is a $3.2 million grant the researchers recently won from the National Science Foundation's Plant Genome Research Project, which funds work on plants that have potential economic and agricultural importance.

Also helping is the recent completion of the tree's genome by the scientific community. The complete tree map allows the researchers to identify and manipulate thousands of specific genes in their quest to understand and improve poplars' use of nitrogen, a key factor in the life cycle of the tree.

The plants store nitrogen in their branches in winter and send it back to the leaves in the spring. If researchers can make a tree cycle the nitrogen more efficiently, it will grow faster and use less fertilizer, a major cost saving.

"The more efficient we make the process, the more economical this will be," Coleman said. "But we're not there yet."

The trees would also absorb carbon as they grow, offsetting emissions from poplar-based fuel, he said.

Once the researchers perfect the cycle, they will hand off the job of making fuel to others.

As this is happening over the next decade, officials at the Department of Energy will move forward on other fronts. They expect that in a couple of years, ethanol from nonfood sources such as trees, grasses, algae, and forestry and crop waste will replace much of the corn-based fuel and the amount added to gasoline will be increased.

Ethanol is not likely to replace petroleum because, unlike advanced biofuels, it would require its own delivery system and modified cars to run on it, said Valerie Sarisky-Reed, acting program manager for the Energy Department's Biomass Program.

But ethanol will remain important in the short term as an additive that helps the environment and expands the petroleum-based fuel supply, she said. And it will remain important in the long term because a recent government study predicted those advanced biofuels will only be able to replace about a third of the transportation fuel used in the United States in the coming decades.

Meanwhile, financing technology development and processing plants will remain a challenge, Sarisky-Reed said. The private sector will be reluctant to invest in unproven technologies and the government has limits.

She also acknowledged critics who fear growing genetically modified crops for fuel will squeeze out traditional crops and have unknown consequences. The government has policies to try to prevent their spread, but she said that modifying crops to use less water and fertilizer is desirable. (The Maryland professors now destroy all of the trees they grow in labs for research.)

"Cost is the major drawback here," she said. "Petroleum has plenty of years on us. The technology is coming along, but it's difficult for industry to get financing for technology that is not tested."

An official at the Renewable Fuels Association, which represents the U.S. ethanol industry, agreed and said the economic downturn has made financing even tougher. Spokesman Matt Hartwig said the Department of Energy needs to do more.

Hartwig said corn-based ethanol plants can be altered to accommodate fuel from cellulosic sources such as trees more cheaply than building new plants. Once the woody material is broken down into sugar it is fermented and turned to fuel, like sugar

from corn. But it would still be a gamble since there aren't developed markets.

**Some members are forging ahead with new plants, however, for the environment and for their own future bottom lines, he said. Others will follow when costs decline.**

"This will all happen in phases," he said. "A few million gallons are being produced at various demonstration and pilot plants across the country. It's not a lot, but once it's proven then others will look at how to scale that up to 50 million or 100 million. The average corn-based ethanol plant produces an average of 100 million gallons a year."

In that same time, Americans will use 130 billion gallons of gasoline.

meredith.cohn@baltsun.com

**Renewable transportation fuels**

The government, scientific community and industry are working on biofuels to help wean the country from petroleum-based fuels that are considered harmful to the environment, a national security problem and a finite resource. Here are the pros and cons of some of the crops being examined and used, as described by some of those involved in the process:

**Corn:** Is used to produce most of the ethanol that is added to gasoline now to improve octane and reduce emissions. But its use diverts crops from the food supply. Ethanol also remains largely an additive in gas because as a fuel new infrastructure and modified cars are needed.

**Sugar:** Is used in Brazil to produce ethanol but doesn't grow well in colder climates found in much of the United States. It's also a food crop.

**Food oils, both new and used:** Environmentally, this is better than gasoline, and in some cases this is use of a waste product. But cars need to be modified to run on it. It can be added to petroleum-based diesel fuel to make a biodiesel that improves emissions.

**Trees, grasses and corn and wood waste:** Would be expensive to make into ethanol because of a lack of infrastructure. There is promise in making advanced fuels that would emit fewer greenhouse gases, but they would use up land, though not as much as corn and not on existing farms. This fuel could replace gasoline without modified cars or a new delivery system.

## GENERAL

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### OPM's OpenGov Plan (*Next Gov*)

By Brittany Ballenstedt 05/03/10 12:46 pm ET
The Office of Personnel Management's open government plan ranked in the top five of all federal agencies creating such plans to improve transparency and collaboration, according to a recent audit by OpenTheGovernment.org.

Results of the audit, released Monday, ranked OPM in fifth place behind NASA, the Environmental Protection Agency and the Agriculture and Housing and Urban Development departments for having the strongest open government plans of all federal agencies. Other agencies, like the Defense, Energy, Justice and Treasury departments, as well as the Office of Management and Budget, received the lowest rankings.

An Obama administration directive issued Dec. 8 instructed agencies to release a formal plan to improve transparency and collaboration. OPM's plan, issued April 7, includes a leading project called the Flagship Initiative, which involves implementing collaboration and knowledge management technologies such as e-libraries, document management tools, virtual worlds and social networking tools to help build employee knowledge, enable better management of workforce talent and provide sustainable sharing and collaboration.

OPM's plan provides significant detail and pledges to look closely at current efforts and make needed improvements in a reasonable timeframe, OpenTheGovernment noted. But the plan could be improved by the inclusion of a link to the office's efforts to improve participation and would benefit from specific dates and timelines for the actions planned on transparency, participation and collaboration, the audit states.

## GRANTS

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### Waterfront project in BF moves ahead (*Brattleboro Reformer*)

By HOWARD WEISS-TISMAN / Reformer Staff
Tuesday May 4, 2010
BELLOWS FALLS -- A plan to develop waterfront property in the village along the Connecticut River will move ahead after the Bellows Falls Historical Society recently was awarded a $200,000 grant from the Environmental Protection Agency.

The money, which was part of the almost $3 million Vermont received in the latest round of EPA Brownfields grants, will allow the historical society to create a trail system and public park along the river.

The plan is part of a larger development project to connect the downtown with nature trails on Bald Hill and a way to open up more of the village's historic buildings through an interpretive trail system.

"This is very exciting. This means that this project is going to happen," said Windham Regional Commission senior planner Susan McMahon, who is working with the village on the project. "We hope this will jumpstart the entire development of the waterfront in Bellows Falls."

EPA Brownfields grants are given out to communities that are trying to rehabilitate former industrial and commercial properties that are contaminated with hazardous materials.

The Bellows Falls site includes buildings from the former paper industry that dominated the village at the turn of the 20th century.

McMahon said the money will be used to remediate contaminated land and make the property available for recreation.

The first phase of the project will include capping the contaminated soil, installing a geotextile layer, and developing a paved riverfront trail.

The historical society also hopes to put in a parking area.

The work should begin this year and be completed by the fall, McMahon said.

The EPA grant is only the first step, and the project will eventually include interpretive signs, a nature and bird sanctuary, and an overlook terrace.

McMahon said the project will feature green remediation techniques, including recycled construction materials such as crushed glass, re-use of soil and re-use of historic salvaged structures from the region's industrial past.

The village of Bellows Falls and the historical society are swapping land to help the project move ahead. At last week's Bellows Falls Trustees meeting, the board agreed to be a joint applicant for the zoning permit to allow the historical society to ask for the permit at the Rockingham Zoning Board's May meeting.

The land deal has not been signed yet and historical society member Stewart Read said at the meeting that the group wanted to get the work done this summer, now that the EPA grant has been awarded.

At the meeting, Read said the group is looking to construct a bridge over the village storm water canal and also start work on a poet's seat, which is currently on land owned by the village.

"It will be nice to se this project completed," Bellows Falls president Roger Riccio said after the board approved the joint application.

*Howard Weiss-Tisman can be reached at hwtisman@reform-er.com or 802-254-2311, ext. 279.*

**Bridgeport schools get $25,000 federal grant for recycling (*Bridgeport News)***

Connecticut
Tuesday, 04 May 2010 03:27
The city Board of Education has received a $25,000 grant from the U.S. Environmental Protection Agency to start a pilot recycling program at Luis Munoz Marin School and Geraldine Johnson School in the upcoming school year.

The funds will come from the EPA's Healthy Communities Grant Program. The goal is to expand the program to all city schools in the near future.

"It is our commitment to start a successful program that will be institutionalized across the district," said School Supt. John J. Ramos Sr., thanking Mayor Bill Finch for offering the use of the city Central Grants Department to assist with the application process.

The project goals are to establish school recycling teams, educate youth and their families about recycling and its benefits, and increase the recycling capacity of the schools.

Finch said Central Grants worked closely with the school system's Building Operations Department to secure the grant.

"We're looking forward to working together with the Board of Education to promote recycling in the schools; and to help enhance the city's efforts to increase recycling by our residents," Finch said.

**Brownfields Grants Awarded (*Hartford Courant*)**

1:51 PM EDT, May 3, 2010
Connecticut is among several New England states to receive a portion of $16.1 million in U.S. Environmental Protection Agency Brownfields Grants to assess, clean and redevelop abandoned or contaminated properties.

The grant money will assist work to reclaim old textile mills, sites containing hazardous substances and other abandoned industrial and commercial properties. In total, EPA New England received 58 out of the 304 grants through the Brownfields Assessment, Revolving Loan Fund and Cleanup Grants programs.

The federal brownfields grants include: $200,000 to East Hampton for a community wide assessment; $200,000 to Griswold for cleanup at the former Triangle Plastic Wire and Cable Co.; $124,500 to Hartford for cleanup at Ramon Qurious Park; $200,000 in Middletown for cleanup at Remington Rand Complex; $200,000 in New Haven for cleanup at 10 Wall Street and $1 million for the city's community wide revolving loan fund; $600,00 to the Preston Redevelopment Agency for cleanup at the former Norwich State Hospital property; $200,000 in Shelton for cleanup at the former Cel-lastik Parcel; and $400,000 to the Waterbury Development Corp. for a community-wide assessment.

— Melissa Pionzio

**HAZARDOUS WASTE**

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Article published May 4, 2010

**Daniels seeks info on ArcelorMittal waste (*South Bend Tribune*)**

BURNS HARBOR, Ind. (AP) -- Indiana Gov. Mitch Daniels said he's been asking questions about sprawling waste piles outside ArcelorMittal's steel-making complex along Lake Michigan that environmentalists want tested for hazardous materials.

Daniels said he has inquired about the waste and wants to make sure it is "appropriate." The governor said the U.S. Environmental Protection Agency has not raised any issue about the northwestern Indiana waste piles.

"I've been asking a lot of questions and I'm trying to make certain this thing is appropriate," he told the editorial board of the Post-Tribune of Merrillville. "I know we've displeased you guys mightily on some of these things."

The Post-Tribune has detailed environmentalists' concerns about the waste, which the newspaper said ArcelorMittal officials have named "Easterly's Pile" after Tom Easterly, the commissioner of the Indiana Department of Environmental Management.

Easterly was the top environmental manager at one of ArcelorMittal's predecessors, Bethlehem Steel Corp., from 1994 to 2000. He became IDEM commissioner in January 2005.The waste piles at the company's Burns Harbor site have been around since at least the early 1980s, well before Easterly's tenure at Bethlehem Steel, IDEM

spokeswoman Amy Hartsock told the newspaper.

Bethlehem Steel recycled various wastes in its sinter plant in the mid-1980s. But under Easterly's watch, the company reported to the EPA in 1999 that although it had stopped recycling 14 years earlier, it still had treatment plant sludge and other waste sitting in the open.

In its latest inspection report, IDEM indicated it was not taking enforcement action against ArcelorMittal for open dumping because the company has periodically recycled some waste and has applied for a landfill permit to dispose of the waste.

The company is allowed to stockpile waste for recycling for up to six months.

It's unclear how much of the waste at the company's property is recycled.Critics, including Valparaiso lawyer Kim Ferraro of the Legal Environmental Aid Foundation of Indiana, have repeatedly asked IDEM for an explanation of Easterly's involvement.

## PESTICIDES

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### EPA gives Pioneer OK for new corn seed (*DesMoines Register*)

By DAN PILLER • dpiller@dmreg.com • May 4,
2010
Pioneer Hi-Bred said Monday it has received approval from the Environmental Protection Agency for its new AcreMax corn seed, which enables farmers to plant more biotech corn.

AcreMax is Pioneer's entry into the reduced-refuge seed market against SmartStax seed, which
Monsanto has begun selling for this year's planting season.

Pests such as rootworm and corn borer can mutate into forms resistant to genetically modified seed traits. To prevent that, the EPA requires farmers to set aside 20 percent of acreage planted with seed free from anti-pest biotech traits. Farmers usually treat refuges with conventional pesticides.

Pioneer's AcreMax will reduce the refuge to 10 percent by eliminating the need for a rootworm
refuge and allow the refuge for corn borers to be on more distant fields, thus making planting more simple.

"The refuge can be as much as a half-mile away," said Bill Belzer, Pioneer's senior marketing manager for North American corn.

AcreMax differs from Monsanto's new SmartStax corn seeds, which reduces the refuge to 5 percent of acreage but within a specific field. Monsanto said Monday it is readying its own "refuge in a bag" seed that it said would eliminate the refuge entirely.

UPDATE 1-

**DuPont says EPA approves Optimum AcreMax I seeds (*Reuters*)**

9:42am EDT
* Says EPA signs off on "refuge in a bag" approach
* Expected to debut in 2011
NEW YORK, May 3 (Reuters) - DuPont <DD.N> said on Monday the Environmental Protection Agency has approved its Optimum AcreMax I, a product the company says will save farmers time and make it easier for them to use hybrid seeds.

The decision, which was not unexpected, lets the company, also known as E.I. du Pont de Nemours & Co, better compete with rival Monsanto Co <MON.N>.

Genetically modified crops have been extremely popular among U.S. farmers in recent years. The Optimum AcreMax seeds feature traits such as drought-, herbicide- and pest-resistance, and often produce larger yields.

Regulators, though, had required farmers to also plant a "refuge" crop to prevent insects from developing a resistance to genetically modified crops.

The Optimum AcreMax I product includes a refuge crop in the bag for farmers, simplifying the planting process, DuPont said.

The product is expected to debut in the 2011 planting season.

"Customers told us what they needed, and we responded with an innovative solution that works better for growers," said Paul Schickler, president of Pioneer Hi-Bred, DuPont's agricultural unit.

DuPont's shares closed Friday at $39.84, and have traded between $23.91 and $41.45 in the past 52 weeks. (Reporting by Ernest Scheyder, editing by Maureen Bavdek)

## POLITICAL

### Gov't oversight posts remain empty (*Politico*)

By: John Solomon - Center for Public Integrity
May 4, 2010 05:11 AM EDT

Even as President Barack Obama expands the federal government to fulfill an ambitious domestic and international agenda, many of the oversight posts charged with ensuring the government's transparency and accountability remain vacant, according to a review by the Center for Public Integrity.

At least 15 of the 73 inspectors general, chief auditors or whistleblower protection jobs across government are unfilled or are being covered by acting officials, according to the review. Many of the openings have languished for a year or more.

The State Department, for instance, has been without an inspector general since early 2008, when Howard Krongard resigned after a controversy involving investigations into spending in Iraq and Afghanistan. Similarly, the CIA, often in the limelight with its sweeping spy powers, hasn't had a presidentially appointed inspector general since John Helgerson retired in March 2009.

Congress created the job of inspector general in 1978 with a law that directed the president to appoint 12 watchdogs to guard against wrongdoing at Cabinet agencies. Today, the number of IGs has grown to cover 69 agencies, and the jobs have come to symbolize the government's commitment to accountability and transparency.

"The key mechanism for holding government agencies accountable for their performance is inspectors general," said Clark Kent Ervin, who served as the Homeland Security Department's first chief watchdog from 2003 to 2004. "So it is troubling that there are so many vacancies in key government agencies."

Other critical watchdog jobs also remain unfilled. The top jobs at the Office of Special Counsel, charged with protecting federal whistleblowers, and the comptroller general of the Government Accountability Office, Congress's main investigative agency, have been vacant for more than 18 months and two years, respectively.

"I am troubled by even a single prolonged vacancy," said Rep. Edolphus Towns (D-N.Y.), chairman of the House Committee on Oversight and Government Reform. "I encourage the Obama administration to act expeditiously in filling these vacancies and to nominate a new special counsel without delay."

In the first 15 months of the Obama administration, four of the president's nominees to be inspectors general — at NASA, the Department of Education, the Small Business Administration and the Pentagon — were confirmed. Others have not fared so well.

Arthur Elkins Jr., nominated in November to be inspector general for the Environmental Protection Agency, still hasn't been confirmed by the Senate, leaving the EPA's top watchdog job occupied on an acting basis by a career official.

Likewise, Obama's picks for the Corporation for National and Community Service, nominated in February, and the Federal Housing Finance Agency, nominated in April, also remain unconfirmed by the Senate.
Other vacancies include the inspectors general at the Department of Labor and the Export-Import Bank. The administration has not announced nominees for either position.

There also are openings at the Equal Employment Opportunity Commission, the Federal Communications Commission, the National Endowment for the Arts and the Federal Labor Relations Authority, according to the website for the Council of Inspectors General on Integrity and Efficiency, the main organization for inspectors general. But those agencies don't require presidential appointments and simply hire their watchdogs from the outside, according to the White House.

"The president takes seriously government oversight and accountability," said White House spokesman Ben LaBolt. "Candidates for a number of these posts are in the vetting stage."

Congress also has two of its own watchdog openings to fill.

Former Comptroller General David Walker stepped down in March 2008, and the office has been under the command of acting Comptroller General Gene L. Dodaro for more than two years. Names of possible candidates reportedly have been sent to the White House to make the nominations.

In addition, the House of Representatives is searching for a new inspector general after the longtime watchdog for Congress announced his retirement in December.

In the absence of a permanent inspector general, career staffs continue to produce their daily audit and investigative work. But the agencies often are left to the care of an "acting" leader who lacks the authority, public standing and ability to set the agenda that a Senate-approved presidential appointee brings to the job, officials said.

Labor's top watchdog job has been open since mid-2008, when then-Inspector General Gordon S. Heddell was named acting inspector general at the Pentagon. Heddell was formally confirmed as the Defense Department's chief watchdog last July, but his job at Labor has gone unfilled for about two years.

The department initially named Deputy Inspector General Daniel Petrole to be the acting inspector general, but the vacancy has stretched on for so long that Petrole was forced under federal employment rules to go back to his former job, officials told the Center.

A little-noticed provision in the financial services bill that the Senate is struggling to debate

has raised the prospect of even more vacancies in the watchdog community.

Five financial regulatory agencies — the Securities and Exchange Commission, the Pension Benefit Guaranty Corp., the Commodity Futures Trading Commission, the National Credit Union Administration and the Federal Reserve Board — for years have hired their own inspectors general because Congress had not included them in the system that requires a president to appoint them.

But a provision in the financial markets reform legislation passed by the House last December would remove those independently hired IGs in favor of political appointees named by the president and confirmed by the Senate. Senators have been struggling to consider that legislation, failing to overcome GOP opposition to the House-passed bill. The current holders of those jobs are fighting the change, suggesting it would jeopardize the political independence they have enjoyed in aggressively pursuing wrongdoing inside their agencies.

“Despite the intentions of its drafters, the language converting each of the five inspectors general to presidential appointment with Senate confirmation does not enhance the existing statutory independence and authority of our offices,” the five current inspectors general wrote Congress in February. “To the contrary, we are concerned that subtitle C would potentially politicize these appointments, such that our independence, and that of our successors, would be threatened.”

Iowa Sen. Chuck Grassley, the senior Republican on the Senate Finance Committee and a longtime champion of whistleblowers and inspectors general, also opposes the change because of concerns that it would hurt the watchdogs’ independence.

“Making these five inspectors general presidentially appointed goes in exactly the opposite direction of independence, because these positions run relatively small offices and don’t have the professional staffs that contribute to independent work in the biggest departments,” Grassley said.

Over the years, government watchdogs have produced some memorable investigations, uncovering federal workers who watched pornography from government computers, revealing that federal housing vouchers were still being paid to dead Americans and disclosing the FBI’s illegal gathering of phone records.

For instance, longtime Interior Department Inspector General Earl Devaney won accolades for his investigative work before he was picked by Obama to lead the massive job of accounting for all $787 billion spent under the 2009 economic stimulus law. The dean of the IG community, Devaney’s oversight work over the years at Interior helped uncover the Jack Abramoff lobbying scandal and another scandal involving sex and gifts inside the agency that leases federal lands for oil and gas drilling.

On a daily basis, the offices of inspectors general investigate more mundane employee misconduct and contracting fraud, and they also conduct annual audits of agencies’

accounting books. The inspectors general themselves are frequent witnesses before Congress, helping the legislative branch fulfill its oversight function.

In recent years, however, the watchdogs' own conduct has come under scrutiny:

Krongard resigned from his job at the State Department in December 2007 after a congressional committee questioned his independence and his oversight of spending in Iraq and Afghanistan. Separately, former U.S. Special Counsel Scott Bloch, whose office investigates whistleblowers' allegations and protects them from reprisals, was removed in October 2008 amid allegations about his own conduct. He pleaded guilty last month in federal court to one count of criminal contempt for withholding information from Congress.

The lengthy vacancy at the special counsel's office has frustrated whistleblower advocates, who have been pressing Obama to name a replacement for months.

"Appointing a new special counsel is critical," said Stephen M. Kohn, a lawyer whose firm has represented some of the country's most famous whistleblowers and who serves as executive director of the nonpartisan National Whistleblower Center. "The president must appoint a strong, independent and highly aggressive advocate for whistleblowers to clean up that office and ensure that whistleblowers are protected under the law."

John Solomon is a journalist in residence at the Center for Public Integrity.

**WATER**

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MAY 3, 2010, 2:44 P.M. ET

**White House Defends Response To Gulf Oil Leak (*Wall Street Journal*)**

By Jared A. Favole
Of DOW JONES NEWSWIRES

WASHINGTON (Dow Jones)--The White House on Monday defended the federal government's response to the massive oil spill in the Gulf of Mexico and stressed that BP Plc (BP) will bear the full cost of the disaster.

White House Press Secretary Robert Gibbs said BP will pay the full costs of the spill, which is leaking oil deep in the Gulf at an estimated 5,000 barrels a day and has already led to fishing restrictions in the region.

President Barack Obama traveled to the Gulf on Sunday to get a better handle on the spills and said it has the potential to become an unprecedented environmental disaster.

Gibbs was questioned about an environmental law that caps certain damages to the operators of offshore oil rigs at $75 million. Gibbs said he would look into the law, called the Oil Spill Liability Trust Fund, but added BP will pay the full costs.

Gibbs said when Obama traveled to the Gulf on Sunday he talked with Louisiana officials and residents about the potential economic damages and how they could best be compensated for damages from the leak. Gibbs said Obama wants to make sure fishermen and others affected by the spill can file compensation claims without heavy bureaucratic delays.

Gibbs said BP began Sunday evening drilling a relief well aimed at redirecting the oil. The heads of the Department of Interior, Environmental Protection Agency and Homeland Security are meeting with BP officials Monday, including BP chief executive Tony Hayward, to ensure the company is doing all it can to clean up the spill, Gibbs said.

The federal government has been criticized for not responding quickly and forcefully enough. The government declared the disaster of national significance about a week after the explosion. Gibbs said there were 70 vessels and scores of planes in the air helping with the spill before that declaration.

-By Jared A. Favole, Dow Jones Newswires; 202.862.9256; jared.favole@dowjones.com

**Let the rivers run through it (*Baltimore Sun*)**

Dam removal in the Chesapeake watershed is restoring the area's ecology
By Cindy Ross
May 3, 2010
My fishing buddy, Bob, is against the dam on our local stream being removed. In his mind, the spillway is a waterfall. To his eye, flat water, the wide lake behind the dam, is more aesthetically pleasing than a free-running stream. He does not want a dramatic change; he does not want the landscape altered.

Our rivers and streams have become so crowded with dams, many only a few feet high and 100 or more years old, that many people like Bob do not see the toll they have taken on fish populations, wetlands and the overall health of the stream.

"It is time to rethink our nation's infrastructure," says Rebecca Wodder, president of American Rivers. "Dam removals are an example of how our communities can reap huge benefits when we work with nature instead of against it."

Her organization has worked with state and federal agencies, citizen groups and others to educate people about he impacts of dams, and spearheaded the removal of hundreds of outdated dams around the nation.

Pennsylvania leads the country in river restoration, and many of these waterways lie within the Chesapeake Bay drainage. The Nicodemus Dam in the Antietam Creek/Potomac Watershed near Waynesboro and the Middle Spring Creek dam near Shippensburg are both slated for removal this summer. Further south, on Maryland's Patapsco River, removal of Union Dam is nearly complete, Simkins Dam is scheduled for removal in September, and Bloede's Dam near Ellicott City is planned for removal in the future.

The Patapsco River dam removals are of particular note, for it is American Rivers' goal to restore the entire waterway, allowing migratory fish such as the American eel to once again swim upstream without interference.

My angler friend doesn't realize that his beloved dam has unnaturally changed the habitat behind the structure and below it. Dams impede the flow of coarse gravel and sand, both of which increase channel complexity and improve habitat. Sediment-starved streams can become very uniform, with a profile that looks as if a wall parallels the waterway. A healthy river bottom has variety: rocks, sandbars, riffles and pools; it might not naturally be the same uniform depth all the way across.

Just because a dam has been there a long time doesn't mean it is good for the river. People functioned with a different set of values back when these dams were built. Many were created to power mills that no longer exist. Populations of shad and other migratory fish have declined, often drastically, in large part due to the thousands of dams that were built in East Coast rivers. Back then, species such as shad, herring and eels seemed too abundant to ever be placed at risk, and the overall health of the stream was not a consideration. If our forefathers had known that certain species would greatly decline and become endangered, perhaps they would have taken a different route.

Each dam removal project is evaluated on a case-by-case basis, but most dams are removed the same way: hydraulically jack hammered apart from the shore, piece by piece. Sometimes a causeway is built to work off of. Occasionally, a barrier is created upstream to divert the flow. Low water is the preferred time to take out a dam.

After the dam is removed, the stream is monitored yearly. Within only three months, there is usually a huge spike in the presence and health of insects — the macro invertebrate species that form a key part of the river's ecology. Dissolved oxygen, temperature and water chemistry also greatly improve.

My angler friend also isn't aware that some of these dams can be very dangerous. Eight lives have been lost at Bloede's dam because of swimming accidents. Kids slide down the "waterfalls" formed by dams or get pulled over the falls and become trapped at the base of these dams. Boaters who run these drops also risk their lives. Communities downstream face a risk the old dams will breach at high water.

Educating the public on issues such as these is a big part of what American Rivers does. Once a dam is removed and the disturbed earth greens up, the wetlands are restored, and the aquatic life and water quality improve, most agree that the dam removal was a good thing.

My friend Bob will be able to launch his fishing kayak on the river and paddle without portaging around a dam. Even Bob, who resists change, will see that a good thing, like his river, can get even better.

Cindy Ross lives in Pennsylvania and has written six books about the outdoors.

**BP chief defends spill response, blames rig owner for accident (*Greenwire*)**

(05/03/2010)
Noelle Straub, E&E reporter
As oil continued to spew into the Gulf of Mexico, the head of BP PLC outlined the company's attempts to stop the leak, which could continue for months, and promised to pay for cleanup efforts.

"The worst-case scenario is that we would have to contain this for two to three months whilst a relief well is drilled," BP CEO Tony Hayward said on NBC's "Today Show." He rejected assertions that the company has been slow in responding to the spill and said it has been planning for the worst since the leak began.

Hayward said it "wasn't our accident," because the equipment that failed was owned and operated by Transocean. But he added that BP, which leased the rig, is responsible for cleaning up the oil. He said the failure is "unprecedented" in the industry.

Hayward also told National Public Radio that his company is fully responsible for the cleanup and any "legitimate" claims from an undersea pipeline rupture that threatens to deposit hundreds of thousands of gallons of crude on the Gulf Coast.

"It is indeed BP's responsibility to deal with this, and we are dealing with it," he said on NPR's "Morning Edition." "We will absolutely be paying for the cleanup operation. There is no doubt about that. It's our responsibility -- we accept it fully."

When pressed on whether BP was prepared to pay claims to individuals who lose their livelihoods due to the spill, Hayward said the company has "made it clear that where legitimate claims are made, we will be good for them." BP representatives in Alabama circulated settlement agreements among coastal residents that reportedly offered payments of up to $5,000 in exchange for not suing the company.

Hayward called that "an early misstep" involving "a standard contract with the team we're using that was eliminated very early in the process."

Hayward also said the British oil giant was "mounting a massive response" to what he described as a "tragic accident."

BP has three ongoing activities to try to stop the leak. The first is continuing to work on the well's blowout preventer, the fail-safe mechanism that failed, but he compared that work to "performing open heart surgery at 5,000 feet" below the surface. Eight robotic submarines are working around the clock to fix it, he said. "No one understands why it failed," he said.

The company also has "fabricated and will have on location by next weekend a subsea containment system, with the intention of containing the leak," he said. Hayward described the device as "a dome ... that sits over the top of the leak and channels the oil to the surface, where we can treat it and deal with it." Such an operation, he said, had "never been done at 5,000 feet."

The company also began drilling a relief well yesterday, which would be used to control the leak. But the drilling could take months.

Hayward said more than 700 fishing vessels had been deployed to support its effort to contain the spill. "In the last 48 hours, we have trained more than 3,000 people [who have] signed up on the volunteer program, so there is an enormous effort to work with the local communities," he said.

He declined to say if he supported a proposal by Sen. Bill Nelson (D-Fla.) to temporarily halt all offshore oil drilling until the exact cause of the accident is determined.

"We clearly need to understand what has happened here, and that will come out with the investigation," Hayward told NPR.

Nelson sent a letter to Interior's inspector general today asking for an investigation to determine whether the oil and gas industry exerted influence over regulations on reliable backup systems to cap underwater wells. Interior's Minerals Management

Service allowed oil rigs not to have audio control devices capable of remotely activating a wellhead's blowout preventer, Nelson said.

At 3 p.m. EDT today, Interior Secretary Ken Salazar, Homeland Security Secretary Janet Napolitano and other members of the Obama administration will meet with Hayward and BP America Chairman and President Lamar McKay at the Interior Department to discuss ongoing, coordinated response efforts and receive an update on BP's mitigation plans for potentially affected Gulf Coast states, an administration official said.

**Fish, wildlife**

The National Oceanographic and Atmospheric Administration is restricting fishing for a minimum of 10 days in federal waters most affected by the BP oil spill, from the mouth of the Mississippi River to Florida's Pensacola Bay. The state of Louisiana has already closed vulnerable fisheries in state waters, within 3 miles of the coast.

The first oiled bird, a northern gannet, was captured Friday by contractors in the spill area and is being treated by Tristate Bird Rescue and Research, which has been contracted by BP to rehabilitate wildlife, the Fish and Wildlife Service said. As oil is poised to reach coastal zones, the agency's primary concerns include potential effects to 20 coastal national wildlife refuges within the possible trajectory of the spill.

Hundreds of thousands of feet of booms have been deployed to contain the spill, with hundreds of thousands more staged and ready to be deployed.

Oil has not yet come ashore in the Gulf Islands National Seashore, but the park continues to prepare, as predications indicate that may happen Wednesday, said Jean Schaeppi, spokeswoman for the National Park Service. Booms have been placed around sensitive barrier islands, natural resource specialists are working on responses in case wildlife is affected, and NPS officials are working on plans in case any closures are needed.

The Minerals Management Service said two platforms in the oil sheen area have stopped production and one has been evacuated as a safety measure.

**Air pollution**

U.S. EPA's first collection of air monitoring data from the area affected by the Gulf Coast oil spill shows "no red flags at this time," according to a government website.

EPA on Saturday posted to its website the first air data collected across the Gulf Coast to track general air quality as well as to monitor the controlled burning of oil on the ocean surface. The data do not show any dangerous air quality levels caused by the oil spill.

The agency is monitoring levels of particulate matter, that could rise when oil on the coast is burned. EPA is also looking for heightened levels of volatile organic compounds, or VOCs, that can be smelled far below levels that might be of a public health concern, according to EPA.

Some Gulf Coast residents in recent days have reported an odor caused by these compounds. The gas station-like odor, according to EPA, likely includes compounds like benzene, toluene, ethylbenzene, xylene and naphthalene.

The levels of VOCs detected is far below any level of concern, EPA says.

"The smell that's coming from the oil is something that we don't feel rises to the level of a public health concern," EPA Region 6 Administrator Al Armendariz told Gulf Coast residents Saturday at a community meeting.

Still, Armendariz assured residents, "We're going to be here as long as we have to be here to make sure we can get you the best information possible."

*Reporter Robin Bravender contributed.*

**Housing bust exacerbates sediment problems (*Greenwire*)**

(05/03/2010)
Sediment from abandoned construction sites is polluting waterways and endangering fish and plant life with silt buildups across the nation, according to federal officials and environmental groups.

Projects that were left unfinished and abandoned due to the housing bust or are in litigation are "bleeding sediment into the state's waters," said Mell Nevils, director of the Division of Land Resources in North Carolina. He estimates that 40 halted and abandoned projects are polluting waterways in the state.

Such sites, erosion experts say, will lose about 200 tons of sediment per acre per year, compared with just 5 to 7 tons per acre per year for a farm.

Last month, U.S. EPA settled with one of the nation's largest homebuilders for sediment runoff at almost 600 sites in 18 states and the District of Columbia. Hovnanian Enterprises agreed to pay $1 million and take steps to prevent runoff (*E&ENews PM*, April 20). EPA said the agreement is expected to head off 266 million pounds of sediment runoff nationwide.

"The housing bubble bursting has just exacerbated an already really bad situation," said Janelle Robbins, staff scientist with the Waterkeeper Alliance, an international coalition of waterway advocates.

North Carolina-based Muddy Water Watch estimates that sediment pollution leads to $16 billion in annual environmental damage in the United States, with about 70 percent of the pollution coming from human activities, such as land clearing for construction, logging and farming. The problem also leads to massive pot holes that could prove a safety hazard.

EPA, which monitors runoff as part of its enforcement of the Clean Water Act, considers sediment the leading and most costly cause of water pollution (Page Ivey, AP/[Norristown] *Times Herald*, May 1). **-- DFM**

MAY 3, 2010, 2:11 P.M. ET

**Oil Spill Casts Pall Over Offshore-Oil Conference In Houston (*Wall Street Journal*)**

By Angel Gonzalez
Of DOW JONES NEWSWIRES

HOUSTON (Dow Jones)--BP PLC (BP) had been preparing to tout its success in becoming the largest oil producer in the U.S. Gulf of Mexico at the world's No. 1 gathering of offshore-oil players here. But a massive oil leak emanating from a BP deepwater well has spoiled the party for the U.K. oil giant and the broader offshore industry as it braces for a potential regulatory crackdown.

"I was looking forward to this day with a lot of pride and excitement," Simon Todd, who heads BP's Thunder Horse deepwater development in the Gulf of Mexico, told attendants at the Offshore Technology Conference, which started Monday. "That anticipation has become totally overwhelmed" by concern about the explosion and sinking two weeks ago of the Deepwater Horizon, a Transocean Ltd. (RIG) drilling rig that was finishing a BP exploration well.

The resulting leak of at least 5,000 barrels a day is encroaching on the coast of Louisiana and threatens other Gulf Coast states as well. Efforts to contain it by shutting off the well have failed; BP on Sunday began drilling a relief well that could take three months to stop the flow. In addition, the company is applying chemical dispersant directly to the source of the oil, and plans to put a dome in place to capture the oil on its way to the surface.

The spill's timing couldn't be worse for the offshore oil industry: Its impact on the local economy and environment could make the U.S. government seriously reconsider the industry's pet issue, the opening of new waters to oil and gas exploration. For BP, it

revives a tragic streak that the company had been trying to leave behind, with some success.

Until recently, the Thunder Horse platform illustrated both BP's apparent bad luck and the steep challenges presented by deepwater energy production. In 2005, the platform, then under construction, was found listing after the passage of a hurricane, the result of defects in its ballast system. Later, problems with subsea infrastructure at the field and at another BP development, Atlantis, caused a two-year delay in the start-up of the projects. But after Atlantis began production in October 2007 and Thunder Horse started up in June 2008, both fields began to contribute "a large proportion of our oil production in the Gulf of Mexico," making BP the largest producer there, Todd said.

The problems encountered in those fields called for solutions that are now widely implemented, such as more extensive monitoring of ballast systems, Todd said. It also created a new emphasis on safety. "Some years ago the industry may have had the mindset of productivity before safety," but that has changed, Todd said.

However, all those lessons are now "overshadowed by our desire to learn" from the Deepwater Horizon incident, Todd added.

The Deepwater Horizon accident cast a pall over the conference, which attracted more than 65,000 people from all over the world.

Jackie Mutschler, Vice President of Exploration and Production Technology at BP America, kicked off the BP session about Thunder Horse and Atlantis by calling for a minute of silence for the 11 crew members lost from Deepwater Horizon, which burned and sank.

A special luncheon featuring BP chief of exploration Andy Inglis was canceled, and so was a safety-awards luncheon hosted by the U.S. Minerals Management Service, the federal agency that oversees offshore oil and gas development and is now investigating the incident and helping respond to the spill. Also, experts from companies operating across the Gulf were helping BP deal with the spill. "The intellectual power and experience of our industry is focused on solving this problem," Mutschler said.

Things seemed to go as usual at the booth set up by Cameron International Corp. (CAM), which manufactured the failed blow-out preventer that BP is trying to activate to shut off the well. Potential customers milled about several blow-out preventers that

resemble gigantic, brightly-colored Lego toys cast in metal. At the main morning panel session, executives called for more access to oil and gas exploration drilling. "Access is important," said Anadarko Petroleum Corp. (APC) vice president Frank Patterson, whose company owns part of the field at the source of the spill.

-By Angel Gonzalez, Dow Jones Newswires, 713-547-9214; angel.gonzalez@dowjones.com

**Tough answer to GE dredging claims (*Albany Times Union*)**

EPA dismisses assertion that project put more PCBs in river
By **BRIAN NEARING**, Staff writer
First published: Tuesday, May 4, 2010
GLENS FALLS -- The Environmental Protection Agency on Monday used surprisingly harsh words -- including superficial, one-sided, artificial, oversimplified and unreliable -- to dispute General Electric Co. findings over last year's Hudson River PCB dredging.

The response came a day before outside experts begin sorting out conflicting claims by the EPA and GE.

The agency's critical language seemed aimed at undercutting GE's claims that more PCBs were stirred up and moved downriver after dredging started on the river bottom around Fort Edward. GE said levels remained elevated even after dredging stopped in late October, so there should be less dredging and more capping over of PCBs when work resumes in 2011.

"It is very important to be critical and straightforward," said EPA spokeswoman Kristen Scopeck. "We cannot mince words. This is a highly important project, and it is now up to the peer-review panel to say how it can be improved."

GE spokesman Mark Behan said, "EPA criticizes the data GE uses to demonstrate that PCBs re-suspended during dredging have been redeposited on downstream sediments. However, EPA uses these same data for many other purposes. The only time EPA criticizes the quality of the data is when it is used to demonstrate redistribution of sediments."

Re-suspension of PCBs -- the lifting by dredge buckets of PCBs that escape into the river current and get moved downstream -- is the central issue of GE's findings on the first year of the project.

A panel of experts, known as the peer-review panel, will hold three days of hearings at the Queensbury Hotel today, Wednesday and Thursday, acting as a sort of scientific jury to weigh claims by EPA and GE.

Starting at 8 a.m. each day, the meetings are open to the public, although no public comment will be taken.

EPA's report said that GE's findings that PCB levels in the river rose sharply after dredging started relied on a "one-sided" technique that "artificially" created that appearance by underplaying the amount of PCBs that were in the water before dredging started last spring.

And the report also called "oversimplified" GE's claims that PCB re-suspension results only from the act of dredging -- and that ignored other factors like vessel traffic, incompletely closed dredge buckets and the time spent at each dredge site because scows to carry away dredgings were often backed up.

EPA said GE's claims that the project cannot be done within the remaining five-year schedule without dredging less are assertions that are "superficial and depend on overgeneralization of the data."

Under a 2002 cleanup pact with EPA, GE can leave after the first year if the company determines the project is not effective or practical. EPA has vowed that the project will continue regardless of GE's involvement.

EPA maintains the schedule can be kept even though the amount of toxic PCBs in the river between Fort Edward and Troy is almost triple estimates because "hot spots" -- including some spots where raw PCB oil was found -- were much deeper than predicted. EPA wants to dredge more river bottom more deeply but less often, and make changes to dredging and boat traffic to capture more PCBs while causing less stirring up.

The company wants GE to add a second station at the PCB treatment facility on the Champlain Canal where barges with dredged sediments can be unloaded. This could speed up dredging by reducing the amount of time that barges wait in line to unload.

Brian Nearing can be reached at 454-5094 or bnearing@timesunion.com.

PCB review panel

A peer-review panel will hold three days of hearings beginning at 8 a.m. today, Wednesday and Thursday at the Queensbury Hotel. The meetings are open to the public, although no public comment will be taken.

A copy of EPA's latest report on Hudson River dredging can be found online at http://www.hudsondredgingdata.com/

**Dredging peer review panels begin today; EPA posts addendum to evaluation report (*The Saratogian*)**

Tuesday, May 4, 2010
By EMILY DONOHUE, The Saratogian
FORT EDWARD — The peer review panel charged with reviewing the first phase of Hudson River dredging will hold its second meeting in three day-long sessions beginning at 8 a.m. today and continuing Wednesday and Thursday.

The meetings, in the Adirondack Room of the Queensbury Hotel on Ridge Street in Glens Falls, are open to the public.

The panel members will discuss the answers General Electric and the Environmental Protection Agency provided to several questions posed at the last set of meetings in February. The panel will also review the evaluation reports compiled by both the EPA and GE as they relate to the Engineering Performance Standards set by the EPA. Those standards govern resuspension of PCBs, residual contamination and the rate at which PCBs should be removed from the river.

Public comments will be taken at the end of meetings today and Wednesday.

The panel's findings will be compiled into a report expected to be completed by late July.

GE, whose Fort Edward and Hudson Falls capacitor manufacturing plants legally dumped PCBs into the river between 1944 and 1977, was ordered by the EPA in 2002 to clean up the river and properly dispose of the chemicals, which are suspected human carcinogens. PCBs, polychlorinated bi-phenyls, were used as insulation material in GE's plants. The first dredging season lasted from May to November of 2009. All of 2010 will be spent reviewing that phase's results before dredging resumes in 2012. It is scheduled to continue through at least 2016.

The EPA also released an addendum to its evaluation report regarding the amount of PCBs that wash down to the lower Hudson River during the dredging process that they consider acceptable. Public comment on that addendum, which is available at www.hudsondredgingdata.com, will be accepted through May 13 and can be made via that website or by sending written statements to the Hudson River Field Office, 421 Lower Main St., Hudson Falls NY 12839.

**OK depends on water tests (*Boston Globe*)**

Boil order could be lifted by tomorrow
By Beth Daley and John R. Ellement, Globe Staff | May 4, 2010
WESTON — State officials said yesterday that workers have successfully repaired a massive ruptured water pipe and are on the brink of restoring clean tap water to 2 million Greater Boston residents who, since Saturday, have been ordered to boil water for drinking or cooking.

Environmental officials are performing repeated tests on the quality of the water now flowing into homes and offices in Boston and 29 suburbs, and Governor Deval Patrick said the tests are "going well.'' The governor and other officials refused to offer a timeline for lifting the boil-water order, but suggested the order could be lifted as soon as today or tomorrow.

"We want to take the time to make sure we can get this right,'' Patrick said at the State House early last night. "We are in the process of turning the water on and testing it for safety. That is going well. We hope to have final results very, very soon.''

In Washington yesterday, President Obama signed a disaster declaration, clearing the way for federal reimbursement of up to 75 percent of the cost of responding to the crisis. The state has not yet tallied how much it has spent on such costs as alerting residents, repairing the damage, and buying truckloads of bottled water that were still being distributed last night to the elderly and other vulnerable populations.

Attention, meanwhile, turned to what caused a seam connecting two large pipes in the major drinking water artery into Boston to sever on Saturday morning. The rupture, near the intersection of the Massachusetts Turnpike and Route 128, spilled 265 million gallons of water and pushed enormous amounts of soil into the Charles River.

Officials of the Massachusetts Water Resources Authority said their focus remains the restoration of clean water to residents. But authority officials also began poring through records to determine who designed, built, and installed the seam and why it failed.

"Early on we made a strategic decision that every minute that we spend . . . trying to figure out what happened is an hour that was wasted that couldn't be used to get the problem resolved,'' said MWRA executive director Frederick A. Laskey. "There'll be time afterwards to sit down and figure out where this all goes.''

Workers poured a concrete encasement yesterday over a newly welded steel collar reconnecting the two sections of pipe to ensure that it will not fail again. Emergency repairs went far more quickly than authorities had expected, and by 6 a.m. yesterday, the state said all the water flowing into affected communities was once again coming from the Quabbin Reservoir in central Massachusetts.

But the officials warned people not to drink from faucets just yet because they fear the supply might still include water from the Chestnut Hill Reservoir, used to supplement Greater Boston's water supply over the last few days. The Chestnut Hill water might

contain harmful bacteria or might have an unpleasant taste from the large chlorine dose added to treat the backup supply.

“We worked really hard to get this system back on line before people woke up this morning for their showers,’’ said Charles Button, chief engineer of the MWRA, who said he was pleased that the agency had maximized the amount of clean water coming through pipes by the start of the workweek.

Officials say the water is safe for bathing and flushing toilets, but should not be used for drinking or cooking until testing is complete.

In order to flush any untreated water out of the system, workers opened fire hydrants yesterday, particularly in Boston and Brookline, near the Chestnut Hill Reservoir.

Officials also began collecting water samples from 428 locations in the 30 affected communities and said they would test for bacteria that can be harmful to human health.

State officials said they would have to find the water free of harmful bacteria in two consecutive tests before declaring the water safe to drink.

The testing is quite complicated. Lab researchers must analyze each batch of water carefully because isolated debris from the environment or faucets can affect the results, according to the state Department of Environmental Protection.

The testing is also time-consuming. Each water sample must incubate for 18 hours before researchers can examine it. Normally, researchers wait eight hours before resampling a location; that can be compressed in some circumstances. Officials at the state Department of Environmental Protection refused yesterday to say whether they are expediting testing.

There are multiple theories for what might have caused the pipe rupture. Button, the MWRA engineer, said one theory is that the bolts on the collar exterior could have rusted off, but that would be unexpected because the collar was installed just seven years ago and the region’s soil is not particularly corrosive.

An alternative theory is that heavy rains in recent months eroded the soil underneath the pipe, leading the collar to break. But Button said there was no evidence of such erosion.

The search for a cause has been complicated because workers have not yet found the steel collar, which washed away when water began gushing out of the pipe.

Button and other engineers suspect it is nearby, buried in the Charles River under hundreds of cubic yards of sediment that now rises above the river surface near the rupture site. Officials hope to start excavating the sediment mound today.

It is also possible that there was a problem with the design, construction, or installation of the pipe collar, which is a large version of a standard component of public water systems.

Al Bonfatti, manager of Harding and Smith, a Walpole-based construction company, said that his firm has installed collars for several large MWRA projects, but that he was unsure whether his company installed the one where the break occurred.

“If there was a defect, it would not have passed quality control testing,’’ he said. “The whole thing has me puzzled.’’

House Speaker Robert A. DeLeo, who has called for an investigation of what went wrong, said he would wait until “things settle a little bit’’ and the drinking water is back on line before convening hearings.

Environmentalists said the rupture highlights the need for greater attention to water infrastructure. There is an estimated $8.5 billion needed to ensure clean drinking water in Massachusetts, advocates said.

A new state commission, the Water Infrastructure Finance Commission, is hoping to find a way to fix crumbling pipes, older water-filtration plants, and antiquated monitoring equipment. The panel is scheduled to hold its first meeting tomorrow.

“People turn on the tap, and they don’t think about where their water comes from and the cost that goes into maintaining clean water,’’ said the commission’s chairman, Senator James B. Eldridge, an Acton Democrat. “If anything comes out of what happened this weekend, I hope that people are thinking about that more.’’

*Noah Bierman, Carolyn Johnson, Sean P. Murphy, and Maria Sacchetti of the Globe staff contributed to this report. Beth Daley can be reached at bdaley@globe.com.* ■

MAY 4, 2010

**Oil Agency Draws Fire (*Wall Street Journal*)**

Republican Seeks Scrutiny of Regulator; BP Tries Well Fix
By JEFFREY BALL, STEPHEN POWER and RUSSELL GOLD
Associated Press
Workers place oil containment booms in the central marshes in St. Bernard Parish, La., on Monday.
NEW ORLEANS—The agency that regulates offshore oil drilling drew sharp criticism in Washington as BP PLC began drilling a new well in a frantic attempt to stanch the gusher fouling the Gulf of Mexico.

BP and the Obama Administration say they are focused on stopping the flow of crude from the damaged well nearly a mile below the surface. But already lawmakers and interest groups are firing the first shots in what could be a lengthy fight over financial liability and political blame.

BP begins drilling a relief well in the hopes of stopping the oil from continuing to spill into the Gulf of Mexico. WSJ's Jeffrey Ball joins the News Hub from New Orleans with the latest.

The Gulf disaster is ratcheting up congressional scrutiny of the Minerals Management Service, the federal agency charged with regulating the nation's offshore oil-and-gas industry.

Rep. Darrell Issa (R., Calif.), announced Monday that Republicans on the House Committee on Oversight and Government Reform would investigate whether the MMS has pushed for regulations necessary to ensure the safety of offshore operators in the Gulf of Mexico. Citing a report in The Wall Street Journal, Mr. Issa expressed concern in a letter to Interior Secretary Ken Salazar that the MMS "may have sidelined regulatory efforts that would have brought the U.S. oil industry in line with prevailing industry safety standards."

The Journal's article revealed that the Deepwater Horizon oil rig, which caught fire and sank into the Gulf in April, didn't have a remote-control shut-off switch used in two other major oil-producing nations as a last-resort protection against underwater spills.

**Journal Community**

White House Chief of Staff Rahm Emanuel said he brought concerns over the failure of BP to use a remote-control shut-off switch to President Obama, showing him the newspaper's coverage. That suggests one of the administration's focuses is on regulatory lapses and potential technological fixes that would allow drilling expansion to move forward.

In response to Mr. Issa's letter, the MMS said that while it doesn't require the use of remote-control shut-off switches, it does require operators to employ at least one backup control system to shut off the well in an emergency.

An Interior Department official said the administration is keeping members of Congress apprised as it seeks to determine what caused the April 20th explosion. "Our priority at this time is to contain and remediate this oil spill," the official added.

White House officials stressed again Monday that BP would be held liable for the cost of the cleanup and economic compensation for losses on the Gulf Coast. But Democratic senators said the Oil Pollution Act of 1990, passed in the wake of the Exxon Valdez, caps economic damage liability at $75 million. Democratic Sens. Bill Nelson of Florida

and Robert Menendez and Frank Lautenberg of New Jersey introduced legislation to raise that cap to $10 billion.

Joe Raedle/Getty Images

Workers prepared oil booms to be loaded onto boats in Pass Christian, Miss., Monday.

The law, dubbed the Big Oil Bailout Prevention Act, would eliminate a cap of $1 billion per incident on claims against the Oil Spill Liability Trust Fund.

If damages exceed the size of the trust fund—$1.6 billion—claimants would be able to collect damages from future revenues, with interest. The bill would also eliminate a $500 million cap on natural resources damage.

"BP says it'll pay for this mess. Baloney," Sen. Nelson said. "They're not going to want to pay any more than what the law says they have to."

White House budget office spokesman Ken Baer said Monday night the president supports efforts to raise the cap "based on the information we currently have."

California's Republican Gov. Arnold Schwarzenegger withdrew his support Monday for a plan to drill off the California coast as part of a strategy to narrow the state's budget gap.

In Washington, House minority leader John Boehner said the U.S. shouldn't put new limits on undersea exploration, "as such limits will only make us more dependent on foreign oil, slow the development of clean-energy alternatives, increase fuel costs, and destroy American jobs."

Along the Gulf Coast, frustration flared as workers scrambled to lay booms to protect the fragile and economically important marshes. Fred Everhardt, an official in St. Bernard Parish, southeast of New Orleans and on the Gulf, said contractors hired by BP to lay booms declined to venture into the water Sunday because of inclement weather. "They didn't want to put their guys in harm's way," Mr. Everhardt said.

Officials from BP and the federal government said they are doing everything possible to lay booms to protect the coast.

BP sent confusing messages. Jeff Childs, a deputy incident commander for BP, told a Fox television affiliate that the company activated part of a failed blowout preventer and slowed the flow of oil.

Later in the day, BP said that was wrong. While an underwater robot successfully triggered a device on the sea floor, a BP executive said, it failed to seal the gushing well.

The National Oceanic and Atmospheric Administration projected that the massive slick, now floating north, will spread out in the Gulf over the next couple of days as winds shift.

By the middle of the week, NOAA expects, winds will resume pushing the slick toward the Louisiana coast. Later in the week, NOAA expects, the winds will push the slick more toward Mississippi and Alabama.

**Timeline**

The oil spill's spread

An agency official said Monday that oil already may have landed along Louisiana's jagged coast in areas authorities haven't found.

The Deepwater Horizon rig sank April 22 about 50 miles off the Louisiana coast. Eleven workers were killed. Oil is leaking from three places in the twisted pipe, a mile below the water's surface, that once connected the rig to the well.

Estimates of the amount of oil leaking have risen, with some projecting the spill could surpass the Exxon Valdez disaster that poured 260,000 barrels of crude into waters off Alaska in 1989. BP officials say there's no way to know the volume yet.

BP said it began Sunday night drilling the first of two additional holes that it expects will ease pressure on the damaged well leaking and thus bring the spill under control. BP said it expects to begin drilling a second relief well—essentially a precaution in case the first relief well doesn't work—in the next couple of weeks. It says the effort could take three months.

—Stephanie Simon contributed to this article.
**Write to** Jeffrey Ball at jeffrey.ball@wsj.com, Stephen Power at stephen.power@wsj.com and Russell Gold at russell.gold@wsj.com

**EPA launches web tools to inform public about Clean Water Act violations (*Water Tech Online*)**

5/3/2010 12:11:58 PM

WASHINGTON — The US Environmental Protection Agency (EPA) has launched a new set of web tools, data and interactive maps to inform the public about serious Clean Water Act violations in their communities, according to a press release.
The web tools are part of EPA's Clean Water Act Action Plan to work with states in ensuring that facilities comply with standards that keep that nation's water clean, the

release stated.
The new web page provides interactive information from EPA's 2008 Annual Noncompliance Report, which pertains to about 40,000 permitted Clean Water Act dischargers across the country and lists state-by-state summary data of violations and enforcement responses taken by the states for smaller facilities.
The new web page also allows users to compare states by compliance rates and enforcement actions taken and provides access to updated State Review Framework (SRF) reports, according to the release.
"EPA is taking another important step to increase transparency and keep Americans informed about the safety of their local waters," said Cynthia Giles, assistant administrator for EPA's Office of Enforcement and Compliance Assurance. "Making this information more accessible and understandable empowers millions of people to press for better compliance and enforcement in their communities."

**Progress toward Gulf oil well cap (*Reuters*)**

Energy giant BP Plc indicated some progress on Monday toward capping the underwater well that ruptured in the Gulf of Mexico almost two weeks ago, pushing a giant oil slick toward the Gulf Coast.
U.S. | Green Business
The swelling slick, now estimated to be at least 130 miles by 70 miles, or about the size of the state of Delaware, threatens shipping, wildlife, beaches and one of the United States' most fertile fishing grounds.
"This spill, it can fundamentally change our way of life here," Louisiana Gov. Bobby Jindal said.

BP, the British energy company, has been working to plug a leak nearly a mile under the surface of the ocean, under heavy pressure from the U.S. government to try to limit a looming ecological and economic disaster.

Tony Hayward, BP's chief executive, and Lamar McKay, BP America president, met on Monday with top Obama administration officials including the energy, interior and homeland security secretaries and the head of the Environmental Protection Agency, to discuss coordinated response efforts.

Separately, BP said crews in Louisiana have finished building the first of three massive steel and concrete containment domes the company plans to lower in place over one of the three leaks on the ocean floor.

"We will load that on a ship tomorrow along with other associated equipment, and transport it to the site," Doug Suttles, chief operating officer of BP's exploration and production unit, told reporters on a conference call.

Drilling also started Sunday night on a relief well that could cap the oil spill on the Gulf floor, the company said. Still, this operation is expected to take two to three months to complete.

THREATENS FOUR STATES

The National Oceanic and Atmospheric Administration projects that the oil slick, which continues to spread over a wider surface area in the warm Gulf waters, will move further east and west by Tuesday, although not necessarily further north toward the coast.

Efforts to prevent the slow-moving mass from washing ashore in parts of four states have been hampered for days by choppy seas and high waves in the Gulf, but forecasts suggest calmer conditions in the next few days.

"The stormy weather is clearing as we speak," Shawn O'Neil, a meteorologist with the National Weather Service in New Orleans, said. "The winds will stay light and variable all the way through Friday. They will have much improved conditions to do what they need to get done."

Miles of booms are being laid along the coast of four states in an effort to contain the movement of oil onto beaches and into key wildlife sanctuaries and breeding grounds.

The Obama administration has kept the focus on BP to pay for and assume responsibility for the oil spill disaster, which started with an explosion April 20 on the Deepwater Horizon rig that killed 11 workers.

For its part, the federal government has come under fire for not responding more quickly to the spreading economic and environmental threat -- criticisms that may have prompted Obama to travel to the affected region on Sunday.

The oil spill, which continues unchecked for now, could ultimately rival the Exxon Valdez disaster from 1989.

That spill was caused when a single, massive oil tanker spewed some 10.8 million gallons or 250,000 barrels of crude oil into Alaska's Prince William Sound.

Estimates put the daily flow from the current well leak at 5,000 barrels or more, but government and company officials have suggested they that estimate could be low.

Comments by U.S. Attorney General Eric Holder that the Justice Department was involved in the investigation of the incident raised the specter of criminal liability for BP over the spill.

A Justice Department official said it was not a criminal probe at this stage.

BP's Hayward on Monday acknowledged his company's responsibility in a round of appearances on American TV and radio shows, a day after U.S. Interior Secretary Ken Salazar said the administration would keep "keep the boot on the neck" of BP to fulfill its legal responsibilities.

Analysts say BP's total liability could exceed $14 billion.

In New York, American Depositary Receipts of BP's shares fell 3.7 percent to close at $50.19. Shares of Transocean Ltd, operator of the sunken oil rig, rose 0.82 percent to 72.91.

Argus Research on Monday downgraded both Transocean and BP to "hold" from "buy" citing negative impact from the Deepwater Horizon spill.

CRUDE PRICE RISING

"In many ways, the timing of this incident could not have been worse, as President Obama recently supported the expansion of drilling activity to areas where it was previously prohibited," the brokerage said.

Mississippi Governor Haley Barbour, speaking on CNN, said Obama should not move hastily, despite the leak's severity.

"It wouldn't be very wise to stop all drilling off the Gulf of Mexico," Barbour said, noting that the Deepwater Horizon well was "one of thousands" in the area.

Oil prices moved above $86 a barrel as economic optimism lifted Wall Street and concerns the spill could cause short-term disruptions to supplying.

So far, major shipping lanes in the Gulf of Mexico have not seen delays. But the rate to charter oil and product tankers in the Caribbean and Gulf Coast region has surged by 50 percent or more over the past week on worries about potential delays from the oil spill, analysts said.

Fishing in a wide swathe of federal waters between Louisiana and Florida's Pensacola Bay was restricted for 10 days on Sunday to avoid any chance that contaminated seafood will make its way to store shelves.

Wildlife experts also fear a heavy toll on animals and birds. Near Gulfport, Mississippi, 19 sea turtles were found dead and necropsies were being done by experts at the National Marine Fisheries Services. But they had no external oil soiling and it was not clear if the deaths were linked to the slick.

Before significant amounts of oil potentially come ashore, environmental groups were mobilizing thousands of volunteers to prepare for clean-up efforts. Those that make their living from the sea were already counting their losses.

"We have an opportunity to lose our entire fishery down here. I mean, not just the customers. It's everything," said Ross Barkhurst, a boat owner in Venice.

(Additional reporting by Kelli Dugan in Mobile, Chis Baltimore, Anna Driver and Kristen Hays in Houston; Matt Daily and Tom Bergin in London, Pascal Fletcher in Miami, Jeremy Pelofsky in London; Writing by Pascal Fletcher and Ros Krasny Editing by Philip Barbara)

**Muddy waters (*The Free Lance-Star*)**

May 4, 2010 1:47 am
GIVEN A CHOICE between clean water and limited government, which should Americans pick? Both here's why and how.

Back in the early days of the environmental movement, Congress under President Nixon passed the Clean Water Act, giving the Environmental Protection Agency responsibility for cleaning up and protecting the nation's navigable waterways.

Why "navigable"? Because navigable waters are ones over which commerce and trade occur, and Article I Section 8 of the Constitution gives Congress the power to "regulate Commerce among the several States ." Congress, in passing the Clean Water Act in 1972, recognized both this federal responsibility and the limits placed on Uncle Sam by the "enumerated powers" principle of constitutional law.

In the decades that followed the act's passage, the Army Corps of Engineers, working with the EPA on pollution issues, began routinely claiming jurisdiction over wetlands abutting navigable waterways. In 1986, the Corps expanded its oversight to any body of water upon which a migratory bird could land.

This overreach prompted a correction. Two Supreme Court decisions did just that. In a 2001 case, *SWANCC vs. Army Corps of Engineers*, the court said the Corps had no standing to enforce its migratory bird rule. And in *Rapanos v. the U.S. Government* in 2006, the court found the abutted wetlands rule to be unsupported by the law.

Displeased with both decisions, Rep. Jim Oberstar, D-Minn., has introduced a bill called the Clean Water Restoration Act. He says the aim of the bill, which would remove the word "navigable" from the Clean Water Act, is to return the law to its original intent.

Yet, as opponents point out, removing that one word would give the federal government jurisdiction over every stream, farm pond, swamp, and water-holding ditch in the country.

Ranchers are particularly riled. Dave Scott, president of the Texas and Southwestern Cattle Raisers Association, says, "Federal jurisdiction would be brought all the way to

the ranch, creating more bureaucratic government red tape, as well as expensive and unnecessary engineering and possibly even litigation." Groundwater, Mr. Scott notes, is not excluded from the bill, leaving that resource open to federal control, too.

Clean water is a great boon. Those of us who live near and love the Chesapeake Bay understand that well. But we also know that expanding the powers of Washington beyond those enumerated in the Constitution is an expensive and dangerous "fix" to any problem.

The simple solution: Let the states protect the nation's waters, with federal backup. State government officials have a better appreciation of local needs than Beltway bureaucrats. With research and guidelines provided by Washington, they can do a good job. If they fail, they are answering to voters.

Protecting our waters is important--but so is protecting our Constitution. The Clean Water Act intentionally limited federal control to navigable waters. Steady as she goes.

**YUCCA MOUNTAIN**

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**The Demise of Yucca Mountain (*Independent Review*)**

Spring 2010

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By Beaver, William.
William Beaver is a professor of social science at Robert Morris University.

The Obama administration's recent announcement that it would cut funding for the development of a nuclear waste repository at Yucca Mountain, NV, may be the beginning of the end for one of the country's longest and most contentious political battles. Although the project was not officially canceled, a spokesperson for the US Department of Energy declared that Yucca Mountain is not an option, and Energy Secretary Steven Chu stated that radioactive wastes can be stored safely in concrete and steel containers at nuclear plants until a new strategy is developed. Many believe that failure to develop a permanent solution to the waste problem leaves the future of nuclear power up in the air because utilities may be reluctant to order new reactors with so much uncertainty still present. Perhaps the answer to dealing with radioactive waste will ultimately require a technological fix that will mitigate the political obstacles.

The Obama administration's recent announcement that it would cut funding for the development of a nuclear waste repository at Yucca Mountain, Nevada, may be the

beginning of the end for one of the country's longest and most contentious political battles. Although the project was not officially canceled, a spokesperson for the U.S. Department of Energy (DOE) declared that "Yucca Mountain is not an option," and Energy Secretary Steven Chu stated that radioactive wastes can be stored safely in concrete and steel containers at nuclear plants until a new strategy is developed (Vogel 2009). The new policy contrasts sharply with that of the Bush administration, which sought to increase the size of the Yucca Mountain repository significantly to avoid the need for a second storage facility and to have it open by 2017.

The announcement elicited mixed reactions. Senate majority leader Harry Reid of Nevada, who had fought the Yucca Mountain project for years and was instrumental in the funding reductions, was elated. "I'm glad I was able to make these cuts and bring the Yucca Mountain project another step closer to its rightful end," he stated. In contrast, the nuclear industry was frustrated by the decision. An industry spokesperson said, "We continue to ask the federal government to provide a clear solution for what the long-term storage of spent fuel will be" (Hawthorne 2009). The industry frustration was undoubtedly deepened by the fact that the nation's utility companies have paid the government more than $22 billion in fees to help build the repository.

Regardless of one's view about the project, the decision to halt its development represents a significant government failure. Consider that Congress selected Yucca Mountain in 1987 and that the government has already spent almost $10 billion on it. In the meantime, nearly 60,000 tons of spent Fuel have piled up at the country's 104 commercial nuclear plants, for which the federal government bears ultimate responsibility. Many believe that failure to develop a permanent solution to the waste problem leaves the future of nuclear power up in the air because utilities may be reluctant to order new reactors with so much uncertainty still present. This development comes at a time when estimates indicate that the United States will need to increase electrical output by 25 percent over the next two decades. Just as important, nuclear plants emit no greenhouse gases that contribute to **global warming.** In fact, several prominent environmentalists have endorsed the technology for that reason (Moore 2006). In any event, the Obama decision raises the questions, Why was this decision taken now, and what comes next? To understand how we arrived at this point, it is important first to examine the policies that produced it.

## A Government Responsibility

The Atomic Energy Act of 1954 made the federal government ultimately responsible for disposal of the spent fuel that commercial nuclear plants would generate. The most obvious reason for this assignment of responsibility is that significant dangers are involved. Nuclear reactors have thousands of fuel rods that periodically must be replaced, and they will be radioactive for thousands of years. For this reason alone, long-term on-site storage of the spent fuel was considered unacceptable because power plants are often located near population centers and along waterways, where leaks or acts of terrorism might have disastrous consequences. So the plan was to place the used rods in 40-foot-deep steel-and-concrete swimming pools (each nuclear

plant has one), and then the federal government, utilizing its expertise and resources, would at some future point remove them for ultimate disposal elsewhere.

The government also took responsibility for the waste for reasons tied to economics and politics. Put simply, few utilities would have agreed to construct a nuclear plant if they were to be held responsible for dealing with the waste. Nuclear power, particularly in the 1950s and 1960s, made little economic sense. Conventional generating plants met the growing demand as electricity prices declined and utility profits increased. The country had not yet become concerned about the environmental problems associated with burning coal. Therefore, if utilities were going to consider the nuclear option, sloughing off the costs and risks of waste disposal would be necessary. Why then did the government promote nuclear power before the economics of the technology were more favorable for commercial development? In short, the answer is that nuclear power emerged at the height of the Cold War and quickly became part of the ideological struggle between the United States and the Soviet Union. By developing the peaceful atom, the U.S. government hoped to demonstrate its technological superiority over the Soviet Union. Senator John Pastore of Rhode Island expressed a widely held view when he warned, "If we are outdistanced by the Russians in this race it would be catastrophic" (U.S. Congress 1956, 14). In this light, it seemed essential that the United States take the lead in developing civilian reactors, and, in view of the costs and risks, the federal government would have to be the driving force in doing so. Even President Dwight D. Eisenhower, who was always leery of government involvement in technological development, threatened to build "Nuclear TVAs [Tennessee Valley Authorities]" if the nation's utilities didn't begin to construct reactors on their own.

Some people fervently believed that nuclear power, beyond winning a significant foreign-policy struggle with the Soviet Union, would usher in a new era of prosperity if urgently pursued. Harnessing the atom's power would not only provide abundant, inexpensive electricity, but also power our automobiles, planes, and rockets, among other things. This emphasis on developing peaceful uses of atomic energy emerged shortly after World War II and was tied to the idea that something so powerful and potentially destructive should be put to positive use for the benefit of mankind. In December 1953, President Eisenhower echoed these sentiments in his "Atoms for Peace" speech at the United Nations, in which he urged all nations (with U.S. help) to develop peaceful Lises of atomic energy (Pilat, Pendler, and Ebinger 1985).

## Early Attempts to Dispose of Wastes

In such an atmosphere, the rather mundane subject of waste disposal did not receive much attention. More than 90 percent of government funding in those early years, not surprisingly, was channeled into reactor development. However, the waste problem was not totally ignored, and, at the time, it was not considered to be highly perplexing. The assumption made early on was that radioactive waste could be placed in bullet-shaped canisters and dumped into ocean sediments thousands of feet below the surface. The navy did bury low-level wastes at sea, but this option was eventually ruled out because in such deposits the waste would be difficult, if not impossible, to monitor. The idea of

burying wastes at the South Pole was also dropped. Another bizarre plan called for launching the spent fuel into outer space to orbit the sun or Venus. (Shapiro 1980, 228) The problem, of course, is that rocket technology would have to made fail-safe, a perfection never achieved.

A more practical alternative involved storing radioactive wastes in underground salt domes, which tend to be stable and dry. The Atomic Energy Commission did operate a demonstration project in Kansas in the 1970s. Several safety issues were unfortunately not resolved, however, including the effects of radiation on the salt itself, so the project was ended (Kearney and Garey 1982). In addition, other states with salt domes, including Texas, Louisiana, and Mississippi, had the political clout to stall any future development (Wald 1989). Nevertheless, in 1974 the DOE constructed the Waste Isolation Pilot Plant in a New Mexico salt dome to store government-generated waste. The plant's opening was delayed for almost two decades for fear that water might seep into the chamber 2,100 feet under the ground and corrode the waste containers. Such an event has fortunately not occurred, and since 1999, when the facility was put into use, nearly 35 cubic meters of wastes have been stored there (Munger 2009).

Reprocessing was another option that received considerable attention early on and was thought to hold the most promise. Reprocessing involves chemically dissolving the spent fuel rods and then recovering the uranium and plutonium to make new rods. Recovering one metric ton of spent fuel yields potential energy equivalent to 10,000 tons of oil (Valenti 1995). To spur development, the Atomic Energy Commission funded and performed basic research at the national laboratories, and one of the first reprocessing technologies resulted from these efforts in the 1960s. In addition, the government agreed to purchase the recovered plutonium from the utilities, thereby reducing the utilities' fuel costs and making nuclear power even more attractive.

On the surface, reprocessing made good sense, transforming a waste product into something useful. Nonetheless, after reprocessing, highly radioactive wastes still exist and must be dealt with, although the volume may be reduced by as much as 95 percent (Tucker 2009). Another reprocessing issue involved costs. Could reprocessed fuel be competitive with mined uranium-235, the only naturally occurring material capable of sustaining a chain reaction? Some in the private sector apparently believed that it could. The first commercial reprocessing facility opened in 1966, in West Valley, New York, at which time three more plants were in various stages of development, including one under construction by General Electric in Illinois. Much of the early enthusiasm was based, at least in part, on the assumption that once nuclear power took off, the price of mined uranium would rise, maldng reprocessed fuel competitive. The government also hoped that competition would not only spur innovation, but drive down costs. On the positive side, the early competition did produce some new reprocessing techniques, but it also convinced the firms involved that they would have a difficult time turning a profit. This expectation, along with the government's lack of power to force continued operations, ended all private ventures by 1975 (Campbell 1987).

In retrospect, these early failures should not be surprising. The technology was new,

and costs were difficult to estimate. With the benefit of hindsight, however, it is difficult to make the argument that reprocessing can ever be profitable. A recent study estimates that the price of uranium would have to increase by a factor of ten for reprocessing to be cost effective (Kintisch 2005). In the end, uranium proved to be more abundant than expected and was never in short supply. Hence, any reprocessing efforts had to be government driven. In any event, new White House policies rendered serious discussion of reprocessing moot. In 1976, President Gerald Ford temporarily suspended all reprocessing efforts. In 1977, President Jimmy Carter announced, "We will not enter the plutonium age," and he banned the construction of any reprocessing facilities (Gilinsky 1978). Both presidents feared that reprocessed plutonium might be used to construct a nuclear weapon if rogue nations or terrorists gained access to it.

Today, some nuclear advocates believe that the decision to end reprocessing in the United States is the major reason why the nuclear waste dilemma continues. The fears of nuclear proliferation have proven to be unfounded. Nations that built nuclear weapons found other means to acquire die necessary materials, and, as far as we know, terrorists have not been able to acquire plutonium, although some still believe that terrorists might get their hands on these materials (Inman 2005). Much is also made of the French success in reprocessing spent fuel at La Hague, Normandy, since the 1970s. France, which generates 78 percent of its electricity from nuclear power, reprocesses not only its own spent fuel, but also fuel from several other countries, which has helped offset the costs. To date, few problems have arisen at the 750-acre facility, although environmental groups have protested shipments of spent fuel to La Hague (Rust and Haig 2001).

The French maintain that the plant is one of the most heavily guarded and monitored nuclear facilities in the world. It is also highly automated, with robotic manipulators handling more than 1 ,000 metric tons of spent fuel each year. The radioactive wastes that remain are then stabilized by a process known as vitrification, in which the waste is first mixed with borosilicate glass and then stored on site in corrosion-resistant, steel alloy containers (Valenti 1995; Cox 2008). The final resting place for the vitrified waste, however, has yet to be determined. During the 1980s, the French government selected possible underground sites without consulting with the local communities involved. A public backlash ensued, and a law was passed in 1991 requiring a fifteen-year moratorium before a final site may be chosen (MacLachlan 2006). Although the moratorium has expired, no site has been selected.

The French reprocessing experience is generally viewed as positive, but Great Britain's is not. The Thorp reprocessing plant, located at Sellafield, opened in 1994 and has had a checkered history of operations, with several accidents reported, including the leakage of thousands of gallons of radioactive waste in 2005. The spill appears to have been contained within the plant. Making matters worse, though, the plant has typically operated at only 50 percent of capacity and has been mired in red ink despite initial predictions of profitability. For these reasons, the facility's future is uncertain (Merrell 2003).

Drawing on the French experience and aware that Yucca Mountain faced major hurdles, the Bush administration attempted to revive interest in reprocessing. In 2006, it announced the formation of the Global Nuclear Energy Partnership. The purpose of the twenty-five-nation organization was to reinvigorate nuclear power and spur interest in reprocessing. The administration accordingly hoped to construct a new reprocessing facility by 2010, but lack of funding stymied these efforts (Hylko 2008). Assuming that the French success can be duplicated, costs will undoubtedly be a major issue. A study by the National Research Council in 1996 estimated that reprocessing all of the existing spent fuel would cost up to $100 billion, whereas finishing the Yucca Mountain facility would run in excess of $90 billion (Kintisch 2005). Another study, by the Boston Consulting Group for Areva, the French nuclear firm that operates La Hague, found that reprocessing "is in an economic range that can be competitive." The report noted specifically that reprocessing can increase the capacity of a repository because the volume of wastes is reduced, thus eliminating the need for a second facility. In addition, spent fuel would not have to be stored on site, so utility costs would be reduced and safety concerns lessened ("New Report" 2006). However, reprocessing is envisioned in conjunction with a repository, not without one. Reprocessing would thus be more costly than a repository alone.

Yucca Mountain

By the early 1980s, it had become clear that salt domes and reprocessing were not realistic possibilities, so the government turned to underground burial as the only viable option remaining. There was also a growing sense of urgency that something needed to be done. As Luther Carter wrote in Science at the time, "it is an acute embarrassment that the waste problem has not been solved" (1983, 33). In this vein, Congress passed the National Waste Policy Act in 1982, requiring the DOE to examine potential locations for repositories, one to be located in the East and the other in the West. The president would then make the final selection, opening the facility in 1998. There were two reasons for selecting two repositories. First, it seemed only fair that no single part of the country should have to store all of tit e waste. The second reason was more practical. It made sense to locate a facility in the East because the bulk of the waste is located there, and a nearby site would both reduce transport distances and lessen safety concerns associated with hauling highly radioactive materials across the country. The idea of an eastern site was eventually dropped, however, in large part for political reasons. It was unlikely that any state would agree to house a repository, and the eastern states' larger congressional delegations have more clout to block pending legislation. The argument can also be made that the West is better suited for a repository because it has a lessconcentrated population and a larger land area.

In 1986, the DOE announced that three sites in the West would be considered: one in Texas, one in Washington, and one in Nevada - Yucca Mountain. No eastern site would be developed, at least in the near term. To say the least, western politicians were outraged and demanded a legal justification, but none was forthcoming (Marshall 1986). The legislative process then began to move quickly, spearheaded by Louisiana senator Bennett Johnston, who sold the plan for a Nevada site by arguing that it would be less

costly to develop because more was known about it, not to mention that many considered Yucca Mountain the best location. At the same time, states such as Texas and Washington could escape the possibility of getting a repository, and eastern states would no longer have to worry about a second repository because the legislation indefinitely deferred that possibility. As a final sweetener, Johnston attached the legislation to a finance bill that included a number of porkbarrel projects, and the legislation was passed in December 1987. Nevada, with the smallest congressional delegation, was the least able to resist the forces in motion. Harry Reid called the new law "base raw power politics" (Rasky 1987). Senator Johnston felt fairly certain that the waste issue had finally been resolved, but others were not so sure. One DOE aide remarked, "It's a roll of the dice with Yucca Mountain. We have reason to believe it will work out, but if it doesn't . . . man, we're in trouble" (Marshall 1988).

The legislation provided for an intensive study of the Nevada site, which is located about 100 miles northwest of Las Vegas, near the nuclear test range where hundreds of nuclear devices were detonated in the 1950s and 1960s. The area seems to have inherent advantages. It is dry (receiving only about seven inches of rain a year), remote, and geologically stable. Some scientists objected to the selection of Yucca Mountain not because the site is necessarily a bad one, but because they felt that all of the potential locations should have been thoroughly investigated and more experimentation carried out in regard to underground burial before a final selection was made. On balance, however, most technical experts believed that a repository, if built correctly, could store the wastes with minimal risk to the public (Krauskopf 1990). As H. W. Lewis observes in his book Technological Risk, "[I]t is embarrassingly easy to solve the technical problems, yet impossible to solve the political problems" (1990, 245^16). Sure enough, the political problems cropped up immediately.

## The Struggle

In 1989, Nevada enacted legislation making it illegal to store high-level radioactive waste in the state, and the state refused to issue environmental permits necessary to do a study of the Yucca area. Federal court decisions reversed the permit ban, and the study began after the DOE revamped it (Slovic, Flynn, and Layman 1991). The episode marked the beginning of a twenty-year struggle between the federal government and Nevada, where a prerequisite for election to any statewide office was opposition to the repository. Besides taking various legal actions, the state cited almost every possible technical problem as a reason to end the project. Consider that Nevada recently submitted 229 technical objections to the Nuclear Regulatory Commission (NRC) to explain why the repository should not be built ("Nevada Points Out" 2008). Some of these concerns may be legitimate. For example, a DOE geologist raised early on the possibility that an earthquake might alter the repository so that groundwater might enter the radioactive waste chamber, producing radioactive steam that would eventually find its way to the outside. A scientist at Los Alamos National Laboratory in New Mexico hypothesized that the waste might actually explode in the 300-meter underground chamber. In response, the DOE appointed independent review panels to examine both claims, but in the end the panels did not find them credible, although some still believe

that earthquakes can threaten the repository's integrity. More serious perhaps is the danger of volcanic activity. Scientists believe that an eruption occurred approximately one million years ago near Yucca and another perhaps twenty thousand years ago. Nevada governor Robert Miller claimed that such recent activity should immediately disqualify the site. In response, the DOE asked ten experts to estimate the danger of an eruption. The average estimate was a one in ten thousand chance that an eruption would occur in the next ten thousand years, which apparently satisfied the department (Kerr 1998). In 1999, DOE issued a report stating that it had identified "no show stoppers" at Yucca and had confidence that the repository "would protect public health and the environment for thousands of years" (U.S. DOE 1999).

Not all concerned parties were so positive. For example, a U.S. General Accountability Office report stated that the DOE's predictive models are inadequate and that water might still be a problem. Others believed that high humidity might pose potential threats and that not enough is known about the rock formations at Yucca. Hence, delay and further study were needed (Ewing and Macfarlane 2002). Despite everything, the DOE recommended in 2002 that President Bush designate Yucca Mountain as the repository for high-level radioactive waste in the United States. The president did so, and Congress approved the Yucca Mountain site (Wald 2002). Following congressional approval, Nevada continued to fight the repository with every means available, citing environmental, technical, and transportation concerns, along with poor project management by DOE. The state also refused to grant DOE permission to use the water necessary to drill bore holes to study the site ("Gov. Gibbons" 2007). Along the way, the project picked up both supporters and detractors. The National Academy of Sciences came out in favor of Yucca Mountain, but Nevada gained the support of influential senators such as Hilary Clinton, Barack Obama, and Barbara Boxer, all of whom came out against the repository. To some extent, views on Yucca Mountain were divided along party lines, with Republicans in favor and Democrats opposed.

The process continued to drag on. A federal district court had placed a hold on the licensing process for construction, but finally, in June 2008, the DOE submitted an 8,600-page document to the NRC. Shortly thereafter, the U.S. **Environmental Protection Agency** issued its long-awaited radiation standards for the repository. The million-year standard requires that any person outside the boundaries of the repository receive no more than 15 millirems per year for 10,000 years and 100 millirems per year for the next 990,000 years. The agency maintains that the average person receives about 360 millirems per year from naturally occurring sources. Senator Reid objected to the lowered standard after 1 0,000 years, stating that it would put people at risk. He also indicated that the **Environmental Protection Agency** ruling might bring about more litigation (Speckman 2008).

By filing the licensing application before the 2008 presidential election, the Bush administration hoped to make it more difficult for Barack Obama, should he become president, to derail the program (John McCain favored the repository), and it appears that the licensing process will continue. However, it will probably take three or four years, with hundreds of technical challenges being raised by Nevada and other

concerned parties. Moreover, budget cutbacks may make it difficult for the NRC to investigate all of the challenges (Rogers and Tetreault 2009). Nevertheless, if the NRC eventually approves the repository, President Obama may feel forced to cancel the program, given his sentiments concerning Yucca Mountain. If he does so, the nation's utilities are likely to file lawsuits to recover the billions of dollars they have paid to the federal government for a repository, on top of the more than four dozen lawsuits they have already filed because of the government's failure to dispose of the waste (Vartabedian 2005; Hughes 2008).

Might It Have Been Different?

The long struggle to construct an underground repository may well end with little to show for it. Let us consider whether things might have been done differently to ensure a repository's construction, keeping in mind that most countries heavily involved with nuclear power believe that some type of underground burial will be required ("Planning" 2005), To answer the question, we must examine the fairness issue. Nevada was selected for a repository that no other state wanted and in this sense was treated unfairly. Perhaps if the DOE had stuck to the original plan and selected both an eastern and western location, a sense of "sharing the burden" would have lessened the sense of injustice. Even without an eastern site, DOE could have extensively studied the three western locations as originally planned, while conducting various experiments on underground burial that might have more clearly resolved some of the remaining environmental and technical issues, as some in the scientific community had urged. If this path had been followed, a greater sense of fairness and objectivity would have been embedded in the selection process. The irony, of course, is that in order to speed construction of a repository, none of these actions was taken.

Another possibility would have been to add enough sweeteners to entice Nevada to accept the repository. Such scenarios are not without precedent. For example, people who live near French nuclear plants receive free electricity. The original legislation that designated Yucca Mountain called for the host state to receive $100 million per year, but the amount was later reduced to $20 million (Marshall 1988). Of course, we cannot know now whether more dollars would have assuaged Nevada's feelings of inequitable treatment. Perhaps the payment's reduction further antagonized the state's congressional delegation. However, once the legislation was passed, and Nevada's political leaders initiated a mission to stop the repository, accepting more federal dollars would have been viewed as a bribe and become more difficult to accept.

In any event, the Yucca Mountain episode clearly demonstrates how difficult building a repository will be - after all, Nevada has less political muscle than other states and possesses a site that many believe is well suited for the project. At this point, one can only conclude that the prospects for a repository are bleak. Part of the problem lies in the federal system itself. Although states may not have veto power over federal policies, they clearly can obstruct them, making objectives difficult, if not impossible, to achieve (Kearney and Garey 1982). Harry Reid's recent accession as Senate majority leader, with more control over the budget process, guaranteed more delays even without

Barack Obama's election as president.

Politics aside, perhaps the ultimate impediment to construction of a repository is fear of radiation. In this regard, Nevada is a particularly interesting case because the Yucca Mountain area was the site for tests of atomic weapons both above and below ground beginning in the 1950s. In ail, more than nine hundred weapons were detonated, and, at one time, Clark County (where Las Vegas is located) displayed a mushroom cloud on its official seal (Schultz 2009). Thus, one might have expected less opposition to a repository there. Yet surveys indicate that more than 70 percent of Nevadans oppose Yucca Mountain. Beyond the millions spent by the state on advertising to influence public opinion (Zeller 2002), Americans' attitudes toward nuclear power and the wastes it generates have changed over the years. Beginning in the 1970s, the environmental movement and antinuclear activists made the public more aware of the possible dangers and reinforced the fears of radiation. Spencer Weart, in his book Nuclear Fear (1988), has traced these feelings to the early decades of the twentieth century, when images of hideous deformities caused by radiation and fears of mass death and destruction first appeared. Such fears became a horrifying reality in the devastation of Hiroshima and Nagasaki, and the accidents at Three Mile Island and Chernobyl only heightened them. In addition, the government's handling of nuclear waste has not always inspired confidence. During the 1970s alone, eighteen spills of radioactive waste occurred at the government's Hanford Reservation in Washington State. Nuclear scientists have always maintained that these fears are irrational. Recent reports indicate that radiation damage at Chernobyl was much less than predicted, and one scientist has urged that construction of a repository at Yucca Mountain merely be delayed in order to allow the fears to subside further ( "Science and Technology" 2005). Unfortunately, such attenuation may take decades to occur, if it ever does, because fears of radiation, irrational or not, are deeply etched in the public mind.

Now What?

At this point, the Obama administration has made no specific proposals about the nuclear waste problem besides ruling out Yucca Mountain. The DOE may appoint a blue-ribbon commission to study the options. In this regard, Obama suggested during the presidential campaign that another site might be developed. Of course, the obvious question is, Where? No state is likely to volunteer for the honor, and, if a state is selected, years of haggling and obstruction probably lie ahead because it is unlikely that any site will measure up to the scrutiny to which it will be subjected. If history is not to be repeated, new techniques for dealing with the waste may be required, as Energy Secretary Chu has intimated. What might these techniques be? A process known as transmutation, which has been discussed for years, would reduce the period during which spent fuel would be highly radioactive from ten thousand years to three or four hundred. If this technique were to be developed successfully, some state, given the right incentives, might be persuaded to accept a repository. It is obviously much easier to assure a structure's integrity for hundreds of years rather than thousands. Indeed, one of the disconcerting questions Yucca Mountain has always raised is, Can anything be guaranteed for ten thousand years?

Reprocessing may also be pursued once again. To make the technology more palatable, researchers have been investigating techniques that lessen the chances of terrorists' acquiring plutonium from a reprocessing plant. One way to do so is to mix plutonium with uranium (a form of transmutation), creating what is called MOX fuel, which can then be used in commercial nuclear reactors. A MOX fuel demonstration plant under construction in South Carolina has faced major delays, however, and is not expected to open until 2017 (Henderson 2009). Nonetheless, if the process becomes well established, reprocessing might become more acceptable, allowing a reduction of the amount of waste to be stored. In the end, perhaps a combination of newly developed technologies will emerge that makes the storage of radioactive waste less ominous and the construction of a repository more likely.

## Conclusions

More than fifty years after the first commercial nuclear plant opened, the radioactive waste dilemma continues to persist with no end in sight. Americans have enjoyed the benefits of nuclear power but have failed to deal with its major burden. Most scientific experts believed early on that the issue could be resolved, and, in a purely technical sense, it might have been solvable. However, nuclear power and politics have always been intertwined, especially with regard to the disposal of nuclear waste. No single state wants to accept a repository, and under the U.S. federal system, forcing a state to do so is extremely difficult. At present, no one seems to know how to resolve the issue. Hence, for the time being and perhaps for a long time, the spent fuel rods will remain at the power plants by default. Perhaps the answer to dealing with radioactive waste will ultimately require a technological fix that will mitigate the political obstacles. Without a doubt, however, the generations that innovated nuclear power will leave the waste problem for later generations to solve, which is perhaps the innovators' ultimate failure.

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