**U. S. Environmental Protection Agency**
**E-Clips**

**Prepared by the Office of Public Affairs**

Monday, February 18, 2013

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(BNA articles can be viewed online **http://Intranet.epa.gov/desktop/news.htm**

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**ADMINISTRATOR JACKSON**

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**Energy Star Is Focus of Fall Efficiency Campaign (*EP Magazine*)**

**Sep 22, 2009**

The U.S. Environmental Protection Agency kicked off events to "Change the World, Start with Energy Star," encouraging children and their families to fight climate change while saving energy and money.

Agency partnerships with the Boys & Girls Clubs of America (BGCA) and Parent Teacher Organizations Today (PTO Today) will engage young people in energy efficiency service projects in their communities and encourage Americans to take the Energy Star Pledge to make energy-efficient choices at home, at work and in their communities. This year's fall campaign also includes a national, multi-city, multimedia tour of the Energy Star Exhibit House, which showcases energy-efficient products and practices.

"We're showing people across the country how energy efficiency can be part of what they do every day. That's especially important for the kids, who will use these lessons to cut energy use and reduce pollution for the rest of their lives," said EPA Administrator Lisa P. Jackson. "Confronting climate change, saving money on our utility bills, and reducing our use of heavily-polluting energy can be as easy as making a few small changes. That's how we change the world with Energy Star."

Kids from BGCA in 60 locations are being encouraged to conduct energy check-ups at homes and in their communities and educate their peers and families about energy efficiency. Through PTO Today, EPA is reaching out to 6,000 schools across the country with "Go Green Nights" to help families learn about energy-efficient changes they can make in their homes and schools to save energy and help fight climate change.

The Energy Star Exhibit House will make stops in Dallas, Los Angeles, Seattle and Boston. Room-by-room, visitors will learn how to save energy and money while protecting the environment by looking for Energy Star qualified products and using energy-efficient practices. The tour will also feature local youth organizations making a difference in their communities with Energy Star.

For more information about the campaign events and partnerships, go to www.energystar.gov/changetheworld.

**A move to cut auto emissions (*Santa Rosa Press Democrat)***

WHAT OTHERS SAY
Published: Tuesday, September 22, 2009 at 3:00 a.m.

The announcement by Transportation Secretary Ray LaHood and Environmental Protection Agency Administrator Lisa Jackson in the White House press room last Tuesday was brief. But their plan to reduce emissions from motor vehicles and light trucks was significant. Not only would it provide the nation's first greenhouse gas emissions standard, but the new rules, devised with automakers' participation, would also bring about the biggest increase in gas mileage in history.

By the 2016 model year, reductions in carbon dioxide from motor vehicles would have to reach 250 grams per mile, and corporate average fuel economy would have to reach 35.5 miles per gallon. This would be an acceleration of the 35 mpg by 2020 that Congress mandated under the Energy Independence and Security Act of 2007. According to Jackson, the standard would reduce oil consumption "by an estimated 1.8 billion barrels" between 2012 and 2016, prevent greenhouse gas emissions equivalent to those of 42 million cars and save the average car buyer "more than $3,000 in fuel costs." The EPA and the National Highway Traffic Safety Administration say automakers could meet the new requirements by increasing the use of start-stop technology and improving engine efficiency, transmissions, tires and air-conditioning systems. Yes, hybrids are expected to play a part.

The rules also would establish a national standard for fuel consumption and greenhouse gas emissions. This has been the long-sought goal of automakers concerned about a patchwork of regulations they otherwise would have to comply with from the EPA, NHTSA and California. Since 2004, the Golden State had been trying to institute its more-stringent greenhouse gas emission standards.

Maryland, 12 other states and Washington, D.C. adopted them as well.

But California needed a waiver from the EPA to implement them. It was granted in June after the state's Air Resources Board agreed to change its program so that compliance with the new federal standard would be deemed in compliance with California's regulations.

This plan is the meat on the bones of the national fuel efficiency policy that President Obama announced in May with smiling auto executives, environmental advocates and public officials in the Rose Garden. The final plan is due in March. Their continued work shows that progress on addressing climate change is at least being made *somewhere* on Pennsylvania Avenue.

**Obama energy secretary to Americans: Stop acting like teenagers! (*Washington Examiner*)**

By: Mark Tapscott
Editorial Page Editor
09/21/09 5:59 PM EDT

When Secretary of Energy Steven Chu thinks of the American people, he apparently sees a bunch of unruly teenagers who need to be told how to act.
Asked at a seminar on reconstructing America's electrical grid about the Obama administration's efforts to persuade people to conserve energy, Chu said “the American public…just like your teenage kids, aren’t acting in a way that they should act. The American public has to really understand in their core how important this issue is,” according to The Wall Street Journal.

And, notes the Journal's Ian Talley, the Obama administration is spending big to tell us what we should be doing on the energy issues:

"The administration aims to teach them—literally. The Environmental Protection Agency is focusing on real children. Partnering with the Parent Teacher Organization, the agency earlier this month launched a cross-country tour of 6,000 schools to teach students about climate change and energy efficiency.

"'We’re showing people across the country how energy efficiency can be part of what they do every day,' said EPA Administrator Lisa Jackson. 'Confronting climate change, saving money on our utility bills, and reducing our use of heavily-polluting energy can be as easy as making a few small changes.'"”

In other words, it's not going to hurt, they promise. Next thing you know, they will be saying it's going to hurt them more than it will us.

Chu and Jackson must not have heard about the Treasury Department's admission late Friday that adoption of the Obama-Waxman-Markey anti-global warming energy bill will cost as much as $300 billion annually, an amount equal to the revenue received by the federal government as a result of corporate taxes.

And an econometric analysis of the bill by the Heritage Foundation's Center for Data Analysis found the costs would exceed $1,200 per family, according to the think tank's Ben Lieberman in his recent testimony before Congress:

What are those costs? According to the analysis we conducted at The Heritage Foundation ...the higher energy costs kick in as soon as the bill's provisions take effect in 2012. For a household of four, energy costs go up $436 that year, and they eventually reach $1,241 in 2035 and average $829 annually over that span. Electricity costs go up 90 percent by 2035, gasoline by 58 percent, and natural gas by 55 percent by 2035. The cumulative higher energy costs for a family of four by then will be nearly $20,000."

But don't worry, it's not going to hurt. You can believe it because Obama's EPA Administrator, Lisa Jackson, told you so. And wipe that scowl off your face, you insolent adolescent!

One more thing. Steve Everley at American Solutions for Winning the Future has a suggestion for something constructive that you can do with Chu's comments.

**EPA Takes on the Coal Industry (*Triple Pundit*)**

By Bill DiBenedetto | September 22nd, 2009
Here's a change to savor after the approach taken by the previous administration: the Environmental Protection Agency is actually taking major steps to protect the environment and might even smack-down the powerful coal industry and its well-heeled lobby.

An almost startling case in point: The EPA is withholding action on 79 pending mountaintop coal-mining projects in four Appalachian states while it takes a detailed review of the permit applications.

Or to put it even more strongly, the agency determined that all 79 of the proposed projects under review would violate the Clean Water Act.

In an initial review of the applications, the EPA found that all of the proposed projects likely would cause water quality impacts that trigger additional reviews under the Clean Water Act.

Those initial findings however do not automatically mean that some or all of the 79 permits won't eventually be authorized or that the agency is placing a moratorium on surface coal mining.

But it does mean that the regulatory process will continue in a somewhat less trusting environment for the coal industry and that that the industry will have to do much more to show why the applications are needed and, by the way, legal.

"The fact that every single one of these pending permits would violate the Clean Water Act shows how irresponsibly callous and sloppy these mining companies really are," says Carl Pope, executive director of the Sierra Club. The EPA announcement "is also a testament to the Obama Administration's commitment to science, transparency and enforcing environmental safeguards," he adds.
And it's not just the EPA doing this: The extended reviews will be carried out under an "enhanced coordination process" between EPA and the U.S. Army Corps of Engineers developed under an interagency Memorandum of Understanding on surface coal mining that was facilitated by the Council on Environmental Quality and signed by the EPA, the Corps, and the Department of Interior.

The collaboration process, announced in June, was created to strengthen the environmental review of the pending mining applications and to address the backlog of permit decisions that has occurred as a result of environmental challenges. In a nutshell, the idea is to ensure compliance with the Clean Water Act and other environmental laws.

The EPA decision "affirms that no one is above the laws designed to protect clean water in places like Appalachia," Pope said. "For eight long years mountaintop removal coal mining permits were allowed to move forward, no matter the cost to the nearby communities, mountaintops and valleys."

"The administration pledged earlier this year to improve review of mining projects that risked harming water quality," said EPA Administrator Lisa Jackson. "Release of this preliminary list is the first step in a process to assure that the environmental concerns raised by the 79 permit applications are addressed and that permits issued are protective of water quality and affected ecosystems."

There's more. The EPA plans to revise the existing standards for water discharges from coal-fired plants to reduce pollution "and protect America's surface water."

Wastewater discharged from coal ash ponds, air pollution control equipment, and other equipment at power plants can contaminate drinking water sources, cause fish and other wildlife to die and create other detrimental environmental effects, the EPA says in an interim report.

The EPA completed a multi-year study of power plant wastewater discharges earlier this year. The final study is scheduled for publication later this year.

The decision to revise the current effluent guidelines is "driven by the high level of toxic-weighted pollutant discharges from coal-fired power plants and the expectation that these discharges will increase significantly in the next few years as new air pollution controls are installed," the agency say.

It's hard to imagine the Bush administration ever saying no to the coal industry, and in fact that never happened. Major polluters forced to comply with the Clean Water Act? Stronger effluent regulations on the industry?

Now there's a concept; perhaps the times are indeed a' changing.

**EPA right to get tough with Texas (*Dallas Morning News*)**

04:55 PM CDT on Monday, September 21, 2009
The Texas Commission on Environmental Quality has long been a reliable protector of polluters.

In the interest of fostering a pro-business climate, the commission has eased up on clean-air regulations and has made it awfully hard for the public to have a voice in the permitting process.

Also Online

What's The Big Story? Find out at dallasnews.com/opinion

Blog: Opinion

Blog: Texas Energy and Environment

For most of this decade, the TCEQ's modus operandi has had the tacit approval of the Environmental Protection Agency. But with a new administration at the helm, the rules are changing.

Put simply, the new EPA actually expects Texas to abide by the Clean Air Act.

Federal officials have moved quickly to take a hard look at how our state issues air pollution permits. So far, the EPA doesn't like what it sees.

The agency rightly has raised questions about Texas' implementation of the Clean Air Act, signaling that the EPA plans to reject three of the state's permitting programs that regulate emissions.

Specifically, the federal government suggests that the state's environmental commission has allowed companies to make major changes to plants and categorize them as minor ones that are subjected to less scrutiny. And EPA Administrator Lisa Jackson has questioned the openness of the state's permitting process.

For Texas, these shots across the bow signal the end of an era. And that's good news.

No longer will the EPA offer a wink and a nod when our regulators rubber-stamp industries' plans to pollute. The state that spews more greenhouse gases than any other now must get serious about adhering to environmental regulations.

If the TCEQ continues to pass out pollution permits without asking tough questions, the EPA could take away Texas' regulatory authority. That threat should be enough to scare the state straight when it comes to clearing the our dirty air.

But Texas officials are unmoved. Gov. Rick Perry appears defiant, deeming intensified federal enforcement an overreach. And the TCEQ remains stacked with appointees who share the governor's pro-business, let-the-environment-be-darned views. Larry Soward, the only commissioner to regularly take up the cause of environmental quality, recently retired, only to be replaced by a Perry-approved bureaucrat from within the TCEQ.

Stepping up efforts to enforce clean-air laws is in Texas' best interest – both for the sake of the environment and in the interest of retaining our authority.

This EPA expects the state to do better. But so far, it seems that Texas didn't get the memo.

**Trust Fund Proposal Draws Mixed Reviews (*WaterWorld*)**

By Patrick Crow, Washington Correspondent
Water groups have given mixed reviews to a bill that would establish a federal trust fund for financing water infrastructure improvements.

Rep. Earl Blumenauer (D-Ore.) introduced the Water Protection and Reinvestment Act in the House of Representatives. The Transportation and Infrastructure Committee's Water Resources and Environment Subcommittee subsequently held a hearing on it.

The legislation would establish a water trust fund, similar to the highway trust fund, to provide about $10 billion per year for wastewater and drinking water infrastructure. A primary goal of the bill was to provide more reliable funding than has been available through yearly congressional appropriations via the water and wastewater state revolving funds.

Blumenauer's bill would not build the fund through water taxes or user fees. It would use new corporate taxes and fees on bottled beverages, flushable products (like toothpaste and toilet paper), pesticides, fertilizers, and pharmaceuticals.

A third of the money in the trust fund would be earmarked for metropolitan utilities serving more than 100,000 people, reflecting complaints that urban water systems have been shortchanged by the existing state revolving funds.

At the subcommittee hearing, Blumenauer said U.S. utilities face a $300-500 billion funding gap over the next several decades if they are to replace aging water infrastructure.

The National Association of Clean Water Agencies strongly supported the Blumenauer bill. It said the nation's water quality gains under the 1972 Clean Water Act have leveled off.

It asked, "If highways merit a trust fund with $30 billion per year, and airports $10 billion per year, why should we not have one for water, a resource each of us uses every single day?"

The Water Infrastructure Network also supported the bill. It is coalition of 50 groups -- including the National Association of Clean Water Agencies and the American Public Works Association.

The coalition said the bill would create nearly 2 million jobs in the short term and help make American industry more competitive.

The American Water Works Association was neutral on the bill and skeptical about using a trust fund.

Instead, it proposed that Congress create a federal water infrastructure bank to provide direct, low-interest financing or loan guarantees for projects of regional or national significance. It said that replacing aging water infrastructure should be addressed through local funding decisions rather than reliance on the federal government.

The Association of Metropolitan Water Agencies took no position on whether to use a trust fund versus other methods of infrastructure financing. It did applaud the bill's funding priority for metropolitan utilities.

The Water and Wastewater Equipment Manufacturers Association opposed creating a water and wastewater trust fund. It said federal subsidies send consumers false price signals about the true cost of water and discourage conservation and sound resource management.

The National Association of Water Companies voiced the same objection. It said, "Aggregate water use can only be reduced by changing the way people think about flushing their toilets, watering their lawns and washing their dishes and how industries think about water as an input cost."

The International Bottled Water Association said it supported measures to improve the U.S. water infrastructure system but not new taxes on bottled water. It said it would be unfair to tax water-based beverages while exempting the many other food and non-food manufacturers that also use municipal water.

**Water System Security**

Key players in the House Energy and Commerce Committee are pushing a bill to update the Environmental Protection Agency's program to guard drinking water systems against terrorist acts.

The Drinking Water System Security Act would require EPA to establish risk-based performance standards for community water systems serving more than 3,300 people and other public water systems that might have security risks.

Principal authors of the bill are committee chairman Henry Waxman (D-Calif.) and Energy and Environment Subcommittee chairman Edward Markey (D-Mass.). They plan to hold hearings on the bill in the fall.

The Association of Metropolitan Water Agencies, several labor unions, and environmental groups support the legislation.

Under the bill, EPA would categorize water systems in one of four risk-based tiers. The systems would develop security plans -- and update them every 5 years -- to counteract their vulnerabilities.

Water systems that use dangerous chemicals (such as chlorine gas) in certain volumes would have to consider switching to safer chemicals or processes to reduce the consequences of a terrorist act. States might push for a switch, but EPA could not force utilities to change their disinfection processes.

The bill requires water utilities to include their employees in the development of security vulnerability assessments and site security plans.

In other Washington news:

- The U.S. Senate has confirmed the nomination of Peter Silva to be EPA's assistant administrator for water. Silva, a civil engineer, most recently was a policy advisor to the Metropolitan Water District of Southern California.
  – Administrator Lisa Jackson said EPA will seek public comment on a reevaluation of the scientific data on perchlorate in drinking water, especially regarding the chemical's impact on infants and children. Last year EPA made a preliminary decision not to regulate perchlorate.
  – Jackson has launched a program to boost enforcement of Clean Water Act rules and improve public access to data on CWA compliance. She said the compliance data would be available to the public in a more user-friendly format.
  – The Department of Agriculture has earmarked $57.9 million for 63 projects to conserve water and reduce contaminated run-off from farmland in 21 states. The funding will be through the Agricultural Water Enhancement Program, which was created in the 2008 Farm Bill.
  – Following an oversight hearing on bottled water, a House Energy and Commerce subcommittee has asked 13 bottled water companies to submit data on the sources and testing of their water.

## EDITORIALS / OP-ED / COMMENTARY / LETTERS

### Cleaning Up the Chesapeake (*Washington Post*)

September 22, 2009 Tuesday
Regional Edition
EDITORIAL COPY; Pg. A18
Maryland
Cleaning Up the Chesapeake;
Draft reports on the state of the bay signal more aggressive federal action.
THE ROLE OF the federal government in cleaning the Chesapeake Bay is about to

increase substantially, if draft reports released this month are to be believed.

Yes, we've been down this road before. Since 1983, we've heard elected officials decry the state of the bay, set deadlines to clean it up and then leave it to their successors to repeat the maddening loop of inaction. The result is a waterway literally gasping for air as overdevelopment, agricultural practices and their polluted runoff create oxygen-starved "dead zones" and kill off aquatic life.

Maybe this time will be different -- if full backing from the White House is forthcoming.

The information in these reports, written by five federal agencies that are a part of the Federal Leadership Committee created by President Obama, will serve as the foundation for a draft strategy due this fall. They urge the federal government, as the largest landowner in the watershed, to adopt smart-growth practices to control stormwater runoff from paved surfaces. But it is the push for more aggressive use of the Clean Water Act to crack the whip on states and their bay cleanup policies that is most radical.

The EPA would require the states to provide detailed plans to reduce the amount of nitrogen, phosphorus and sediments flowing into the Chesapeake and its tributaries. Insufficient action would lead to "tailored consequences," such as a loss of federal funding. But the agency also wants to initiate rulemaking under the Clean Water Act that would expand its jurisdiction over the municipal stormwater program to allow it to block development in some cases.

Does Washington belong in the business of rejecting local shopping malls and other commercial permits? Royce Hanson, chairman of the Montgomery County Planning Board, for one, said he isn't worried. In fact, he told us that he was "delighted" by the standards the EPA is contemplating. Mr. Hanson predicted that once completed, such regulations would most likely mirror new stormwater policies in place in Maryland and elsewhere in the watershed, which includes Virginia, four other states and the District. For jurisdictions without them, he said, the impending rules could provide the leverage needed to enact such measures. And because of staffing and other resource issues, it is expected that the EPA would end up delegating compliance enforcement to local jurisdictions.

The draft strategy is due Nov. 9, but the Federal Leadership Committee has until next May to issue the final document. That gives the EPA time to devise rules that would encourage healthy development practices with minimum federal involvement in specific local decisions.
September 22, 2009

**Protecting mountains (*Winston-Salem Journal*)**

JOURNAL EDITORIAL STAFF

The Environmental Protection Agency, after years of abuses under the Bush administration, is back on the right track with its plans to give further environmental review to 79 permits for mountaintop removal mining. But what's really needed is an end to this practice.

This form of mining blasts the tops off mountains. It's a severe form of strip mining, which the *Journal* has long opposed. In the 1970s, investigative articles in the *Journal* and its now defunct sister paper, the *Sentinel*, played a leading role in stopping a company's efforts to introduce strip mining to Northwest North Carolina. Strip mining and mountaintop mining destroy the beauty of mountains and reduce property values. The mining also ravages ecosystems, including watersheds.

The permits in question allow mountaintop miners to dump their waste into streams. Mining operations have already destroyed at least 2,000 miles of Appalachian streams, environmental activists say. Whole communities have been displaced by mines.

Mountaintop mining doesn't happen in this state, but coal mined using this method produces electricity for many of us. Two bills in the state legislature last session would have banned electric public utilities that operate in North Carolina from purchasing or using coal from mountaintop mining, but they both stalled in committee. That's a shame. It's in our best interest to work toward reducing the environmental damage caused by this form of mining.

The EPA has determined that the destruction of streams and harm to watersheds in the region raise questions about the legality of the permits under the federal Clean Water Act. While welcoming "this action by the Obama administration to return the rule of law to the Appalachian coalfields," environmental activists want to see the permits denied and no more issued.

"While many mountains, streams and communities continue to be impacted or annihilated by mountaintop removal because of years of lawless mining, EPA's announcement ... provides people with some hope that from this day forward, real science and laws will be applied before any more permits are issued," Janet Keating, the executive director of the Ohio Valley Environmental Coalition, said in a prepared statement.

She noted that the EPA's decision doesn't apply to existing mountaintop-removal permits. "We ask that our politicians don't cry that ‘the sky is falling,' but instead let the scientific experts at EPA do the job that taxpayers expect of them -- to protect our water, air and land for us and for future generations."

That sounds like an excellent plan.

**Alabama Voices: Shale gas crucial to nation (*Montgomery Advertiser*)**

By William Reed

The dramatic increase in U.S. production of natural gas would not have been possible without a precise and reliable technology for drilling through thick shale. Known as hydraulic fracturing, it has taken on increasing importance as an effective but little-known weapon in the battle against atmospheric pollution and dependence on foreign fuels.

Yet though it is largely unknown to us, we benefit from hydraulic fracturing at dozens of points in our daily lives. Thanks to this technology, plastics and other materials made from natural gas are used in scores of consumer products. Our industries rely on the availability of natural gas, and it's needed for heating and electricity production.

In addition, our future fortunes look likely to become ever more closely linked with those of hydraulic fracturing, a process in which water and other materials are pumped at high pressure to break through underground rock formations and reach beds of natural gas.

Located, among other places, in Texas, Colorado, Arkansas, Alabama, North Dakota and Appalachia, shale gas was long believed to be out of reach until energy companies developed hydraulic fracturing along with horizontal drilling to gain access to the trapped gas. Today geologists estimate there could be as much as 842 trillion cubic feet of retrievable gas in a dozen shale formations around the country - enough to supply the United States with natural gas for 40 years.

Natural gas is the cleanest fossil fuel, releasing less of the emissions that are linked to global warming than coal.

Yet, as important as natural gas is to the nation's economy and environmental health, Congress has so far discounted it. An energy and climate-change bill recently passed by the House of Representatives would impose more than $400 billion in taxes and carbon fees on the oil and natural gas industry. The measure, which is being considered by the Senate, would damage hundreds of small companies that produce most of the shale gas, undermining efforts to use more clean-burning natural gas in electricity production and home heating.

In addition, bills have been introduced that would empower the U.S. Environmental Protection Agency to regulate hydraulic fracturing. Environmental groups maintain that fracking, as it's known, risks polluting underground drinking water supplies. But EPA itself has found little or no threat to water systems from hydraulic fracturing. State governments currently regulate hydraulic fracturing.

The proposed legislation would give EPA power to limit the type of fluids used in hydraulic fracturing or prohibit the practice altogether. But the use of hydraulic fracturing

is one reason why shale gas production has become economically feasible in recent years.

America needs to embrace policies that will stimulate, rather than retard, domestic gas production.

*William Reed, chairman of System Controls Inc., writes from Birmingham.*

**Sewer sludge not safe for crops (Atlanta Journal-Constitution)**

September 22, 2009 Tuesday
Main Edition
OPINION; Pg. 15A
By Christianne Carin; For the AJC
President Barack Obama has shown his willingness to jump on "teachable moments," events that at first seem small or local but can act as a springboard to look at larger issues. Obama has one of these moments right in his own backyard, literally, with the discovery that his organic vegetable garden contains high amounts of lead. Tests for other harmful chemicals are under way.

The story first broke in mid-June when tests showed elevated levels of lead in the garden. The levels were 93 parts per million, slightly under the U.S. Environmental Protection Agency's 100 ppm danger level, which, to be fair, is common in urban areas from the settling of a hundred years of vehicle exhausts. In fact, many urban gardens have levels that exceed the EPA's limits.

What's of more danger are the tens of thousands of chemical compounds that are found in treated sludge --- including hundreds of different prescription and over-the-counter drugs that we flush down our drains, cleaners and soaps --- from home and industrial and processing wastes that use our sewers for disposal. Sludge is the end result of "treating" human and all other wastes entering our sewers, mainly by decomposition during storage, aeration and filtration in order to turn it into material for reintroduction back into the environment.

This year, U.S. farmers will fertilize their lands with 45 million wet tons of processed sludge coming from municipal and county sewage plants across the nation. The sludge is used by farmers for fertilizer on crops that make their way directly or indirectly to our kitchen tables. The cities are more than happy to find a place for their sludge other than already overcrowded landfills.

In 1993, the EPA supported the disposal of sludge on farmland, through regulation and set limits on pathogens present. At the time, the government and sludge producers found a seemingly perfect symbiotic relationship to spread sludge on farmland including a massive PR campaign that quieted dissenting voices. Even spreading sludge on then-President Bill Clinton's White House lawn was part of that campaign.

But this sludge may not be as safe as we think.

In February 2008 a federal court ruled that Georgia farmer Andy McElmurray was entitled to Agriculture Department "prevented planting" subsidies because of contamination of his farm by sewage sludge. Judge Anthony Alaimo found that the sludge was responsible for killing hundreds of dairy cattle and contaminating the milk supplies in several states. The U.S. District Court concluded that the evidence showed "McElmurray's land is contaminated and unfit for growing food-chain crops" and that "the evidence of contamination on McElmurray's land was substantial."

Among those now wary of using sludge on farms are food suppliers H.J. Heinz and Del Monte, both of which do not accept vegetables grown using sludge as fertilizer. The U.S. Department of Agriculture's cutting-edge National Organic Program doesn't allow organic farmers to use sludge.

Currently, there is a way to treat sludge that makes it safer for use in many situations. By heating sludge to more than 800 degrees Fahrenheit all pathogens and many chemical compounds are rendered inert and the sludge is safe to use in nonfood crops (such as cotton and biofuels), land repair, golf courses and turf applications.

Obama has made food safety a priority for his administration, and this teachable moment compels us to find a suitable and safe way to manage our sewage even if it means radically changing how we think about it. It's time for policy makers and legislators to take a serious look at the dangers of using sludge on farms.

Christianne Carin, CEO of EarthRenew Inc., is writing a book about the politics of manure.

**AIR**

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**States Can Sue Utilities Over Emissions (*New York Times*)**

September 22, 2009 Tuesday
Late Edition - Final
Section A; Column 0; National Desk; Pg. 18
By MATTHEW L. WALD

A two-judge panel of a federal appeals court has ruled that big power companies can be sued by states and land trusts for emitting carbon dioxide. The decision, issued Monday, overturns a 2005 District Court decision that the question was political, not judicial.

A panel of the United States Court of Appeals for the Second Circuit, in New York, ruled

that eight states -- California, Connecticut, Iowa, New Jersey, New York, Rhode Island, Vermont and Wisconsin -- as well as New York City and three land trusts could proceed with a suit against American Electric Power, Southern Corporation, the Tennessee Valley Authority, Xcel Energy and Cinergy Corporation, all large coal-burning utilities.

The case, brought in 2004, said the defendants were creating a "public nuisance" and sought reductions in emissions that scientists say are changing the climate. The states cited studies from the United Nations and the National Academy of Sciences that predicted damage and said in fact that their environments had already been damaged. The land trusts said that an increase in sea level would inundate their properties, among other problems.

The power companies said that the federal courts had never recognized an argument in common law that greenhouse gas emissions contribute to global warming, and that if action were to be taken, Congress would have to do it.

The lower court agreed that the issues demonstrated the "transcendently legislative nature of this litigation," and that if they found in favor of the states and the land trusts, the courts would have to figure out how to cap emissions, set reduction goals and a schedule for achieving them, and take other steps that would seem to require legislation.

The appeal was heard by a three-judge panel, but one of the judges, Sonia Sotomayor, was elevated to the Supreme Court in August. The case was decided by Joseph M. McLaughlin, who was appointed to the court in 1990 by the first President George Bush, and Peter W. Hall, nominated in 2003 by the second President Bush.

Matt Pawa, the lead lawyer for the Open Space Institute and the Audubon Society of New Hampshire, both plaintiffs, said in a statement that "for hundreds of years, courts have been there to protect citizens from harm," and could do so again now.

At the Natural Resources Defense Council, an environmental group that was not a plaintiff, David Doniger, a senior lawyer, said the best way to fight global warming was to have Congress act. But he added, "The court's decision guarantees that if the Congress fails to do its job, or blocks the E.P.A. from doing its job, the biggest power companies will still be held accountable in the federal courts."

At American Electric Power, Pat D. Hemlepp, a spokesman, said the company's lawyers had not decided whether to appeal. But he added: "We don't feel that litigation is a proper avenue to address climate concerns. In our view, it's a policy issue."

"Legislation would be the best approach, and that's happening now," Mr. Hemlepp said, referring to a bill that has passed the House and that the Senate may take up this year.

Many participants in the global warming debate appear to prefer a decision by the Congress, because it could balance competing interests, between and among regions

and industries, to cut emissions of global warming gases.

But Monday's decision means that all three branches of the federal government could have a role. In addition to the possibility that Congress will act, the Supreme Court held in April 2007, that global warming gases were a pollutant under the Clean Air Act, and thus could be regulated by the Environmental Protection Agency.

**Emissions Of CO2 Set For Best Drop In 40 Years (*New York Times*)**

September 22, 2009 Tuesday
Late Edition - Final
Section A; Column 0; Foreign Desk; Pg. 4
By JAD MOUAWAD; John M. Broder contributed reporting from Washington.
Global carbon emissions are expected to post their biggest drop in more than 40 years this year as the global recession froze economic activity and slashed energy use around the world.

The decline comes as political leaders are struggling to come up with a common approach to dealing with climate change.

The main factor behind this year's drop in emissions is the slowdown in industrial activity and trade around the world, according to a study due to be released in November by the International Energy Agency.

But the energy agency, which provides policy advice and research to industrialized nations, found that government actions had also contributed to the drop in emissions. The agency said it expected to see global carbon emissions fall 2.6 percent this year.

The projected decline was first reported Monday by The Financial Times.

World leaders will meet at the United Nations on Tuesday for a one-day summit meeting to pursue a new agreement to fight **global warming.** The talks are expected to conclude with a climate treaty in Copenhagen in December.

The negotiations are stalled amid disagreements between developed and developing countries on how to share reductions in carbon emissions.

Even if temporary, a global reduction in emissions could allow advocates of stringent new limits on carbon dioxide to argue that continued progress is available using existing technology and switching to cleaner fuels, like natural gas.

The forecast should also make it easier for most nations to meet emissions reduction targets in the near and medium term and could give a lift toward a new **global warming** treaty, said Paul W. Bledsoe of the National Commission on Energy Policy, a bipartisan

advisory group.

"Because many countries are using 2005 as a baseline year, this will give them some breathing room when economic activity picks up again," Mr. Bledsoe said.

The projection from the International Energy Agency tracks other forecasts from government agencies, including the Department of Energy, which found that greenhouse gas emissions in the United States fell 3.8 percent in 2008 compared with 2007; they are estimated to be down another 6 percent this year.

However, an improving economy is expected to increase domestic carbon dioxide emissions 0.7 percent next year, according to the Energy Information Administration, an arm of the Department of Energy.

Carbon dioxide emissions from the burning of energy sources account for 80 percent of greenhouse gas emissions in the United States.

**URL:** http://www.nytimes.com

September 22, 2009

**Refitted to Bury Emissions, Plant Draws Attention (*New York Times*)**

By MATTHEW L. WALD
NEW HAVEN, W.Va. — Poking out of the ground near the smokestacks of the Mountaineer power plant here are two wells that look much like those that draw natural gas to the surface. But these are about to do something new: inject a power plant's carbon dioxide into the earth.
A behemoth built in 1980, long before global warming stirred broad concern, Mountaineer is poised to become the world's first coal-fired power plant to capture and bury some of the carbon dioxide it churns out. The hope is that the gas will stay deep underground for millenniums rather than entering the atmosphere as a heat-trapping pollutant.
The experiment, which the company says could begin in the next few days, is riveting the world's coal-fired electricity sector, which is under growing pressure to develop technology to capture and store carbon dioxide. Visitors from as far as China and India, which are struggling with their own coal-related pollution, have been trooping through the plant.
The United States still depends on coal-fired plants, many of them built decades ago, to meet half of its electricity needs. Some industry experts argue that retrofitting them could prove far more feasible than building brand new, cleaner ones.
Yet the economic viability of the Mountaineer plant's new technology, known as carbon capture and sequestration, remains uncertain.

The technology is certain to devour a substantial amount of the plant's energy output — optimists say 15 percent, and skeptics, 30 percent. Some energy experts argue that it could prove even more expensive than solar or nuclear power.

And as with any new technology, even the engineers are unsure how well it will work: will all of the carbon dioxide stay put?

Environmentalists who oppose coal mining and coal energy of any kind worry that sequestration could simply trade one problem, global warming, for another one, the pollution of water supplies. Should the carbon dioxide mix with water underground and form carbonic acid, they say, it could leach poisonous materials from rock deep underground that could then seep out.

Given the depths to which workers have drilled, they also fret that the project could cause earthquakes, although experts at the Environmental Protection Agency discount the risk of catastrophe.

More broadly, some environmentalists argue that the carbon storage effort could give corporations and consumers another excuse to drag their heels in supplanting coal dependence with an embrace of renewable energy sources like the sun and wind.

"Coal is the drug of choice of a major industry with a lot of political power," said David H. Holtz, executive director of Progress Michigan, an environmental group.

Instead of adopting carbon capture, which Mr. Holtz likens to a methadone cure for addiction, he argues that the industry would do better to go cold turkey.

"There's no evidence that burying carbon dioxide in the earth is a better strategy than aggressively pursuing other alternatives that clearly are better for the environment and will in the long run be less costly," Mr. Holtz said.

But power company officials say the effort is the energy industry's best hope of stanching carbon dioxide emissions over the next few decades.

"I really believe, in my heart of hearts, that coal is going to be burned around the world for years to come," said Michael Morris, chairman and president of American Electric Power, which owns the plant here. "Retrofitting is going to be essential."

American Electric Power is the nation's largest electricity producer, with a coal-fired grid stretching across 11 states.

If all goes smoothly, this week engineers will begin pumping carbon dioxide, converted to a fluid, into a layer of sandstone 7,800 feet below the rolling countryside here and then into a layer of dolomite 400 feet below that.

The liquid will squeeze into tiny pores in the rock, displacing the salty water there, and assume a shape something like a squashed football, 30 to 40 feet high and hundreds of yards long.

American Electric Power's plan is to inject about 100,000 tons annually for two to five years, about 1.5 percent of Mountaineer's yearly emissions of carbon dioxide. Should Congress pass a law controlling carbon dioxide emissions and the new technology proves economically feasible, the company says, it could then move to capture as much as 90 percent of the gas.

For now the project consists of the two wells and a small chemical factory. In the factory, smoke diverted from the plant's chimney is mixed with a chilled ammonia-based chemical. The chemical is then heated, releasing the carbon dioxide, which is pumped deep into the wells.

American Electric Power is spending $73 million on the capture and storage effort, which includes half the cost of the factory. Alstom, the manufacturer of the new equipment, paid for the other half of the factory, hoping to develop expertise that will win it a worldwide market. Alstom would not say what it spent, but public figures indicate that the two companies are jointly spending well over $100 million.

For energy planners, a crucial question is how much this technology would cost if refined and installed on a bigger scale. The answer remains elusive.

Still, many scientists emphasize that Mountaineer is within a dozen miles of four other big coal plants with a combined capacity of 6,000 megawatts, a concentration so great that industry insiders have nicknamed the area Megawatt Alley. If the technology spread to all of them in a cost-effective way, many say, it could have a broad impact on the coal industry.

S. Julio Friedmann, leader of the carbon management program at the Lawrence Livermore National Laboratory in California, calls this corner of the Ohio River Valley a "must win" region for carbon dioxide storage.

Robert Socolow, a Princeton University engineering professor, echoed that sentiment. The nation's fleet of coal-burning plants "completely dominates our national emissions," Professor Socolow said.

It is also far easier to corral several million tons flowing from a single chimney than a comparable amount coming from tens of millions of car tailpipes or home heating systems, experts point out.

Far larger projects for capturing and storing carbon dioxide underground have been under way for several years in Europe and North Africa. In North Dakota, the Great Plains Synfuels plant, which converts methane to natural gas, takes the leftover carbon dioxide and pumps it through a pipeline to Canada to stimulate oil production there. But Mountaineer is the world's first electricity plant to capture and store carbon dioxide.

A state permit issued to American Electric Power limits the pressure it can use to inject carbon dioxide into the rock. This is to reduce the risk that the injection will crack rock layers above that engineers are counting on to keep the carbon dioxide in place.

A nonprofit research group, Battelle Memorial Institute, has installed monitoring wells around the rock that will measure changes in pressure and temperature. Engineers can also send energy pulses through the earth between the wells and measure how fast these travel, as a guide to how the carbon dioxide is spreading.

Asked whether the injections of carbon dioxide could increase the frequency or magnitude of the small earthquakes that are common in the area, an E.P.A. official said it seemed unlikely.

"With proper site selection and good management, we should be able to implement this safely," said Dina Kruger, director of the agency's climate change division. Ms. Kruger also emphasized that the carbon dioxide would be monitored to see if it was seeping.

Some local residents are skeptical.

"It doesn't matter to me if a scientist says it may or may not leak," said Elisa Young, an anti-coal activist who lives nearby on the Ohio side of the river. "That's not going to stop it from leaking when push comes to shove."

At the same time, many others in this coal-dependent region suggest that the notion that carbon dioxide is a menace has been overplayed.

Charles A. Powell, the manager of the Mountaineer plant, who has worked there since it opened three decades ago, pointed out that the gas is given off by every human and animal.
“You are breathing out?” he asked a visitor dryly.

Article published Sep 22, 2009

**Court revives pollution suit (*Associated Press*)**
**Story also appeared: *Rutland Herald, MSN Money***

By LARRY NEUMEISTER THE ASSOCIATED PRESS
NEW YORK — A Federal appeals court ruled Monday that states trying to combat global warming can sue six electric utilities to force them to cut the greenhouse gases emitted by their power plants in 20 states.

The 2nd U.S. Circuit Court of Appeals in Manhattan reinstated the lawsuits after a lower court judge tossed out the actions brought in 2004 by eight states, including Vermont; New York City; and three land trusts.

The lawsuits had accused the companies of being among the largest emitters of carbon dioxide in the world and sought to force them to reduce their carbon dioxide emissions.

The appeals court said the lower court judge erred in ruling that the issue was a political one that was not meant to be decided by the courts.

The court said not every case with political overtones has to be kept out of the courts.

"It is error to equate a political question with a political case," the court wrote. "Given the checks and balances among the three branches of our government, the judiciary can no more usurp executive and legislative prerogatives than it can decline to decide matters within its jurisdiction simply because such matters may have political ramifications."

The appeals court noted that the legislative branch was free to amend the Clean Air Act to regulate carbon dioxide emissions, and the executive branch can regulate emissions through the Environmental Protection Agency.

It also rejected arguments by the companies that any pollutants must be "poisonous" or "noxious," local in nature and capable of producing immediate harm to be challenged in a lawsuit.

"The touchstone of a common law public nuisance action is that the harm is widespread, unreasonably interfering with a right common to the general public," the court wrote.

The ruling was made by two judges rather than the usual three because the third judge was supposed to be Sonia Sotomayor, who is now a Supreme Court justice.

The states bringing the lawsuit are California, Connecticut, Iowa, New Jersey, New York, Rhode Island, Vermont and Wisconsin. New York City and three nonprofit land trusts also are part of the litigation.

The states want the courts to order the companies to reduce carbon dioxide emissions 3 percent annually for 10 years. They say the greenhouse gas is one of the chief causes of global warming. The gas is produced when coal, gasoline and other fossil fuels burn.

The lawsuits seek to force a reduction of carbon dioxide emissions by American Electric Power Co. Inc., Cinergy Co., Southern Co. Inc. of Georgia, Xcel Energy Inc. of Minnesota, and the federal Tennessee Valley Authority.

A lawyer for the companies did not immediately return a phone call seeking comment.

Connecticut Attorney General Richard Blumenthal said in a statement that the ruling "breathes new life into our fight against greenhouse gas polluters and changes the legal landscape to impose responsibility where it belongs."

He added: "This ruling vindicates our tenacious and tireless battle on behalf of a powerful coalition of states and environmental advocates — a battle that will now have its day in court."

Blumenthal compared the effort with the fight against tobacco companies, saying the states were seeking to save lives and the planet from global warming.

**EPA Midwest Clean Diesel Initiative Leadership Group Presents Awards For Diesel Emissions Reductions (*US Fed News*)**

September 22, 2009 Tuesday 12:00 AM EST
CHICAGO, Sept. 17 -- The Environmental Protection Agency issued the following press release:

U.S. Environmental Protection Agency Region 5's Midwest Clean Diesel Initiative Leadership Group today recognized people and organizations that have acted to reduce diesel emissions. The awards were presented at a ceremony in Chicago.

Winners are: Minnesota Environmental Initiative, Wisconsin Department of Commerce and Darwin Burkhart of Illinois Environmental Protection Agency.

"These award winners have all done a great job and are role models to their peers,"

said Region 5 Midwest Clean Diesel Initiative Coordinator Steve Marquardt. "Each honoree has forged unique and effective partnerships for reducing diesel emissions in the Midwest."

Minnesota Environmental Initiative is a non-profit organization with a unique public-private partnership in a state that meets the current EPA national ambient air quality standards. MEI's Project Green Fleet, an initiative the group started in 2005, has a goal to retrofit all eligible school buses across Minnesota (they estimate 4,000 buses). By the end of 2008, Project Green Fleet had installed over 1,200 diesel oxidation catalysts and/or closed crankcase filtration systems on buses across the state, and will be more than halfway to its goal by the end of this year. These actions have reduced diesel emissions exposure to approximately 30,000 Minnesota schoolchildren.

Wisconsin Department of Commerce administers the Wisconsin Idle Reduction Grant Program which provides 50 percent of the cost of an idle reduction technology to Wisconsin-based fleets. The grant program, founded by the Wisconsin legislature, has funded more than 1,100 idle reduction devices in 339 grant awards, affecting fleets across the state. The program has been so successful that the state legislature has reauthorized it through 2015.

The MCDI High Horsepower Award for individual excellence was presented to Darwin Burkhart for his dedication, leadership and drive in administering clean diesel/clean air programs for Illinois EPA. Burkhart manages several clean air programs, including the Illinois Clean Bus Program, the Illinois Green Fleets Program, the Illinois Alternative Fuel Rebate Program and the Illinois Clean Diesel Initiative. Through these programs, he has administered over $6 million to fund projects across the state that address emissions from utility trucks, over-the-road trucks, delivery trucks, transit buses, school buses, locomotives, marine engines, mining equipment and other diesel-powered emission sources. By creating and fostering partnerships with governments, non-profits, schools and industry organizations, Burkhart has forged effective and long-lasting diesel emission reductions that benefit the people of Illinois.

The MCDI Leadership Group consists of 33 public sector, non-profit and private industry organizations that share the goal of cutting emissions from 1 million diesel engines in the Region 5 states by 2010. The group is co-chaired by Cummins Inc., Illinois Environmental Protection Agency, American Lung Association-Upper Midwest and EPA Region 5.

The Midwest Clean Diesel Initiative was created to reduce emissions from older, existing diesel engines not covered by EPA's stringent standards for cleaner fuels and new, cleaner engines. MCDI estimates that more than 3 million diesel engines in the Midwest would benefit from use of diesel retrofit technologies, repowers, replacement, cleaner fuels, idle-reduction, and other clean diesel strategies. Already, the public-private partnership has affected 761,000 engines.

Diesel emissions contain large amounts of nitrogen oxides and fine particles (soot).

Nitrogen oxides are precursors of ozone (smog), which is a lung irritant, and fine particles can aggravate respiratory and heart diseases.

More information on the Midwest Clean Diesel Initiative and the MCDI Leadership Group is at http://www.epa.gov/midwestcleandiesel/.For more information please contact: Sarabjit Jagirdar, Email:- htsyndication@hindustantimes.com

**E.P.A. Report Suggests Waste Reduction and Recycling Reduces CO2 Emissions (*New York Times*)**

By John Collins Rudolf
September 21, 2009, 8:11 am
E.P.A. A new E.P.A. study examines the greenhouse gas impacts of the way Americans obtain, deliver and dispose of goods. The full report, including this chart, can be found here.
A new report from the United States Environmental Protection Agency suggests that way Americans procure, produce, deliver and dispose of goods and services — what the agency refers to as "materials and land management" — accounts for 42 percent of the nation's greenhouse gas emissions.
The study took stock of the emissions generated by land use, food and product production across the entire life cycle — from resource extraction (think mining, agriculture and forestry) to manufacturing, packaging, transportation and ultimately disposal.

The report breaks from conventional analyses of greenhouse gas emissions, which typically focus on sectors such as transportation or electricity generation. According to Joshua Stolaroff, a former science and technology policy fellow with E.P.A.'s Office of Solid Waste and Emergency Response and the report's lead technical author, it suggests that emissions savings from waste reduction, recycling and improved product design can be significant.

"These are things that were essentially considered small or zero in terms of how important they are to the climate change mitigation toolbox," said Mr. Stolaroff.

Doubling the recycling of construction and demolition debris, for example, would result in an emissions savings of 150 million metric tons of CO2 equivalent per year, equal to the entire annual carbon emissions from the state of North Carolina, the study found.

Reducing product packaging by half could also reap significant benefits – as much as 105 million tons of CO2 equivalent per year. Increasing the lifespan of personal computers by 25 percent, meanwhile, could reduce greenhouse gas emissions in the United States by 15 million tons of per year.

“Extending the life of products in general is probably a huge opportunity,” said Mr. Stolaroff.

The E.P.A. report was released in tandem with a similar report, also written by Mr. Stolaroff, from the Product Policy Institute, a nonprofit group focused on promoting sustainable production and consumption. In the Product Policy Institute report, Mr. Stolaroff, citing statistics from his E.P.A. report on the carbon impact of products and packaging, pushed for state, local and federal government adoption of “Extended Producer Responsibility” laws, which hold manufacturers responsible for the afterlife of their products.

Similar laws have been adopted in Western Europe, Canada and other countries. In the United States, a number of states and New York City require electronics manufacturers to pay a fee for the future disposal or recycling of their products.

Advocates for increasing producer responsibility also seized on the E.P.A. report as proof that stronger policies were needed to reduce waste and bolster recycling. “This just verifies what we thought all along,” said Heidi Sanborn, the executive director of the California Product Stewardship Council, a nonprofit advocacy group.

“Manufacturers need to reduce the lifecycle cost of their products.”

**Senate Bill Would Ensure New Fuel Compatibility (*Indiana Prairie Farmer*)**

*Scientific study required for waivers to be issued.*
*Compiled by staff*
Published: Sep 21, 2009
Lawmakers have introduced in the U.S. Senate a bill that would require that new fuels introduced into the marketplace are compatible with current gasoline-fueled engines. Under the bill, the EPA's Science Advisory Board would provide recommendations to the EPA on the feasibility of allowing the sale of mid-level ethanol blends. When responding to requests for waivers from the Clean Air Act's provisions, the EPA would have to explain how its decisions are compatible with SAB recommendations.

The Board also would have to address the expected availability of alternative fuels for up to five years following the launch of a new fuel and the ability of fuel delivery systems to protect engines from receiving incompatible fuel.

Presently, the Clean Air Act prohibits sales of mid-level ethanol blends. The proposed bill only would allow the EPA to issue such a waiver if its Science Advisory Board studies the compatibility of mid-level ethanol fuels with the emission requirements of the Clean Air Act and the operability of current engines.

**Court revives pollution lawsuit (*Associated Press*)**
**Story also appeared: *The Reporter***

By Larry Neumeister/ Associated Press Writer
Posted: 09/22/2009 01:00:20 AM PDT
NEW YORK -- A federal appeals court ruled Monday that eight states, including California, trying to combat global warming can sue six electric utilities to force them to cut the greenhouse gases emitted by their power plants in 20 states.
The 2nd U.S. Circuit Court of Appeals in Manhattan reinstated the lawsuits after a lower court judge tossed out the actions brought in 2004 by the states, New York City and three land trusts.
The lawsuits accuse the companies of being among the largest emitters of carbon dioxide in the world and sought to force them to reduce their carbon dioxide emissions.

The appeals court said the lower court judge erred in ruling that the issue was a political one that was not meant to be decided by the courts.

The court said that not every case with political overtones has to be kept out of the courts.

"It is error to equate a political question with a political case," the court wrote. "Given the checks and balances among the three branches of our government, the judiciary can no more usurp executive and legislative prerogatives than it can decline to decide matters within its jurisdiction simply because such matters may have political ramifications."

The appeals court noted that the legislative branch was free to amend the Clean Air Act to regulate carbon dioxide emissions, and the executive branch can regulate emissions through the Environmental Protection Agency.

It also rejected arguments by the companies that any pollutants must be "poisonous" or "noxious," local in nature and capable of producing immediate harm to be challenged in a lawsuit.

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The ruling was made by two judges rather than the usual three because the third judge was supposed to be Sonia Sotomayor, who is now a Supreme Court justice.

The other states bringing the lawsuit are Connecticut, Iowa, New Jersey, New York, Rhode Island, Vermont and Wisconsin. New York City and three nonprofit land trusts also are part of the litigation.

The states want the courts to order the companies to reduce carbon dioxide emissions 3 percent annually for 10 years. They say the greenhouse gas is one of the chief causes of global warming. The gas is produced when coal, gasoline and other fossil fuels burn.

The lawsuits seek to force a reduction of carbon dioxide emissions by American Electric Power Co. Inc., Cinergy Co., Southern Co. Inc. of Georgia, Xcel Energy Inc. of Minnesota, and the federal Tennessee Valley Authority.

A lawyer for the companies did not immediately return a phone call seeking comment.

Connecticut Attorney General Richard Blumenthal said in a statement that the ruling "breathes new life into our fight against greenhouse gas polluters and changes the legal landscape to impose responsibility where it belongs."

## AWARDS

Sep. 22, 2009

**Harrah's announces Team Earth partnership (*Las Vegas Review Journal*)**

By ARNOLD M. KNIGHTLY
LAS VEGAS REVIEW-JOURNAL
Harrah's Entertainment on Monday announced it is joining with four corporations and three environmental organizations as founding members of a partnership focusing on environmental issues.

"Team Earth unites businesses, nonprofit organizations, scientists, educators and engaged citizens in an international effort to focus attention on pressing environmental sustainability issues, inspire collective action and drive innovation towards smarter, greener, more responsible choices," the announcement read.

Harrah's is joining computer company Dell, cleaning product company SC Johnson, Starbucks and the candy-gum company Wrigley as the founding corporations of Team Earth. The companies will work with Conservation International, Rocky Mountain Institute and the Prince of Wales' Rainforest Project in five critical environmental areas: climate change, water, health, waste and food.

The partnership was announced Monday in Manhattan at a press conference attended by Harrah's Chairman and Chief Executive Officer Gary Loveman.

"A key focus of Team Earth is uniting simple, straightforward individual actions to address our planet's most critical environmental issues," Loveman said. "Harrah's Entertainment is proud to join Team Earth not as a single corporate sponsor, but as 80,000 employees working together to make a difference."

The group's first project is to lobby for forest protection at the Copenhagen climate negotiations in December.

Harrah's has established employee teams at its casinos and in all corporate activities to create, promote, measure and sustain effective environmental practices.

According to Harrah's, there have been more than 100 major conservation projects across its properties, from installing energy-efficient indoor and outdoor lighting to reducing water consumption by hundreds of millions of gallons every year.

In the past six years, the company has spent $60 million on energy conservation projects alone, averting more than 230 million pounds of carbon dioxide emissions annually, which is equivalent to planting 88,000 acres of forest or eliminating 12 million passenger car miles.

"By uniting our efforts, we have significantly reduced our company's carbon footprint, dramatically improved our energy efficiency, decreased our waste stream and increased our recycling," Loveman said. "Joining together, we have made Harrah's a sustainability leader and now we are ready to do more by joining an even bigger team: Team Earth."

Harrah's is the only major casino company to join the Environmental Protection Agency's Climate Leaders and Waste Wise programs, and the only company in the industry to win an EPA Environmental Quality Award.

Contact reporter Arnold M. Knightly at aknightly@reviewjournal.com or 702-477-3893.

**CLIMATE CHANGE / GLOBAL WARMING**

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**On Global Warming, an Ambitious Agenda (*Washington Post)***

September 22, 2009 Tuesday
Suburban Edition
A-SECTION; Pg. A08
Maryland
On Global Warming, an Ambitious Agenda;
Domestic Politics Could Thwart U.N. Push for Commitments From Leaders
Juliet Eilperin and Colum Lynch; Washington Post Staff Writers

The United Nations' commitment to securing an international climate deal will be on full display Tuesday, as world leaders come together in New York to discuss how best to address global warming. But the event, arranged by Secretary General Ban Ki-moon, highlights both the possibilities and obstacles Ban and his deputies face in orchestrating the historic pact.

Connie Hedegaard, Denmark's minister for climate and energy, will be chairing the pivotal U.N. climate talks in December and is in New York this week. She said in an interview that people often fixate on the world's major carbon emitters, and forget that any final agreement must involve powerful and small countries alike.

"It's not just a bilateral U.S.-China thing, or even a trilateral U.S.-China-Europe thing," Hedegaard said. "It's 192 countries."

Ban has made a binding, international commitment to cutting greenhouse gases a central pillar of his tenure.

The "slow pace of negotiations is a matter of deep concern," Ban told reporters last week. "We want world leaders to show they understand the gravity of climate risks. . . . We want them to give their negotiating teams marching orders to accelerate the progress towards a fair, effective, comprehensive and scientifically ambitious global climate agreement in Copenhagen."

Ban, along with Yvo de Boer, executive secretary for the U.N. Framework Convention on Climate Change, and Achim Steiner, the U.N. Environment Program executive director, have pushed hard for a successor to the Kyoto Protocol. That 1997 pact, which the United States ultimately abandoned, never set emissions targets for emerging nations such as China and India. Ban has traveled with researchers to the Arctic to see the effects of warming, and went to Bali in December 2007 to resuscitate faltering U.N. talks.

De Boer and Steiner have been no less committed. As the United Nations' top negotiator, de Boer spends 80 percent of his time on the road, trying to cajole recalcitrant government leaders into putting money and commitments to concrete reductions on the table to combat climate change. He said every U.N. agency has incorporated global warming into its mission, from the agricultural policies of the Food and Agriculture Commission to the analyses by the World Health Organization and the Office of the United Nations High Commissioner for Refugees.

"I don't think I've ever seen the U.N. come together on anything the way it's come together on climate change," said de Boer, a Dutchman who took over the talks three years ago. "This is really the New York Philharmonic of climate change, and I'm playing Bartok, unfortunately."

De Boer has appeared visibly despondent during the negotiations' tensest moments and chastises rich governments for not providing enough aid to poorer ones and U.S.

environmental groups for saying the world might need to wait another year to agree to a final climate deal. De Boer, who often speaks in analogies, says these nongovernmental organizations "would like to have this baby a year late. As everyone knows, carrying a baby for nine months is a lot. I've been carrying this baby for two years, and to ask me to go a year over is a bit much to ask."

Steiner, a German environmental expert who grew up in Brazil, has devoted much of the past year to making the economic case for cutting greenhouse gas emissions. Last October, his agency published an initiative called the "Global Green New Deal," aimed at convincing world leaders that they should invest a sizable percentage of their stimulus dollars in environmental and clean energy projects. It pointed out ways in which spending money on environmentally friendly projects paid off; as Steiner puts it, nations are not going to change just because global temperatures are rising.

"The science has been a continuous driver, but underneath that, if we have to move to a low-carbon economy, how can we move in a way that won't leave us unemployed with all the lights turned off?" he said.

Ban and his deputies have won praise for their efforts. "The three of them have anchored this very well," Timothy Wirth, president of the U.N. Foundation and a former senator from Colorado, said last week. But the conundrum Steiner points to -- getting political leaders to change their nations' economic trajectory -- poses a major challenge.

"This only works if it drives a transformation in the real economy," said John Ashton, the British foreign minister's special representative for climate change. "You have to do that through domestic politics, and U.N. negotiations can't do that."

Lynch reported from the United Nations.

**Global Warming Suits Are A Hard Sell, Attorney Advises (*National Underwriter Property And Casualty Insurance News*)**

By PHIL GUSMAN
Published 9/21/2009
NU Online News Service, Sept. 21, 12:07 p.m. EDT
NEW YORK—Companies sued for creating damage by contributing to global warming have a major defense available against such charges, according to an attorney at a legal session for policyholders.

The remarks were made last week by Finley Harckham, a senior litigation shareholder in the New York office of Anderson Kill & Olick and president of Anderson Kill Insurance Services, LLC at the law firm's 12th Annual Policyholder Advisor Conference.

He explained that plaintiffs need to establish two levels of causation. They must prove that something has happened to the environment other than what would have happened naturally, and that the defendant is responsible for that action.

“It’s a huge hurdle,” he said, noting that a lawsuit would have to distinguish why a given condition was caused by a single entity as opposed to greenhouse gases emitted by the population at large.

Still, the Anderson Kill panel noted that one case worth watching is *Native Village of Kivalina v. Exxon Mobil, et al.*, in which an Inuit village in Alaska has brought a nuisance suit in February 2008 against major oil companies.

The plaintiffs are seeking joint and several liability for nuisance and civil conspiracy, claiming that the oil companies’ contribution to global warming has caused melting ice which will lead to the eventual flooding of their village.

The case was brought in California. John Nevius, a shareholder in the New York office of Anderson Kill, said a motion to dismiss was filed in June 2008 in Virginia. He said the insurance company defending the suit has cited the pollution exclusion in its motion.

States have also brought global warming lawsuits, and Mr. Nevius said this is similar to tobacco litigation, where states try to offset their losses by suing those they see as responsible for causing the conditions.

Two cases he cited are *Connecticut v. American Electric Power*—where eight states and New York City brought a nuisance suit against five electric utility companies; and *California v. General Motors Corp.*—where Calif. sued six major automakers seeking damages for global warming.

California cited injuries including melting snow pack, a greater risk of flooding, loss of coastline and more days of extreme heat.

The court said it lacked jurisdiction over the suit, citing the “political question doctrine.” Mr. Nevius said the court drew the line in this case and decided not to get into regulating global warming.

But if the courts are avoiding the political question, they may not be avoiding the scientific question. The U.S. Supreme Court ruled in 2007 that carbon dioxide is a pollutant and that the Environmental Protection Agency has the jurisdiction to regulate CO2 emissions.

What this means for policyholders and insurers is still unclear. The panel said future litigants could include island states, coastal residents, drought-prone communities, Southern states, and shareholders and investors.

They could make global warming claims associated with property damage and relocation, water shortages and agricultural damages, increased diseases, and even their own existence.

The panel noted that environmental insurance policies (PLL policies) could be a possible coverage solution for policyholders. While many policies require proof that the pollutant originated from a “covered location,” which could be a hurdle for coverage, other PLL policies available in the marketplace do not contain this provision. These policies, such as the AIG Commercial PLL Form, “only look at whether the insured is liable for ‘pollution conditions,’” a slide presented by the panel stated.

**EPA report outlines potential for reducing GHG emissions (*Waste & Recycling News*)**

Sept. 21 -- The U.S. EPA has released a report outlining the potential for reducing greenhouse gases that can be achieved through recycling, waste reduction, smart growth, and redeveloping brownfields.

"Opportunities to Reduce Greenhouse Gas Emissions through Materials and Land Management Practices" finds that 42% of U.S. greenhouse gas emissions are influenced by materials management policies. This includes the impacts from extracting raw materials, food processing and manufacturing, transporting, and disposing of products.

Another 16% to 20% of emissions are associated with land management policies, according to the report. That includes emissions from passenger transportation, construction, and from lost vegetation when greenfields are cleared for development.

Reducing unnecessary packaging, increasing recycling and using brownfields for renewable energy development also can reduce greenhouse gas emissions, according to the EPA report, which is available at www.epa.gov/oswer/publication.htm.

Contact Waste & Recycling News senior reporter Bruce Geiselman at 330-865-6172 or bgeiselman@crain.com

**Obama must 'deliver goods' in U.N. speech on warming -- de Boer (*Greenwire*)**

Lisa Friedman, E&E reporter
09/21/2009
NEW YORK -- President Obama must "deliver the goods" on a climate change deal when he addresses the United Nations tomorrow, U.N. climate chief Yvo de Boer said today.

As world leaders gather here for the 64th U.N. General Assembly, climate change is taking center stage. A summit tomorrow will focus on getting a new treaty on emissions reductions when delegates from more than 190 countries meet in December in Copenhagen, Denmark.

And while many by now have acknowledged that Copenhagen won't produce a thorough treaty, de Boer said he expects to see solid outlines of key points like emission targets and financing for developing countries that can be filled in with details later.

De Boer said he expects Obama to "stand by his election statement, that he will take this country to an agreement in Copenhagen." And, he said, Obama also will need to remind fast-developing countries like China and India that the United States won't agree to any treaty that does not include significant and verifiable actions from them.

"The world was and is pretty excited about what President Obama has committed, but now he has to deliver the goods," de Boer said.

Obama will speak tomorrow morning to the U.N. secretary-general's climate summit and later at the annual meeting of the Clinton Global Initiative. He also will host African heads of state for a lunch, meet with Chinese leader Hu Jintao and attend a climate change dinner in the evening.

De Boer acknowledged that health care is overshadowing climate legislation in the U.S. Senate, but he argued that the United States does not need to have completed domestic cap-and-trade legislation in order to seal a deal in Copenhagen.

If Obama agrees to an emission target that both the international community and the Senate will approve -- and de Boer suggested that the levels outlined in House-passed climate legislation slashing emissions 17 percent below 2005 levels in the coming decade hit that magic level -- that will suffice, he said.

"He doesn't need to bring his credit rating with him," de Boer said of Obama. "People will take him at his word."

**Clean-tech progress more important than Copenhagen treaty -- DOE chief (*Greenwire*)**

Katherine Ling, E&E reporter
09/21/2009
Action by the United States and other nations to develop clean energy technologies is more important than reaching an accord on greenhouse gas emissions this December at U.N. talks in Copenhagen, Denmark, Energy Secretary Steven Chu said today.

"Success or failure will be determined by what is happening in the coming years, rather than focusing on whether you can get an accord," Chu told reporters after speaking at the GridWeek conference in Washington.

Chu said it appears that developed and developing countries agree that climate change is a serious problem but have yet to agree on specifics of an emissions treaty.

"One would like a very strong Copenhagen accord. On the other hand, look at Kyoto; the track record was not as good," he said. "In the end, it is really what we do."

The federal stimulus law passed in February is a significant step in that direction, Chu said. During his opening remarks, Chu announced $100 million in Energy Department stimulus funds to train "smart grid" workers and $44 million for state utility commissions to educate and retrain staff on the smart grid and other aspects of a quickly evolving electric power sector.

But politics have been a challenge in addressing these issues, he told reporters, and it will be up to the American public to really get the momentum needed to make a cultural and political shift.

"The American public really has to understand in their core what is needed" to address climate change, Chu said.

But Chu said a climate bill does not face the same partisan divide that currently is roiling the debate on revamping health care.

"There is very little debate on the need for a new green-energy economy," Chu said. "It is the basis of the future economic prosperity in the United States. I can see agreement on both sides of the aisle."

The rest of the world, and especially China, is investing in new high-tech manufacturing and, if the United States does not move aggressively forward, the rest of the world will move ahead, Chu said.

"Why should we surrender high-tech manufacturing to anybody else?" Chu said. "There is a universal feeling this is going to be a major part of economic prosperity. If you do not move, then there is a loss of economic opportunity."

But if the United States moves on clean energy, it will get the economic opportunity and the environmental benefits, he said.

Chu told the conference that the United States is already behind in solar photovoltaics, manufacturing of hybrid vehicle batteries, energy efficiency and nuclear power. Afterward, he told reporters the nation is also trailing on high-voltage transmission lines; China is currently developing 800-kilovolt direct current lines and is researching a 1-million-kilovolt direct current line, he said.

"They are ahead of the rest of the world right now," Chu said.

He added, "We are the pioneers. We are not the leaders."

**More corporations paying heed to GHG emissions -- survey (*Greenwire)***
Nathanial Gronewold, E&E reporter
09/21/2009
NEW YORK -- More top corporations are paying attention to their greenhouse gas emissions and are assigning top managers to curb them, according to a new survey.

The Carbon Disclosure Project (CDP), a U.K.-based nonprofit that presses businesses to calculate and make public their carbon footprints, says 332 of the Standard & Poor's 500 companies responded to this year's study, a 66 percent return, up from 64 percent last year.

Companies "are becoming increasingly aware of the value of carbon management," said Bob Moritz, U.S. chairman of PricewaterhouseCoopers, which produced the report. For the first time this year, the project is ranking companies by their willingness to publicize their emissions and to what extent top management is working to combat climate change.

Comerica Inc. scored the highest in the survey's ranking criteria, followed by Wal-Mart Stores Inc., Chevron Corp. and Cisco Systems Inc. Best Buy Co. Inc. and News Corp. also ranked among the top climate-conscious firms.

Reporting of "scope one" emissions, those generated directly from energy consumption, stayed flat from the year before. But more companies did report estimates of emission levels from scope two and three sources, mostly emanating from their full product -- or service -- supply chains.

Almost twice as many corporations said they have established targets for reducing their greenhouse gas emissions, the report says. Fifty-two percent of the S&P 500 firms responding to the study disclosed specific emission reduction targets, up from 32 percent in 2008.

Eighty-six percent of respondents said climate change presented business opportunities, with 82 percent saying both risks and opportunities were factors that they were considering.

"More companies are reporting actually greenhouse gas emissions and establishing emissions targets," Moritz told investors and executives at the launch of the report today at Bank of America's new skyscraper here. "Oversight of global climate change is becoming more and more a senior management issue."

Though companies said they see risks associated with climate change, most of them said those risks are regulatory, rather than in terms of damage from rising sea levels or more adverse weather. Ninety-six percent of utilities fear future compliance costs levied by governments, and 84 percent of energy firms said legislative action posed one of the greatest risks.

Climate accounting and reporting is becoming more of an issue among investors as government concern over climate intensifies and a global market in carbon allowances and offset credits comes closer to reality.

Experts say the value of trading in a future world carbon market could grow to as much as $3 trillion by 2020, and financial companies, in particular -- many still struggling with the fallout of last year's economic crash -- are keenly eyeing the business opportunities that they say action on climate change will bring.

"CDP continues to generate a whole wealth of insight that is very valuable to investors," said Abyd Karmali, global head of carbon markets at Merrill Lynch. "I think [the report] highlights where the real money is going."

**Companies see little public enthusiasm**

Despite the growing corporate enthusiasm for tackling climate change, participants at this morning's report launch openly acknowledged that the majority of the U.S. public is not on board.

Many recent surveys show climate change ranking last among the issues people consider most important, with the public still overwhelmingly concerned about the lengthy economic recession and job security, and panelists briefly brainstormed on how to correct this.

Richard Edelman, CEO of the Edelman public relations firm, warned that a recent study taken by his firm shows that public trust in corporations is at an all-time low, leaving the business community ill-placed to preach to consumers on the importance of tackling climate change, especially if it comes at a price.

"We're losing the battle of communication," Edelman said. "It's seen as shared sacrifice, and shared sacrifice doesn't work in a world where people are scared."

One financial firm executive suggested that a good way to get the average American worker more concerned about climate change would be to highlight the actions and commitments by Chinese firms, hopefully spurring worries over competitiveness. But Edelman insisted that this would backfire, as Chinese firms rank among the least trusted in the world in the eyes of the U.S. public.

**Recession spurs fall in GHG emissions -- report (*Greenwire*)**

09/21/2009
The global recession has resulted in a significant drop in greenhouse gas emissions as manufacturing falls, according to an unpublished International Energy Agency study. The report found that carbon emissions from burning fossil fuels had fallen by the largest amount in 40 years.
Other factors that may have played a role in this reduction include the decision not to move forward with some plans for coal-fired power stations and the impact of environmental regulations imposed by governments.

"We have a new situation, with the changes in energy demand and the postponement of many energy investments," said Fatih Birol, the IEA's chief economist. "But this only has meaning if we can make use of this unique window of opportunity. (That means) a deal in Copenhagen."

The study is excerpted from the agency's annual World Energy Outlook, which will be distributed in November (Agence France-Presse, Sept. 21). **– JK**

**Blair says global treaty could create 10M jobs (*Greenwire*)**

09/21/2009
Former British Prime Minister Tony Blair said the world stands to gain 10 million jobs and considerable economic growth if developing nations can reach an agreement with industrialized countries over how to limit global greenhouse gas emissions.

Blair said he hopes a new report by Cambridge University will help break the "deadlock" in global climate talks ahead of a U.N. climate summit that begins tomorrow in New York. The meeting of 100 world leaders aims to build momentum ahead of year-end talks in Copenhagen for a climate pact to succeed the Kyoto Protocol, which expires in 2012.

"I think it is essential that we get an agreement at Copenhagen," Blair said yesterday. "I think it is possible, and the purpose of the report is to show that in economic terms, certainly in the medium and long-term, it's hugely to our economic benefit to get a global agreement."

The report showed that a global climate agreement could boost global gross domestic product by 0.8 percent by 2020, compared to projected GDP without a climate treaty.

But Blair acknowledged the short-term costs to limiting greenhouse gas emissions may seem daunting. Governments will need to make major investments in cleaner energy forms including wind, solar panels, nuclear power, electric vehicles, and "smart grid"

plans that will help integrate more renewable energy (John Heilprin, AP/*Seattle Times*, Sept. 21). **-- PT**

**Japan considering mandatory cap and trade (*Greenwire*)**
09/21/2009
Japanese Prime Minister Yukio Hatoyama intends to introduce a mandatory cap-and-trade plan by as early as 2011. The move would be part of Hatoyama's plan to reduce greenhouse gas emissions by 25 percent from 1990 levels by 2020, according to a report yesterday in Nikkei.

The cap-and-trade system would set the total level of allowable domestic emissions and then dole out quotas to companies. Japanese companies, which emit less than their quota, could sell their surplus allocation to businesses that exceed theirs.

The Japanese government plans to share its plan during the international talks in Copenhagen in December (Agence France-Presse, Sept. 20). **-- JK**

**Bill an economic 'monster' for Texas -- officials (*Greenwire*)**

09/21/2009
Texas officials are criticizing the Waxman-Markey climate and energy bill, saying it would be a disaster for the state's economy.

"This is a monster for the state, given the fact that so much of our revenue comes from [the energy] sector," said Comptroller Susan Combs. "It's going to hit us disproportionately."

Gov. Rick Perry (R) said the bill would hurt the energy industry, which has been one of the state's economic bright spots during the recession. Oil and gas employs 312,000 people in the state, which is home to a quarter of the nation's refining capacity and to Exxon Mobil Corp. and ConocoPhillips.

A study backed by the American Petroleum Institute, a Washington-based industry group that opposes the bill, says it would cost 1.95 million jobs nationwide.

Others argue that Texas, which leads the nation in wind power capacity, could benefit from the "green economy" that the climate bill envisions.

Rep. Charles Gonzalez (D-Texas) says that his state would disproportionately benefit from the bill (Angel González, *Wall Street Journal* [subscription required], Sept. 21).

Click here for a *Wall Street Journal* report on the economic impacts of addressing climate change. **-- PR**

**ENERGY**

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**Pittsburgh energy experts: Underground coal burning may become energy source (*Pittsburgh Tribune-Review*)**

By Joe Napsha
TRIBUNE-REVIEW
Monday, September 21, 2009
Synthetic gas produced by burning coal reserves could become part of the United States' energy mix if a firm spends more than $500 million on a plant, overcomes environmental hurdles and natural gas prices don't hit rock bottom, energy experts in Pittsburgh said Sunday.

Underground coal gasification — burning coal buried about 1,500 feet underground and capturing the gases — has the potential to provide electricity by powering natural-gas-powered turbines, to become a substitute for natural gas and to be used in jet and diesel fuel, said Rachid Oukaci, founding partner of Energy Technology Partners LLC of Pittsburgh.

Speaking at the opening of the International Pittsburgh Coal Conference on energy, environmental and sustainable development at the Westin Convention Center, Downtown, Oukaci said the synthetic gas could be blended into several other products, but it must be treated to remove impurities that can pose environmental hazards.

The technology — drilling one hole into the coal seam to introduce oxygen, which is ignited to burn the coal into char, and another hole to direct the gases released by combustion into an above-ground plant — has been available for decades, said Davis, who was a researcher for the former Gulf Oil Corp. in Pittsburgh, and a speaker at a seminar on underground coal gasification.

"The reason it was not pursued was because of cheap natural gas," said Burl Davis of New Kensington, the chief underground coal gasification technologist for Carbon Energy LLC, an Australian energy firm.

Underground coal gasification will never compete with low-cost natural gas, said Julio Friedman, director of the carbon management program leader at the Lawrence Livermore National Laboratory in Livermore, Calif.

"If you have natural gas at (a production cost of) $1.50 per million cubic foot, you will never do underground coal gasification," Friedman said.

The only two coal gasification pilot projects in the United States, both in Wyoming, are shut down and are burning off the synthetic gas that is vented from underground, said Mary Bloomstran, owner of Edge Environmental Inc. of Lakewood, Colo.

A commercial underground coal gasification plant would cost an estimated $500 million, and that's after investing about $50 million for a pilot project and another $500,000 for a feasibility study, Friedman said.

If the commercial synthetic gas project becomes a reality in the United States, it's likely not to be in Pennsylvania because of the composition of the coal reserves, Davis said. The state's bituminous coal seams are too fractured and thin for the coal gasification process, Davis said.

Wyoming was selected as the site for the pilot underground coal gasification projects because of its vast coal reserves and the fact those reserves are below the bituminous coal layers, Bloomstran said.

Australia has one coal gasification plant in operation, and Eastern Europe and China are not far behind, said Rohan Courtney, founding director of the Underground Coal Gasification Association in London.

The conference has attracted about 450 people from government, industry and academia, said Badie I. Morsi, a University of Pittsburgh chemical and engineering professor and executive director of the conference. They came from 26 countries, including 17 of the 20 countries that will be represented at the Group of 20 summit Thursday and Friday at the David L. Lawrence Convention Center.

*Joe Napsha can be reached at jnapsha@tribweb.com or 724-836-5252.*

**Westcore Properties Receives Energy Star Ratings (*San Diego Business Journal*)**

Posted date: 9/21/2009
Westcore Properties, a San Diego-based real estate investment firm, has received the U.S. Environmental Protection Agency's Energy Star designation for two of its Colorado office buildings.

The buildings ranked in the top
25 percent for energy efficiency compared to similar buildings in the nation in order to earn the Energy Star status, and use 40 percent less energy compared to typical buildings and release 35 percent less carbon dioxide into the environment.

The Quebec and Tufts projects are both Class A, multi-tenant buildings. The Tufts property is in Denver.

Westcore Properties owns 14 other buildings in the state.

**Nation's first commercial-scale carbon capture plant planned (*Greenwire)***

09/21/2009
A trio of energy companies have filed an application with the Department of Energy for financial support to build the country's first commercial-scale carbon capture and storage coal-fired power plant in Wyoming.
The planned 100-megawatt plant would use the "oxy-coal combustion process," which eliminates nearly all sulfur dioxide emissions and creates a purer carbon stream to be sequestered.

"[The plant] will be capable of capturing and storing approximately 1 million metric tons of carbon dioxide a year, which is greater than 90 percent of the proposed plant's total carbon dioxide emissions," according to the Web site of Babcock & Wilcox, which is collaborating with Black Hills Corp. and Air Liquide Engineering on the plant.

The project is one of dozens applying for financial support from the Department of Energy, whose Clean Coal Power Initiative received about $800 million in federal stimulus funds (Dustin Bleizeffer, Casper [Wyo.] *Star-Tribune*, Sept. 19).

**Mont. considers developing new fields**

Top Montana officials are meeting today to discuss development of state-owned coal fields in the southeastern portion of the state, but it appears unlikely they will give the green light any time soon.

Gov. Brian Schweitzer (D) has advocated waiting to lease rights to the 610 million tons of coal, and none of the other four officials on the state land board is pushing for rapid development.

The energy industry wants the fields opened, and some education advocates want development to begin soon to capture royalty payments that would go to public schools (Matt Gouras, *Missoulian*, Sept. 20). **-- PR**

**HAZARDOUS WASTE**
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Posted on Tue, Sep. 22, 2009

**Byron explosives company responds to EPA (*Macon Telegraph*)**

By Thomas L. Day
Pyrotechnic Specialties Inc. has told the federal Environmental Protection Agency that it intends to “fully comply with the terms” of a Sept. 9 order regarding its Byron facility,

according to a written response to the EPA. The EPA has ordered the company to remove hazardous material from the factory.
In the Sept. 9 order, the EPA alleged that it found leaking hazardous and reactive waste containers during an April and May inspection of the factory, creating “an imminent and substantial endangerment to health and the environment.”
It also found that the factory did not have fire control, spill control or decontamination equipment, as required by federal law.
David Karlson, chief executive officer of PSI, had earlier called the allegations “an exaggeration” while acknowledging that the factory was storing more hazardous material than the law permits.
The company manufactures munitions, fuses and flares in Byron.
This was not the first time the company has garnered the attention of federal authorities. The Byron facility was the site of a large explosion in August 2006, leading to a round of investigations. In 2008, the company faced a federal indictment, later dropped, related to violations of state and federal environmental regulations.
To contact writer Thomas L. Day, call 744-4489.

**PESTICIDES**

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**Tests for genetically modified StarLink continue (*Greenwire*)**

09/21/2009
Nebraska grain buyers remain wary about StarLink-free supplies nearly a decade after many of their crops were contaminated by the genetically modified corn.

Traces of StarLink, which was approved only for feed and industrial use due to fears it may cause allergic reactions in humans, were discovered in taco shells. It was pulled from the seed-corn market, and last year, the Food and Drug Administration alleviated most safety concerns. Still, testing continues.

"It's something to protect themselves," said Mark Fulmer, manager of Lincoln Inspection Service. "All it takes is just a rumor of something bad" (Art Hovey, *Lincoln Journal-Star*, Sept. 19). **-- JK**

**RECYCLING**

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**EPA Report Links Recycling and Climate Change (*Earth911.com*)**

by Lori Brown

Published on September 21st, 2009
The EPA recently published a report linking materials management, including recycling and waste management, and land management to a reduction in the country's greenhouse gas (GHG) emissions.

The September 2009 report, titled *Opportunities to Reduce Greenhouse Gas Emissions through Materials and Land Management Practices*, finds 42 percent of GHG emissions are influenced by materials management policies, including the manufacturing, transporting and disposal of products. In addition, another 16 to 20 percent of GHG emissions are linked to land management policies, including construction and development.

The report highlights examples of how materials and land-management activities by the EPA, states, local governments and stakeholders have led to a significant reduction in GHG emissions. Examples include:

- Municipal solid waste (MSW) recycling in 2006 resulted in the avoidance of nearly 183 million metric tons of carbon dioxide equivalent GHG emissions.
- EPA WasteWise partners reported source reduction and recycling activities which resulted in an avoidance of 27 million metric tons of carbon dioxide equivalent GHG emissions in 2005.
- Waste-to-energy recovery systems that combusted 31.4 million tons of MSW resulted in the avoidance of 17 million metric tons of carbon dioxide equivalent GHG emissions in 2006.

As materials and land management directly and indirectly impacts 58 to 62 percent of U.S. GHG emissions, the U.S. EPA finds tremendous reduction opportunities in the nation's approaches to these two areas. Some of the activities that have the potential to significantly decrease emissions include:

- Use-reduction of non-packaging paper products.
- Increasing municipal recycling, including the recycling of construction and demolition debris which contributes to an EPA estimated 170 million tons of debris annually.
- Reusing formerly contaminated lands for renewable energy development.

To illustrate the impact of source reduction, reuse and recycling activities on GHG emissions, the EPA report provided a summary of total technical potential scenarios and the estimated impact they would have on GHG reductions.

For example, a 50 percent increase in the recycling of construction and demolition debris would lead to the avoidance of 75 million metric tons of carbon dioxide equivalent GHG emissions. And an increase in the 2006 MSW recycling and composting rate (32.5 percent) to a 50 percent rate would lead to the avoidance of 70 to 80 million metric tons of carbon dioxide equivalent GHG emissions.

**Lori Brown**

Lori Brown is a staff member of Earth911.

**SUPERFUND**

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**Suitor offers to help cleanup (*Watertown Daily Times*)**

D'ARCINOFF GROUP: CEO willing to provide as much as $25 million
By LORI SHULL
TIMES STAFF WRITER
TUESDAY, SEPTEMBER 22, 2009

MASSENA — The former General Motors plant here is going to be cleaned up and used, if Michael C. Darcy, president and chief executive officer of the D'Arcinoff Group, has anything to say about it.

Mr. Darcy has been working for months to acquire the shuttered plant in order to manufacture wind turbine parts there. Despite possibly having to take on some responsibility to clean up the U.S. Environmental Protection Agency Superfund site, he still has his eye on the plant, along with several others in the state.

The D'Arcinoff Group has volunteered to contribute $20 million to $25 million to clean up the site, which has a high concentration of toxins including polychlorinated biphenyls. The EPA estimates it will cost $66 million to do the cleanup work listed in the agency's records of decision, which determine and direct what needs to be done to rehabilitate the site.

"We've made a lot of progress in terms of acquiring the sites, as well as tying down government support for the project," Mr. Darcy said. "We have been in discussions with a number of parties in regards to (the cleanup at Massena). We have agreed to do this in essentially a three-way split between ourselves, old GM and the federal government."

This fall, there will be further samples taken in the interior of the plant as well as from its foundation. The testing and subsequent cleanup could cost an additional $84 million, according to Elizabeth A. Totman, EPA spokeswoman.

She could not provide any details about who would pay for that cleanup.

"Since GM still owns the plant, they would be talking to them. At this point, they have not contacted the EPA," Ms. Totman said. "It's not a fully developed proposal. Nothing's been finalized."

Officials with Motors Liquidation Co., the entity created as GM emerged from bankruptcy to handle all of the automaker's shed assets, would not say whether there was any kind of agreement with the D'Arcinoff Group about paying for the cleanup.

The D'Arcinoff Group is looking at five sites in Western and upstate New York, according to Mr. Darcy. Three of those sites have agreements in principle, while the other two have no formal agreements. Massena is one of the sites without a formal agreement, he said. Mr. Darcy would not say where the other plants are.

Among the five plants, about 15,000 jobs could be created, he said. Previous estimates had 6,000 to 7,000 jobs in Massena alone.

At its height in the 1970s and 1980s, the GM plant employed about 2,000 salaried and hourly workers.

Though there is no formal agreement, Mr. Darcy said, his company still is committed to acquiring the Massena plant.

"We're not walking away from Massena," he said. "We've made it very clear that we will participate in the environmental cleanup."

**New technology cleans up Visalia Superfund 100 years ahead of schedule (*PhysOrg.com*)**

September 21st, 2009 in Space & Earth / Environment
Lawrence Livermore National Laboratory's technology was instrumental in cleaning up Southern California Edison's Visalia Pole Yard, which is scheduled to be taken off the Environmental Protection Agency's Superfund list this week.

LLNL, a National Nuclear Security Administration laboratory, used dynamic underground stripping (DUS), a Lab-developed steam-cleaning technology that not only cleaned the site more than 100 years sooner than originally estimated, but also saved millions of dollars.

Southern California Edison had used the Visalia site for 80 years to treat utility poles by dipping them into creosote or pentachlorophenol, which by the 1970s, had seeped into the subsurface soil and groundwater to depths of approximately 100 feet (30 meters). The Visalia pole yard bore the distinction of being one of the original Superfund sites. Twenty years later, Southern California Edison was looking for a faster and more efficient way to treat the soil and groundwater.

And that's where Livermore geophysicists Robin Newmark and Roger Aines entered the scene. The duo, along with LLNL and UC Berkeley colleagues, had developed DUS,

which was first successfully used in the cleanup of an underground gasoline spill at Livermore Lab in 1993.

They found that contaminants were removed 50 times faster than with the pump-and-treat process. The cleanup at the Livermore site, estimated to take 30 to 60 years with pump-and-treat, was completed in about one year. In 1996, regulators declared that no further remedial action was required. It served as a proof of concept to use the same method at other contaminated sites.

"It cleaned it up in no time," Aines said. "We thought the same method could be used at other sites."

Later, Livermore scientists developed hydrous pyrolysis/oxidation (HPO), a process that converts contaminants in the ground to benign products such as carbon dioxide, chloride ions and water. By introducing both heat and oxygen, this process has effectively destroyed all petroleum and solvent contaminants that have been subjected to laboratory tests. Beginning in summer 1997, both processes were used for cleanup of the four-acre Visalia site. Southern California Edison and SteamTech Environmental Services of Bakersfield (the first commercial site licensee of the dynamic underground stripping technology), cleaned up the Visalia site, with Livermore staff periodically on hand making scientific measurements of the effectiveness, as well as operational consultants.

During the first six weeks of operation, between June and August 1997, the team removed or destroyed approximately 300,000 pounds (135 metric tons) of contaminants, a rate of about 46,000 pounds (22 metric tons) per week. For nearly 20 years, Southern California Edison had been removing contaminants from the subsurface using the standard cleanup method -- pump-and-treat -- at a rate of just 10 pounds (0.03 metric ton) per week. In contrast, the amount of hydrocarbons removed or destroyed in place in those six weeks was equivalent to 600 years of pump-and-treat, about 5,000 times the previous removal rate. Over the course of the next two years, more than 1 million pounds of contaminant were removed.

The EPA's National Priorities List (Superfund) identifies sites that may present a significant risk to public health. A site may be deleted if environmental testing reveals that the site is not a health concern.

In DUS, the contaminants are vaporized and vacuumed out of the ground, leaving them to be destroyed. The groundwater then has to be treated and the contaminated material that is brought to the surface needs to be hauled away and disposed.

But HPO takes the cleanup one step further by eliminating the treatment, handling and disposal requirements and destroying the contamination in the ground. This "polishing" aspect of thermal remediation allowed the complete cleanup of the Visalia site, using the remaining heat in the soil to clean the groundwater to drinking water standards.

DUS and HPO were developed at LLNL through the Laboratory Directed Research and Development program.

"We thought about how you could speed up the cleanup process," Newmark said. "When we added energy in the form of heat, we came up with thermal remediation. This combined with HPO was a perfect way to clean up the soil and break down the contaminants into nontoxic material."

The Visalia site was considered to be essentially uncleanable. Estimates at the time suggested an essentially permanent pump-and-treat operation at the site would be required to prevent migration of the contaminated water, at a cost greater than $100 million. Using the new process shortened the total cleanup time to 10 years, at a cost of $14 million, and showed that one of the most difficult types of Superfund sites can, in fact, be cleaned and closed.

Source: Lawrence Livermore National Laboratory

**Air Force, EPA to clean up McGuire Base Superfund Site (*Waste & Recycling News*)**

Sept. 21 -- The U.S. EPA and the U.S. Air Force have agreed to work together to clean up the McGuire Air Force Base Superfund Site in New Hanover Township, N.J.
The federal facility agreement signed Sept. 15 ensures the EPA maintains oversight to ensure Air Force directed cleanup efforts protect the public health and the environment.

The grounds have been used as an air base since 1937, when the U.S. Army Air Corps operated at the site. Solid and hazardous wastes generated and stored at the site led to the EPA placing part of the base on the national Superfund list in 1999.

The agreement calls for establishing a framework and schedule for the cleanup.

The agreement is available on the EPA's web site at
http://www.epa.gov/region02/superfund/npl/mcguire.

Contact Waste & Recycling News senior reporter Bruce Geiselman at 330-865-6172 or bgeiselman@crain.com

**Air Force, EPA agree to clean up N.J. site (*Greenwire*)**

09/21/2009
U.S. EPA and the Air Force have reached an agreement to clean a Superfund site at McGuire Air Force Base in New Jersey.

EPA will oversee the cleanup of the site, which Air Force officials said consists mainly of a series of old landfills and fire suppression sites.

The cleanup will cost around $30 million, said Matthew Bell, chief of natural resources at the base.

"There is a rather aggressive schedule to have a remedy in place by 2012, and we will try to do that," Bell said. "We are excited to have this published and have people understand the amount of investment and man hours and money that is going into this" (Carol Comegno, Cherry Hill [N.J.] *Courier-Post*, Sept. 20). **-- PR**

**TOXICS**

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Published: Sep 22, 2009 02:00 AM
Modified: Sep 21, 2009 09:36 PM

**EPA rates utility ash pits low (*News & Observer*)**

Pits at 2 Progress Energy plants get the worst safety ratings of 43 plants across the country.
BY JOHN MURAWSKI, Staff Writer
Progress Energy's ash storage pits at coal-burning powers plants in Chatham County and near Asheville have the worst safety ratings of 43 such plants reviewed by federal regulators this year. The giant sludge pits hold hundreds of tons of waste within five miles of schools, hospitals, nursing homes, the Blue Ridge Parkway and other high-risk sites that lie in their downhill path.

On Monday, the Environmental Protection Agency called for quick remedial action and further tests to measure the structural stability of the dikes that hold back the toxic waste produced by coal-burning power plants.

Raleigh-based Progress has long maintained the pits are regularly inspected and pose no public hazard. But the federal regulatory agency's "poor" ratings for six Progress-owned ash pits corroborate criticism by environmental critics.

"We take the reports seriously and are working to better understand the EPA's assessment," said Progress spokesman Scott Sutton. "It does not reflect our own evaluations or those conducted at regular intervals by a third-party inspector."

The EPA is reviewing the safety of the nation's ash pits in the wake of an accidental spill nine months ago in Tennessee. It released 5 million cubic yards of ash and water, flooding more than 300 acres of land and damaging homes and other property. The ash

is a byproduct of burning coal at power plants that electric utilities then pipe into giant holding ponds.

Progress is the nation's only power company whose ash pits got "poor" ratings. The pits are rated satisfactory, fair, poor, or unsatisfactory -- which means the pits are unsafe and require emergency action. A poor rating requires remedial action and further study to determine whether the waste site is potentially unsatisfactory and unsafe.

An ash pit at the Asheville Power Station was rated "poor" because it had not been adequately studied for structural defects. All five pits at the Cape Fear Plant, near the Haw River in Moncure, are "poor" because they haven't been studied, some show signs of erosion, and some are overgrown with trees, which could rip apart the berms if uprooted by storms.

Progress has already decided to conduct studies on the Asheville site, which was reviewed earlier this month. The company has 14 days to respond to Monday's recommendations from the EPA. The Cape Fear Plant has three ash pits that are no longer in use and two that are still pumped with coal ash.

Environmentalists have long said the pits are inadequately monitored. Lisa Evans, a lawyer for Earthjustice, said the EPA's safety reports leave many questions unanswered because they are heavily redacted and conceal essential information.

In the Asheville plant report, for example, information blocked from public view includes the pit's surface area, current storage volume, total storage capacity and dam height.

"To me it's distressing that so much information is redacted out," Evans said. "The public has a right to know how safe these facilities are."

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**First Toxic FEMA Trailer Lawsuit Now Underway (*News Inferno*)**

Date Published: Monday, September 21st, 2009
The first trial involving the allegedly toxic trailers the Federal Emergency Management Agency (FEMA) distributed to Gulf Coast hurricane victims in 2005 got underway last week in New Orleans. According to the Associated Press, trailer maker Gulf Stream Coach Inc. and government contractor Fluor Enterprises Inc. are defendants in the case. The federal government is not a defendant, though it has been named one in thousands of other FEMA trailer lawsuits.
At one point, as many as 143,000 families left homeless following Hurricanes Katrina and Rita were living in toxic FEMA trailers. As anyone who reads this blog knows, FEMA's response to the toxic trailer debacle was less than stellar. By 2006 FEMA was getting reports from field workers along the Gulf Coast that residents of FEMA trailers

where getting sick from the air in the toxic trailers. The first suspect was formaldehyde, an invisible gas that is known to cause cancer. It can also cause other illnesses ranging from nose bleeds to chronic bronchitis. Commonly used in manufactured homes, formaldehyde can cause respiratory problems and has been classified as a carcinogen by the International Agency for Research on Cancer and as a probable carcinogen by the Environmental Protection Agency.

E-mails uncovered during a congressional investigation into the toxic trailers showed that FEMA lawyers told the agency to drag its feet on air quality testing. FEMA's Office of General Council also advised the agency not to test the trailers because doing so "would imply FEMA's ownership of the issue".

In late 2007, FEMA and the Centers for Disease Control (CDC) finally conducted air quality tests of 519 trailers. The CDC tests confirmed that the FEMA trailers posed a serious danger to residents still living in them. The average formaldehyde levels found in the toxic trailers measured 77ppb (parts per billions), significantly higher than the 10 to 17 ppb concentration seen in newer homes. When it announced its findings, the CDC urged FEMA to move residents from the toxic trailers as quickly as possible, with priority given to families with children, elderly people or anyone with asthma or other chronic conditions.

Last Monday, the first "bellwether" trial began in federal court in New Orleans. According to the Associated Press, the lawsuit in this case was brought by a New Orleans woman who claims her son developed asthma because of his time living in formaldehyde-filled FEMA trailer. The lawsuit alleges Gulf Stream and Fluor Enterprises failed to warn about the trailers' potential risks.

According to Court House News Service, the Chairman of the Board of Gulf Stream testified at the trial via videotape. When Jim Shea Jr. was asked what "protocol" Gulf Stream told trailer residents to follow if they were "sensitive" to formaldehyde, Shea responded, "To turn on the air-conditioning full blast and open the window,' Court News Service said.

Shea insisted that Gulf Stream was not aware of the high levels of formaldehyde in the trailers. But according to Court House News Service, Shea acknowledged that his company sent a worker to New Orleans in March 2006 after the media had begun reporting on problems with the trailers. That employee – a Gulf Stream Vice President – complained about his eyes "tearing up" when he entered a FEMA trailer, Court House News Service said.

**WATER**

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**Cleanup on Whitefish River ready to begin (*KULR-8 TV*)**

Billings, Montana
KALISPELL - The U.S. Environmental Protection Agency says efforts to remove contaminated sediment from the Whitefish River will begin this week.

The sediment in parts of the river is contaminated with petroleum products, including bunker fuel oil and weathered diesel fuel, causing a visible oily sheen on the water when it is disturbed.

EPA officials have said the contamination appears to originate from the BNSF Railway fueling facility upstream from Whitefish, and the contaminated sediment patches are along about two miles of the river.

Whitefish residents don't use the river as a source of drinking water, but it is used for recreational activities.

**Rulings Strengthen NEPA Oversight Of Gas Drilling Absent SDWA Rule (*Inside EPA*)**

Monday, September 21, 2009

Key federal courts are backing activists in suits under the National Environmental Policy Act (NEPA) to review the impacts of natural gas drilling fluids on underground aquifers, rulings that activists hope will bolster pending bills to restore EPA's Safe Drinking Water Act (SDWA) authority to oversee hydraulic fracturing -- a controversial gas drilling procedure that requires injection of chemicals into wells.

Activists also say such precedent will likely spur other groups to use NEPA to challenge the use of chemicals in gas drilling, a practice that is expected to increase as more electricity producers switch to the fuel to comply with upcoming climate change regulations.

The U.S. Court of Appeals for the 10th Circuit -- which includes key gas drilling states of Oklahoma, Wyoming, Kansas, Colorado, Utah and New Mexico -- in April ruled in *State of New Mexico ex rel. v. Bureau of Land Management* that the bureau must conduct further analysis under NEPA of the drilling activities covered by its resource management plan for the Otera Mesa region, including providing more evidence that drilling would not harm the aquifer.

Meanwhile, a federal district court in Colorado Sept. 3 granted environmentalists' request for a preliminary injunction to block exploratory oil and gas drilling in the Baca National Wildlife Refuge until the resolution of the case, *San Luis Valley Ecosystem Council, et al. v. U.S. Fish and Wildlife Service [FWS].* In the ruling, Judge Walker Miller found in favor of activists on a number of issues, including activists' claims that the FWS' environmental assessment (EA) for the project likely violated NEPA by failing to analyze potential impacts of drilling and failing to analyze alternatives that would have a smaller environmental impact.

While the 10th Circuit ruling is broader in scope because it applies to the management of an entire area rather than an individual drilling operation, the district court ruling is significant because preliminary injunctions must meet a higher bar of proof of likely harm than final court decisions, one environmentalist says.

The district court ruling is also important because it puts a greater emphasis on mitigating possible harm, while the appellate ruling focused on disclosing possible harm caused by drilling, the source says. But both rulings are significant because they show the courts appear to be shifting from requiring activists to prove likely harm under NEPA to requiring agencies to prove that harm will be prevented, the source says.

The district court ruling also provides support for legislation offered in June by both House and Senate Democrats that seeks to remove the SDWA exemption for fracturing that Congress included in the 2005 energy law and require disclosure of the chemicals used in fracturing (*see related story*).

Since the district court says agencies need to show how contamination will be addressed, it is logical that the disclosure mandated by the bill would be necessary to show how potential harm would be mitigated, the source says.

One attorney who works on oil and gas issues on public land says that although this is not the first case where NEPA may require disclosure about practices that are exempt from other laws, this ruling will likely encourage greater use of this litigation approach to seek scrutiny of the use of drilling chemicals. "I think folks will be looking at this case and seeing that it is a viable strategy and I suspect that after this case, this strategy will be used more," the source says.

While environmentalists continue to push Congress to remove exemptions for the natural gas industry under the SDWA and other laws, activists are also pursuing other strategies to block or increase scrutiny of natural gas drilling.

For example, one group is trying to permanently block drilling in 10 areas in Wyoming and one group is challenging Marcellus shale drilling permits in Pennsylvania before the state environmental board.

The efforts to oppose drilling are significant because environmental groups are increasingly concerned that political leaders are pushing natural gas as a "clean" fuel

that could decrease carbon emissions while ignoring the negative environmental impacts of natural gas extraction.

While it is unclear whether hydraulic fracturing will be used in the Colorado refuge, activists say the district court ruling may be relevant to fracturing operations because it raises questions more generally about the chemicals that are used in the practice.

In particular, the judge dwells on the hazardous materials in drill mud, drilling fluid and construction materials and finds that activists are likely to succeed on the merits of their arguments that the EA failed to assess the impacts from the chemicals and failed to address mitigation of possible contamination.

“The final EA also provides that [the project’s developer] will use water-based drilling fluids unless unforeseen conditions are present; there is no discussion of what materials might be used if such conditions are present, what hazards they might pose, and on what basis the agency has concluded that these will not have a significant effect on the delicate resources of the refuge, including the aquifers.”

The judge also highlights activists’ evidence that the aquifer in the area is highly complex and that there is a risk of breaking subterranean barriers and concludes, “This suggests that the impact of the drilling and use of drilling fluids are uncertain or involve unique or unknown risks, which again could demonstrate significance.”

The judge also questioned the FWS decision not to consider alternative drilling scenarios and alternatives that would not use chemical drilling practices. “I agree with plaintiffs that the way the agency framed the choices meant that the result was practically predetermined,” the judge says.

The attorney says that even if fracturing is not used in the project, there is no reason the judge’s concerns about chemicals would not apply to fracturing, the attorney says.

In addition, the source argues that there is no way to do a complete NEPA analysis without disclosing the chemicals used in the process. This could be particularly important because the sector is exempt from reporting releases under the Toxics Release Inventory (TRI), which is required by the Emergency Planning & Community Right to Know Act, the source says. However, disclosure of the chemicals under NEPA does not resolve the need to also report under TRI, the source says.

One local environmentalist says a focus on the environmental and climate harms of natural gas development is crucial to counter arguments that natural gas is a clean, low carbon fuel source and to counter increasing pressure to develop natural gas as a back up for intermittent wind power. In addition to impacts on wildlife and water quality, the amount of methane that escapes during natural gas development is significant and could negate the climate benefits of natural gas compared to coal, the source says.

But while many groups are pressing forward with lawsuits to oppose development, some local groups are instead trying to win permanent protection for some key regions they say should remain wild. For example, the Wyoming Outdoor Council is seeking to block new energy development in about 10 areas on federal land in the state that they say should be deemed heritage sites. The public lands omnibus act that became law in March protected a portion of the Wyoming Range -- one of the areas the group is trying to protect.

And other groups are pursuing administrative challenges to natural gas drilling permits. For example, the Chesapeake Bay Foundation last month appealed two Pennsylvania water permits for drilling operations and pipeline construction to the state environmental appeals board. The challenges, which apply to drilling in the massive Marcellus shale, argue that the state did not adequately analyze the damage caused by construction and post-construction runoff. -- *Kate Winston*

**Radium in water (*Palm Beach Post*)**

Palm Beach County Health Department answers your water safety questions
Palm Beach Post Staff Writer
Monday, September 21, 2009

**What is radium?**

Radium is a naturally occurring element that is found in low levels in nature. It is found in nearly all rock, soil, water, plants and animals. Radium is one of several types of elements that changes forms. When it changes forms, it releases excess energy. When a radium atom breaks down, it releases energy in the form of two types of radiation. These are known as alpha and gamma radiation. Often a number follows the term radium (radium 226 or radium 228). The number refers to the total number of protons and neutrons within the atom. Different forms of radium breakdown at different rates. Each form releases different types of energy.

**How does radium get into my drinking water?**

Radium was deposited in ancient seas that now make up the Florida aquifer, where we get our drinking water. In Florida, some sediment left behind by ancient seas has radionuclides from nature. Radionuclides are atoms with unstable nucleuses. Water passing through sediments will build up things in the water, including radium.

**What is the drinking water standard for radium?**

All drinking water has some chemicals in it. The U.S. Environmental Protection Agency (EPA) sets standards for the number of chemicals safe drinking water can contain. The

total amount of radium allowed in drinking water is 5 picocuries for each liter of water. That is a very small amount.

EPA sets maximum contaminant levels (MCLs) allowed in drinking water. MCLs are levels of chemicals that can be in water that EPA still finds safe to drink. The process for measuring radiation is complex. Scientists test the rate that radioactive material decays in measurement units called "curies." The level of radioactivity in water is very low. It is measured in even smaller units, called picocuries (pCi). One picocurie equals one one-trillionth of a curie. In addition to radium, the gross alpha or total alpha radiation is measured when a water sample is taken. This measures the sum of radioactivity from many potential sources including radium. This total is a check to see if there may be other sources of radiation.

For drinking water standards, these units are determined per liter of water (about a quart). EPA bases current water quality standards on someone drinking two liters of water per day for a lifetime (70 years): the MCL for total radium (combined radium 226 and radium 228) in water is 5 picocuries per liter (5 pCi/L), and the MCL for gross alpha in water is 15 picocuries per liter (15 pCi/L).

**What if levels of radium in my drinking water are higher than drinking water standard? Can I use my water?**

Drinking water with levels of radium above the standard MCL over a short time does not greatly raise the likely lifetime cancer risk. However, private well owners should try to meet the standard recommended by DOH. That means they should keep an average annual level of radium below the MCL. Using water for things like showering and bathing is not considered consumption like drinking. Such uses do not greatly increase health risks.

**How do I know if I have radium 226/228 in my well?**

The best way to know is to have your well tested by a certified laboratory. There are several DOH approved laboratories in Florida that test for radionuclides in drinking water. Please see the attached list of approved labs.

**How can I remove radium 226/228 from my well water?**

Radium can be removed from your drinking water using a water filter called a reverse osmosis and ion exchange filter. A list of water filters that will remove radium can be found at www.nsf.org. Some homeowners have been able to use water softeners to effectively remove radium but only testing your water after a water filter is installed will tell.

The EPA recommends putting in home treatments or filters to remove high levels of radium 226/228. The systems that work the best are reverse osmosis and ion exchange. The National Sanitation Foundation (NSF) International Web site

(www.nsf.org) lists models of water systems that have been tested to take radium out of water. (See the attached list of types of water systems.) Other water softeners may also work, but have not been tested. Even a tested model will not work properly if the homeowner does not keep it up properly. People on a low sodium diet should think about how much extra sodium the use of an ion exchange (water softener) unit may add to their daily diet.

**What if I already have a treatment system installed on my well?**

Like other devices we rely on daily - such as air conditioners - these systems work best when properly kept up.

**What are the health risks of low-level radiation exposure?**

We are all exposed to small amounts of radiation every day with no ill health effects. As the amount of radiation increases or the length of time you are exposed increases, the potential for ill health effects increases, as well.

A lifetime of exposure to low-level radiation may increase the risk of getting some types of cancer, such as bone cancer. The higher the exposure level and the longer amount of time someone is exposed, the greater the risk of getting cancer. By contrast, lower levels of exposure for shorter periods add little added risk for cancer.

People come into contact with radiation every day. This is known as "background exposure." However, for the most part, this exposure has no harmful effects. For example, people are exposed to radiation that is released when some naturally-occurring elements break down. They are also exposed when cosmic rays from space reach the earth. The amount of radiation one would get from a glass of water with an acceptable concentration of radium 226/228 would still be less than 1 percent of what else they are exposed to each day. Drinking water with a level of 5 pCi/L for a year is about the same as one chest x-ray. It is also about the same as cosmic radiation received during about five flights from Maryland to California.

Background exposure to things like radium in drinking water plays a very small role in a person's risk of getting cancer. However, efforts are still made to reduce risks of exposure. For this reason, standards are set for levels of radium and other radionuclides in public drinking water systems.

**What other risks of cancer can radium in drinking water cause?**

Cancer is unfortunately a very common disease. While causes of cancer are often unknown, it makes sense to limit our exposure to anything that has the potential to increase our health risk. There are simple and effective methods to remove radium from drinking water.

Florida Department of Health (DOH) acknowledges the public's need to know about radium in drinking water and what added risk of cancer it represents. First, it is vital to know that, in general, cancer is not a rare disease. In fact when looking at all cancers from all causes in the U.S. and Florida, the projected rate during someone's lifetime is that one out of three people will get cancer. That is about 3,333 out of 10,000 people. Of those 3,333, three out of four people will die from cancer. EPA cites the likely risk of getting cancer in a lifetime due to drinking two liters per day of water with radium at the MCL is much lower than the rate of all cancers in the population, 1 out of 10,000 people.

**Who can I call if I have more questions?**

Palm Beach County Health Department (561) 837-5900.

Florida Department of Health, Bureau of Water Programs in Tallahassee at (850) 245-4250.

U.S. Environmental Protection Agency Safe Drinking Water Hotline (1-800-426-4791 or 1-877-EPA-WATER).

**Where can I get more details?**

U.S. EPA and Florida DOH Web sites:

www.epa.gov/safewater/%20standard/pp/radnucpp.html

www.epa.gov/radiation/radionuclides/radium.html

www.epa.gov/safewater/

www.doh.state.fl.us/environment/radiation/envrad1.htm

www.doh.state.fl.us/environment/medicine/SUPERFUND/pdf/radiation_qa.pdf

Below is a partial list of certified environmental laboratories in Palm Beach County. The Department of Health ID number is listed first:

E86740: Environmental Services of South Florida, 195 E. Blue Heron Blvd., Riviera Beach (561) 848-7805

E86048: Everglades Laboratories, 1602 Clare Ave., West Palm Beach (561) 833-4200

E86647: Frederick C. Bothe, Environmental Consultant, 13088 57th Place N., Royal Palm Beach (561) 993-1593

E86594: I2J Environmental Services, 504 N.E. 3rd St., Belle Glade (561) 640-2070

E86546: Jupiter Environmental Laboratories, 150 South Old Dixie Hwy., Jupiter (561) 790-2040

E86957: Palm Beach Environmental Laboratories, 1550 Latham Road, Suite 2, West Palm Beach (561) 996-0270

E86240: Genapure, 3231 N.W. 7th Ave., Boca Raton(561) 575-0030

**TR council votes not to proceed with replacing water laterals (*Herald Times Reporter*)**

By Cindy Hodgson • Herald Times Reporter • September 22, 2009
TWO RIVERS — City Council members decided Monday not to award contracts for replacing lead service laterals, thereby giving up a federal stimulus grant that would have covered half of the cost.
If the amount of lead in the city's water continues to exceed Environmental Protection Agency requirements, the city will have to embark on a program to replace lead service laterals, which are the pipes that take water from the water mains under the street to the customers' property.
By having a signed contract for the replacements in place by Sept. 30, the city would have received a federal grant to cover half of the project and could have secured a low-interest loan, also through federal stimulus funding, to cover the other half, said City Manager Greg Buckley.
Test results from water samples taken last fall showed the city was out of compliance with EPA lead standards, and, as a result, the Wisconsin Department of Natural Resources required the city to test its water twice this year. If more than 10 percent of the 60 samples taken in either round of testing exceeded the limit, the city would be out of compliance.

The city passed the first test with only four of the 60 samples exceeding the limit. In the second test, however, which was administered in July and August, 10 of the 60 samples, or 16 percent, had more lead than the limit of 15 parts per billion.

It's still possible for the city to "test out" of the requirement to replace its laterals. It can continue taking samples until Nov. 15, thereby expanding the sample set, which means the noncompliance rate could dip to 10 percent or below.

The DNR had indicated if that didn't happen, the city would have to replace 7 percent of its laterals in 2010. With credit for some replaced in recent years, it would have to replace 96 laterals next year. More recent communication from the DNR has indicated more flexibility, Buckley said. It appears the city could take two years to replace the laterals, or 3.5 percent per year. However, another 7 percent would need to replaced,

with the implementation spread over two years, for each year the city is out of compliance, he said.

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