**U. S. Environmental Protection Agency**
# E-Clips
**Prepared by the Office of Public Affairs**

Monday, February 18, 2013

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

Tuesday, March 16, 2010


ADMINISTRATOR JACKSON ..... 3
We, The People EPA (*Investor's Business Daily*) ..... 3
EPA Gives Toxic Chemical Information (*Epoch Times*) ..... 4
Delya on E15 Waiver "Troubling" (*Domestic Fuel*) ..... 5
EDITORIAL/COMMENTARY/OP ED/LETTERS ..... 6
News Headline: Kudos to Cuccinelli (*Washington Times*) ..... 6
Citizens deserve protection from dangers of coal ash (*Suburban News*) ..... 6
Challenging EPA Data Is Just Common Sense (*Richmond Times Dispatch*) ..... 7
AIR ..... 8
UAW urges Congress to let EPA set new emissions rules (*Detroit News*) ..... 8
Judge Dismisses New Source Review Allegations Against 5 Ill. Power Plants (*New York Times*) ..... 10
NWI meets ozone standard; emissions testing to remain (*Gary Post Tribune*) ..... 11
EPA says Northwest Indiana's Lake, Porter counties now complying with federal ozone standard (*Associated Press*) ..... 13
Story also appeared: *Orlando Sentinel* ..... 13
NY-NJ Port Authority Offers $28 M in Truck Replacement Aid (*EP Magazine*) ..... 13
Video contest (*Fort Worth Star Telegram*) ..... 14
Chamber asks EPA to please reconsider (*The Hill*) ..... 15
EPA says Northwest Indiana's Lake, Porter counties now complying with federal ozone standard (*Associated Press*) ..... 16
Story also appeared: *FOX 59 WXIN* ..... 16
NPPC Opposes EPA Greenhouse Gas Rules (*Pork Magazine*) ..... 17
Cap and trade: Congress may be out, but the EPA may have final say (*Farm & Dairy*) ..... 17
Judge dismisses NSR allegations against 5 Ill. power plants (*Greenwire*) ..... 19
ARSENIC ..... 20
Arsenic and Old Studies (*E Magazine*) ..... 20

CLIMATE CHANGE/GLOBAL WARMING ..... 23
Report cites gaps in climate change strategy (*Los Angeles Times*) ..... 23
Senator who decried corporate influence finds he needs it for a climate change bill(*Los Angeles Times*) ..... 24
Planet Panel (Washington Post) ..... 27
ENRON VALUES AT EPA (*National Center for Policy Analysis*) ..... 28
Activists Ramp Up Efforts To Retain Carbon Limits In Senate Climate Bill (*Inside EPA*) ..... 29
Midwest power companies pushing Senate for more allocations (*Greenwire*) ..... 32
ENERGY ..... 33
Plans for George W. Bush library include wetlands, solar power (*Greenwire*) ..... 33
FUEL ..... 34
Corn ethanol an 'unattractive compliance option' for carbon mandates -- study (*Greenwire*) ..... 34
GENERAL ..... 35
PROMISES, PROMISES: Is Gov't More Open With Obama? (*Associated Press*). 35
Story also appeared: *New York Times* ..... 35
HAZARDOUS WASTES ..... 38
Full ash cleanup in Tenn. is impossible, officials say (*Greenwire*) ..... 38
MINING ..... 39
No hardrock reform this year -- Reid (*Greenwire*) ..... 39
SUPERFUND ..... 40
EPA reviewing benzene testing at Perdido Superfund site (*al.com*) ..... 40
TOXICS ..... 42
EPA To Release Findings on Pet Flea, Tick Powders (*Consumer Affairs*) ..... 42
Outraged ..... 43
Other risks ..... 44
Used as directed ..... 44
Bit by Bit, EPA Opening Up Toxics Program (*OMB Watch*) ..... 45
EPA: Deadline near for lead certification (*Kansas.com*) ..... 46
First Chinese drywall trial set to begin (*Greenwire*) ..... 46
WATER ..... 47
Wis. board examines limits on phosphorus pollution (*Associated Press*) ..... 47
Story also appeared: *BusinessWeek* ..... 47
Work begins on PCB contaminated sediment in Mich. (*Waste & Recycling News*) 49
Cardin's Draft Chesapeake Bill Limits Citizen Suits But Fails To Calm Farmers (*Inside EPA*) ..... 50
Month long search has netted no Asian carp (*Greenwire*) ..... 52
EPA: Some Coal Ash to Remain in Emory River (*Clean Skies – Energy & Environment Network*) ..... 53
EPA vows dredging even without GE (*Albany Times Union*) ..... 53
Soggy and soaked, the area is flooded (*Worcester Telegram*) ..... 55
EPA Reconsiders 2002 Lake Cleanup Plan (*WPTZ News 5*) ..... 58
Petition asks EPA to take over part of Ky. enforcement of Clean Water Act (*Courier Journal*) ..... 59

**ADMINISTRATOR JACKSON**
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**We, The People EPA (*Investor's Business Daily*)**

March 16, 2010 Tuesday
NATIONAL EDITION
Issues & Insights; Pg. A12:
Regulation: The New York Times says the EPA should use its authority to regulate our very breath if a Democratic Congress isn't "goaded" into action. Whatever happened to government of the people?

It's been a pattern of this administration that if the American people are adamantly opposed to it, ram it through anyway. So it's been with the health care overhaul, offshore drilling restrictions and now the Environmental Protection Agency threatening to become the uber-regulator of the air we breathe.

The New York Times says in a Saturday editorial regarding that last item that if Congress fails to enact cap-and-trade legislation such as Waxman-Markey or Kerry-Boxer, the EPA should jam it down our throats.

After all, the Supreme Court said the EPA had the power, even the obligation, to impose draconian restrictions on so-called greenhouse gases, particularly carbon dioxide. The elected representatives of the American people should just get out of the way.

We've heard this argument before. Last April, Time magazine ran a piece titled "EPA'S CO2 Finding: Putting A Gun To Congress' Head." This isn't the government structure the Founding Fathers envisioned.

They had in mind a system of checks and balances between the three branches of government, and the EPA was not one of them. The only gun that should be held to Congress' head is the vote of the American people.

The paper of distorted record objects to a "resolution of disapproval" originated by Sen. Lisa Murkowski, Republican from Alaska, an energy-producing state forced to keep vast stores of energy locked up underground or under offshore sea beds. This the newspaper says is a "destructive idea" that "would reject the EPA's recent scientific finding that greenhouse gases are a danger to public health."

Yes, that's right. The product of your breathing, the carbon dioxide you exhale and that every plant, even in the rain forest, breathes in is a danger to your health and the planet.

It matters not that the EPA's "scientific" finding was based largely on the fraudulent

analysis and manipulated data produced by such entities as the Intergovernmental Panel on Climate Change and Britain's Climate Research Unit.

Even NASA and the U.S. National Oceanic and Atmospheric Administration cooked the books, cherry-picking temperature data and closing down weather-reporting stations inconveniently located in colder, rural areas and the Canadian Arctic.

As Sen. James Inhofe, R-Okla., ranking Republican on the Senate Environment and Public Works Committee, noted: "Lisa Jackson, Obama's EPA administrator, admitted to me publicly that EPA based its action today (issuing its finding) in good measure on the findings of the U.N.'s Intergovernmental Panel on Climate Change, or IPCC. She told me that EPA accepted those findings without any serious, independent analysis to see whether they were true."

Nor does it seem to matter that Democrats are leading the charge against the EPA's dictatorial powers. In a February letter written by Sen. Jay Rockefeller of the coal state of West Virginia, eight Democratic senators, including Mark Begich of Alaska, challenged the EPA's authority to regulate pollution blamed for global warming.

The lawmakers said Congress -- not the EPA -- should address an issue with big implications for thousands of U.S. jobs and businesses. We concur. Sens. Blanche Lincoln, D-Ark., Mary Landrieu, D-La., and Ben Nelson, D-Neb., are co-sponsoring Murkowski's resolution. Rockefeller has introduced a bill that would put a two-year freeze on the EPA's ability to regulate greenhouse gases from power plants. Obviously, the natives are getting restless.

The economic collapse spawned by an imposition of the EPA finding will do little but give the world's largest polluter, China, a competitive edge. China already emits more pollution than the U.S. and Canada combined. Research by physicist Richard Mueller at the Lawrence Berkeley Laboratory shows that every 10% cut in U.S. emissions is negated by a single year's growth in China's emissions.

The Times and the EPA would have us lead by example -- right off an economic cliff. We believe in the consent of the governed. On this issue, the governed no longer consent.

**EPA Gives Toxic Chemical Information (*Epoch Times*)**

Epoch Times Staff
*Created:* Mar 15, 2010 *Last Updated:* Mar 15, 2010

For the first time, the Environmental Protection Agency (EPA) is giving free access to the Toxic Substances Control Act Chemical Substance Inventory. Until March 15, the information had to be purchased.

“The American people are entitled to easily accessible information on chemicals, and today’s action is part of a series of ongoing steps that the EPA is taking to empower the public with this important information,” said Steve Owens, assistant administrator for EPA’s Office of Prevention, Pesticides and Toxic Substances in a news release. While more than 84,000 chemicals are listed, 17,000 are not. The EPA intends to reduce the amount of chemicals claimed as confidential.

The head of the EPA, Lisa P. Jackson, considers transparency one of her top priorities, according to the news release.

**Delya on E15 Waiver “Troubling” (*Domestic Fuel*)**

Posted by Joanna Schroeder – March 15th, 2010

The E15 waiver was a hot topic during Commodity Classic and for good reason: EPA administrator Lisa Jackson, in response to a question asked during a Congressional hearing, said she felt they’d be ready to make a decision late summer. Originally, the EPA was to have ruled on the E15 waiver, that would waive the Clean Air Act to allow up to 15 percent ethanol in motor vehicles, by the beginning of last December. At that time, they deferred to mid-summer – now they are saying possibly by end of summer.

“Though without giving a date, clearly that date has passed and that’s troubling I think, and we’ve got to keep the pressure on,” said Brian Jennings, the Executive Director of the American Coalition for Ethanol (ACE) during an interview with DomesticFuel during Commodity Classic.

According to Jennings, Robert White with the Renewable Fuels Association (RFA), and Secretary of Agriculture Tom Vilsack, the EPA is doing more work on small engines and the effect of ethanol blends on catalytic converters. This despite the large number of research already available.

“But it does seem frustrating to us that they keep looking for some sort of excuse to delay or not to make the decision when we feel the preponderance of evidence, so far, and as it continues to come in, is going to justify this,” continued Jennings.

Both Vilsack and White agree and feel that the E15 waiver will pass – especially since the Renewable Fuels Standard mandates 36 billion gallons of ethanol by 2022 and the E10 blend wall is approximately 14 billion gallons and White notes that there are 22 billions gallons above the blend wall that need to find a home.

“E15 is great, but it’s still a band aid for the real issue and the sticking point is going to come very soon and the problem we’ve been facing for well over a decade is you simply can’t flip a light switch for this infrastructure to be there,” explained White.

**EDITORIAL/COMMENTARY/OP ED/LETTERS**
**==========**

**News Headline: Kudos to Cuccinelli (*Washington Times*)**

The global-warming crowd is acting like members of a farcical religion, complete with a priesthood threatening planetary doom on those who refuse to render sacrifice. The sacrifice being demanded of Virginia is her economy, so I'm relieved that state Attorney General Ken Cuccinelli is asking the priesthood for a little hard science before he binds that offering to the altar ("Cuccinelli fights the EPA," Opinion, Feb. 22).

In December, the federal Environmental Protection Agency issued a finding that global warming poses a threat to human life. In so doing, it opened the door to new regulations that could drop a staggering burden on Virginia's already limping economy.

The EPA based its finding on core data provided by the United Nations' Intergovernmental Panel on Climate Change (IPCC). Not long after the EPA published its findings, "Climategate" broke, and we learned that the research undergirding global warming has long been doctored and scientific dissent silenced.

What's more, the IPCC itself admitted to a "very small number of errors." Among its mistakes: A pronouncement that the Himalayan glaciers will disappear by 2035 is off by about 300 years, and the fear of North African crop production being cut in half by 2020 has no basis in fact.

Mr. Cuccinelli - trained as an engineer as well as a lawyer - has filed a petition requesting that the EPA restart the regulatory process and conduct its own research rather than rely on the IPCC's tainted data. Rather than bashing Mr. Cuccinelli as regressive and anti-science, Virginians should give the attorney general credit for challenging the agency and demanding objective data.

After all, we've got time. The Himalayan glaciers aren't going anywhere for a while.

WILLIAM C. DEUTSCH

Chesterfield, Va.

**Citizens deserve protection from dangers of coal ash (*Suburban News*)**

By Suburban News

March 15, 2010, 9:53AM
To the Editor:
The U.S. Environmental Protection Agency is preparing a new rule to ensure the safe disposal of coal ash - the byproduct of burning coal for power. As expected, the coal industry is fighting to maintain the status quo on coal ash, backing a proposal that ensures coal ash is treated less responsibly than household trash.

The nearly 130 million tons of coal ash generated each year is full of harmful toxins like arsenic, lead and mercury.

People living near the coal ash sites have a staggering 1 in 50 risk of cancer.

Both the EPA and the National Academy of Sciences have years of research making it clear that coal ash is becoming increasingly toxic and confirming time and again that coal ash poses a threat to human health.

EPA must treat coal waste as a hazardous substance and ensure that residents of communities impacted by coal ash disposal can provide input on how the coal ash should be handled.

One thing is clear - we need strong regulations to hold coal accountable and speed the transition to a clean energy economy.

Residents across the U.S. want the coal industry to clean up and not expose them to health hazards like air pollution and coal ash.

**Dr Joe Parrish**
**Elizabeth**

**Challenging EPA Data Is Just Common Sense (*Richmond Times Dispatch*)**

Editor, Times-Dispatch: It has been established that data coming from scientists at the U.N. Intergovernmental Panel on Climate Change and at East Anglia's Climate Research Unit have been manipulated, suppressed, and engineered to propagate the notion that climate change is real and is caused by human activity. East Anglia CRU's Phil Jones even admitted that after 15 years of research, they have failed to find any evidence of "statistically significant" global warming.

In spite of this, the Environmental Protection Agency persists in establishing new regulations and punitive taxation on carbon use based on this grossly flawed data and the hysterical alarmism of people like Al Gore. In light of the fact that the EPA is relying on fraudulent data, wouldn't it be wise to slow down and re-examine the facts, without prejudice, to determine whether climate change is real and is, in fact, caused by mankind?

I applaud Attorney General Ken Cuccinelli's filing of a legal challenge against the EPA, requiring it to revalidate the data prior to issuing any new regulations or levying any new taxes. It's a common-sense approach.

The draconian measures being considered by the EPA will dramatically increase the cost of energy -- which will have a direct impact on consumers by increasing the cost of transportation, heating, and electrifying our homes, and will have a ripple effect on the cost of every good and service consumed.

Cuccinelli is simply asking that the science be re-evaluated and is open "to seeing where honest unbiased science leads us." Only after proper examination of the facts should measures be enacted, if at all. With an economy teetering on the brink of disaster, America doesn't need the EPA to push it over the cliff.

Jim Smyers.

Beaverdam.

**AIR**

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March 15, 2010 http://detnews.com/article/20100315/BIZ/3150423

**UAW urges Congress to let EPA set new emissions rules (*Detroit News*)**

*DAVID SHEPARDSON*
*Detroit News Washington Bureau*

*Washington* -- The United Auto Workers union urged Congress on Monday to reject efforts to bar the Obama administration from setting the first-ever limits on tailpipe emissions.

Alan Reuther, the union's legislative director, said in a letter Monday that efforts by Sen. Lisa Murkowski, R-Ala., and others to bar the Environmental Protection Agency from declaring greenhouse gases a danger to public health were "misguided."

"The UAW also is deeply concerned that overturning EPA's endangerment finding would unravel the historic agreement on one national standard for fuel economy and greenhouse gas emissions for light-duty vehicles that was negotiated by the Obama administration last year," Reuther wrote.

In May 2009, the White House, automakers and 13 states led by California reached a deal to impose joint fuel efficiency standards and tailpipe emissions limits for the 2012-16 model years. The final regulation must be in place by April 1 to take effect starting with the 2012 model year.

"Most importantly, California and other states have agreed to forgo state-level regulation of tailpipe emissions and abide by the new national standard that will be created by these NHTSA and EPA rules. This will avoid the burdens that would have been placed on automakers if they had been forced to comply with a multitude of federal and state standards," Reuther said.

"These proposed rules will retain the structural components that Congress enacted in the 2007 energy legislation, thereby providing important flexibility to full line manufacturers and a backstop for the domestic car fleet."

Reuther noted that California could move ahead if the EPA is barred from setting national standards.

"In the absence of the EPA standard, California and other states would certainly move forward with their standards, thereby subjecting auto manufacturers to all of the burdens that the one national standard was designed to avoid," Reuther said.

Murkowski defended her bill, noting Democrats are working with her."We do not want EPA imposing economically harmful climate regulations," she said. "Energy and environmental policies should be developed in Congress, where the best interests of the American people can be represented."

Robert Dillon, a spokesman for Murkowski, said the Obama administration had created confusion by reversing a Bush administration decision and granting California power to set its own tailpipe emissions standards.

"They've created this problem and now they are trying to blame us," he said.

Alabama, Virginia and Texas, 13 members of Congress and business groups, including the National Association of Manufacturers, have filed suit seeking to block EPA from regulating greenhouse gas emissions.

But Reuther said legislation from Congress on climate change could spur job growth.

"We believe such legislation can help to provide significant investment in domestic production of advanced technology vehicles and their key components, as well as other energy saving technologies," Reuther said.

Reuther also warned that the National Highway Traffic Safety Administration, which sets corporate average fuel economy requirements, could also be delayed from setting its standards by month's end if the EPA can't go forward.

NHTSA plans to set a fleetwide standard of 34.1 mpg by the 2016 model year -- a move that boosts fuel efficiency by nearly 40 percent over 2007 levels.

U.S. vehicles account for 23 percent of total U.S. greenhouse gas emissions.

The proposed standards would reduce emissions by nearly 950 million metric tons and conserve 1.8 billion barrels of oil over the lifetime of model year 2012-2016 vehicles, the EPA said.

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March 15, 2010

**Judge Dismisses New Source Review Allegations Against 5 Ill. Power Plants (*New York Times*)**

By ROBIN BRAVENDER of Greenwire
A federal judge has sided with a Midwestern energy company, agreeing to dismiss allegations of Clean Air Act violations at five Illinois coal-fired power plants and partially dismiss claims of violations at a sixth plant.

Judge John Darrah of the U.S. District Court for the Northern District of Illinois last week **granted (pdf)** Midwest Generation LLC's request to dismiss nine counts of a 38-count complaint brought by the Obama administration and partially dismissed a 10th count.

The Justice Department and the state of Illinois sued Midwest Generation last summer, saying the utility made major modifications at the plants without installing the required pollution controls (*Greenwire*, Aug. 27, 2009).

At issue are six Illinois plants that Midwest Generation purchased from Commonwealth Edison Co. in 1999, including Chicago-area plants Crawford Station, Fisk Station, Joliet Station, Waukegan Station and Will County Station, as well as the Powerton Station plant near Peoria.

Prior to that sale, the federal and state governments say, ComEd modified each of the six plants and subsequently operated them without first obtaining the appropriate New Source Review (NSR) permits. Under the NSR program, new and modified sources must obtain prevention of significant deterioration (PSD) permits, which require the installation of the best available pollution controls.

The lawsuit alleges that Midwest Generation violates the PSD provisions every day by continuing to operate plants that ComEd modified without a permit. Those illegal modifications have led to unsafe air quality in the region, including high levels of ground-

level ozone and soot that are linked to asthma and other respiratory ailments, the lawsuit says.

But the judge agreed with Midwest's argument that EPA regulations prohibit only the construction or modification of major stationary sources without obtaining the proper pre-construction permits.

Because the violation occurred at the time of construction, Darrah said, Midwest Generation cannot be liable for the modifications that occurred prior to Midwest Generation's ownership of the plants.

"There is no statutory basis for holding Midwest Generation liable for ComEd's actions," Darrah wrote.

Darrah refused to dismiss in its entirety the claim that Midwest Generation constructed major modifications on its Will County plant without first obtaining a PSD permit because the lawsuit argues that the utility made those modifications after buying it from ComEd.

The judge barred claims of monetary relief on that claim, however, because the five-year statute of limitations has expired since the alleged major modifications were made in 2000.

The judge's order did not address additional allegations that Midwest Generation had violated Title V operating permits as well as opacity and soot limitations under Illinois's federally approved pollution control plan.

Several citizen and environmental groups have also intervened in the case, arguing that Midwest Generation's illegal particle pollution has harmed and will continue to harm the public health, environment and economy of neighboring communities.

That complaint is not affected by the judge's order, said Michael Soules, an attorney at the Environmental Law & Policy Center, one of the intervenors in the case.

Attorneys for Midwest Generation were not available for comment.

**NWI meets ozone standard; emissions testing to remain (*Gary Post Tribune*)**

March 16, 2010
BY GITTE LAASBY, (219) 648-2183
MERRILLVILLE -- The air in Lake and Porter counties is up to snuff with federal smog standards, the U.S. Environmental Protection Agency announced Monday. But attainment of the standard is likely to be short-lived and won't put an end to emission tests on Northwest Indiana cars.

The public has had 30 days to comment before EPA officially approves Northwest Indiana meeting the national health-based eight-hour outdoor standard for ozone, also known as smog.

The standard is intended to assure that average smog over an eight-hour period doesn't exceed a level where sensitive groups start experiencing health effects.

Smog can cause respiratory problems, including coughing, wheezing, shortness of breath and chest pain. Smog is formed when a mixture of pollutants react on warm, sunny days. The pollutants are released from cars, factories and other sources.

To attain the smog standard, Indiana had to formulate and implement a plan. Indiana is also is required to have a plan to keep it up. Unfortunately, that plan does not involve skipping the unpopular vehicle emission tests.

"Current control programs to limit ozone-forming emissions, such as the Vehicle Inspection and Maintenance program (Clean Air Car Check) and industry-specific control requirements, will remain in place in order to maintain air quality," said Indiana Department of Environmental Management spokesman Rob Elstro in an e-mail.

Brian Urbaszewski, director of environmental health programs with the Respiratory Health Association of Metropolitan Chicago, said current plans remain in place to ensure the area won't backslide and go back to violating the standard.

"For that reason EPA will classify the area as a 'maintenance' area, which is akin to probation. The status lasts 10 years and IDEM should keep all the emissions control programs they have in place to ensure they don't slip back to violating the (old) ozone standard," he said. "Given we've been in a deep recession for a few years combined with a few unusually cool and rainy summers recently, we have been lucky to see lower air pollution levels. But if we get more normal summers or a hot one, and as the economy starts to expand and driving and industry emissions go up again, there is a risk that we would again start to exceed that old 1997 standard."

EPA drafted but has yet to approve an even tougher ozone standard than the 1997 one that Northwest Indiana just met. The old standard was 80 parts per billion. For health reasons, EPA is considering a standard of 60 to 70 parts.

EPA will decide in August 2011 which areas don't meet the 2008 standard and will have to submit a plan for how to meet the standard. At that point, Urbaszewski said, the entire Chicago metropolitan area will almost certainly be put back into non-attainment status and will have three years to submit a plan.

**EPA says Northwest Indiana's Lake, Porter counties now complying with federal ozone standard (*Associated Press*)**

**Story also appeared: *Orlando Sentinel***

By Associated Press
4:10 PM EDT, March 15, 2010
INDIANAPOLIS (AP) — The U.S. Environmental Protection Agency says northwestern Indiana's Lake and Porter counties now meet the federal government's smog standards.

The EPA says air data from 2006-2009 show the counties meet its standard for ground-level ozone, the main ingredient in smog caused by industrial and automotive emissions.

Smog is an irritant that's been linked to asthma attacks and other illnesses.

The Northwest Indiana Forum said the EPA's decision would boost regional development. But the business group noted that the EPA is weighing more stringent standards.

Counties deemed not to meet the EPA's standards face restrictions on economic growth.

The EPA also said Monday that it has proposed approving Indiana's plan for continuing to meet the ozone standard through 2020. The public has 30 days to comment on the changes.

**NY-NJ Port Authority Offers $28 M in Truck Replacement Aid (*EP Magazine*)**

Mar 16, 2010

The Port Authority of New York & New Jersey launched a $28 million truck replacement program, partially funded by $7 million from the American Recovery and Reinvestment Act, that is expected to rid the airspace of emissions from some 600 diesel trucks model year 1993 and older.

The U.S. Environmental Protection Agency, the port authority, N.J. Department of Environmental Protection, N.Y. State Department of Environmental Conservation, the City of New York Office of Long Term Planning and Sustainability, New York City Economic Development Corporation, New York Shipping Association and the cities of Bayonne, Elizabeth, Jersey City and Newark signed a pact that outlines actions such as investing in pollution reduction technologies and developing air pollution inventories. The New York City metropolitan area does not meet air quality standards for ozone and fine particulate matter. Diesel exhaust particles can penetrate deep into the lungs and

pose serious health risks, including aggravating the symptoms of asthma and other respiratory problems in healthy individuals.

Judith Enck, EPA regional administrator, said: “Efforts like the Port Authority’s new truck replacement program and the much broader sustainability agreement signed today will go a long way toward cutting this pollution and improving air quality and public health. Reducing dirty diesel emissions will protect the health of truck drivers and other workers at the port, along with the nearby community. I applaud the Port Authority for its leadership.”

Port Authority Chair Anthony R. Coscia said, "The Clean Truck Program is the latest in our efforts to achieve cleaner air at and around our port. On top of our other investments ─ including $600 million to build on-dock rail and $60 million to acquire and preserve environmentally sensitive property —- we believe this program will help build on our legacy as good environmental stewards." Port Authority Executive Director Chris Ward said, "We have worked closely with all stakeholders to make sure that this new program will help clean up the pollution at our ports, and, in the process, ensure that we do not overburden our already struggling port and trucking industry. I want to thank EPA Region 2 Administrator Judith Enck and the entire EPA for their generous support of this program, and I want to thank all of the members of our Truck Working Group for coming together around such a critical initiative."

The truck replacement program will replace model year 1993 and older trucks with cleaner, 2004 and newer trucks. Trucks manufactured in 2004 and later meet EPA’s later pollution requirements and are up to 98 percent cleaner than older trucks. Under the program, the authority will cover 25 percent of truckers’ costs for newer trucks. To download an application for the truck replacement program, visit www.replacemytruck.org.

The authority also is phasing out pre-1994 trucks beginning Jan. 1, 2011 and pre-2007 trucks beginning Jan. 1, 2017. There are more than 3 million truck trips to and from the Port of New York and New Jersey marine terminals each year, resulting in nearly 2,000 tons of nitrogen oxide and 55 tons of fine particle pollution.

The Port of Long Beach and the Port of Los Angeles have embarked on similar programs.

The Truck Replacement Program is part of a broader Clean Air Strategy, which identifies measures to reduce maritime and port-related emissions such as by using cleaner fuels, supporting development of low emission warehouses on port fields, promoting shore power electrification (cold ironing) and other green ideas.

**Video contest (*Fort Worth Star Telegram*)**

The U.S. Environmental Protection Agency sponsors a video contest for professional

and amateur filmmakers on Burn Wise, the agency's campaign to help citizens reduce pollution from their fireplaces and other wood-burning appliances.

With the theme "Learn Before You Burn," the winning 30- or 60-second videos will promote responsible wood-burning techniques that can help citizens save money while making the air healthier to breathe.

Wood smoke comprises gases and fine particle pollutants that aren't healthy to breathe indoors or out - especially for children, older adults and people with heart disease, asthma or other lung diseases.

Each video must cover three basic steps: what to burn (only dry seasoned wood), how to burn it (maintain a small, hot fire) and what to burn it in (an EPA-approved wood-burning appliance that you have maintained each year). For the safety of the filmmakers, no real flames may be used in the videos.

Anyone can enter (children under 18 must get parental permission). Winners will receive cash awards, and their videos will be provided to television stations as public service announcements. First place receives $2,500; second place, $1,000; third place, $500 and viewers' choice, a $250 U.S. Savings Bond.

Some information is available on the contest Web site to help filmmakers get started. Then, at noon EST Friday, April 9, EPA will reveal on the contest Web site three mystery criteria that must be included in the videos. Final videos must be uploaded to EPA's YouTube channel within 48 hours - by noon EST Sunday, April 11. Viewers will vote on their favorite video via YouTube.

epa.gov/burnwise/contest. For updates, follow twitter.com/epaburnwise

**Chamber asks EPA to please reconsider (*The Hill*)**

By Jim Snyder - 03/15/10 05:41 PM ET

The U.S. Chamber of Commerce asked the EPA to reconsider its endangerment finding, the legal underpinning of the agency’s efforts to regulate greenhouse gases.

Steven Law, chief legal officer and general counsel of the Chamber, released a statement that said the business lobby believes the “right way” to lower greenhouse gas emissions is through "bipartisan legislation and comprehensive international agreements.”

“The EPA has admitted that such an unprecedented regulatory expansion would ‘paralyze’ and ‘overwhelm’ permitting authorities, leaving businesses waiting months or even years to get the permits they need to keep operating. This admission by the EPA undermines the basis for the endangerment finding, and justifies reopening the process,” the Chamber said in a statement.

It appears the strategy ignores the EPA’s effort to “tailor” its regulation to large emitters by raising the threshold for regulation to 25,000 metric tons of carbon dioxide equivalent a year. EPA Administrator Lisa Jackson has said the threshold could be significantly higher -- perhaps 100,000 metric tons -- during the initial phase of the program in response to complaints from Captiol Hill and also public comments submitted to the agency.

“The Chamber has long warned that regulating greenhouse gases under the Clean Air Act would be bad for jobs and local economies. Last October, four months after the deadline for the public to submit comments on the endangerment finding, the Agency formally acknowledged the ‘absurdity’ of regulating greenhouse gases under the Clean Air Act," the statement ads.

**EPA says Northwest Indiana's Lake, Porter counties now complying with federal ozone standard (*Associated Press*)**

**Story also appeared: *FOX 59 WXIN***

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to meet the ozone standard through 2020. The public has 30 days to comment on the changes.

**NPPC Opposes EPA Greenhouse Gas Rules (*Pork Magazine*)**

By Pork news source | Monday, March 15, 2010
NPPC last week signed a letter supporting House resolutions of disapproval for the U.S. Environmental Protection Agency's decision to move forward on regulating carbon dioxide and other greenhouse gases under the Clean Air Act.

The resolutions, sponsored by Reps. Ike Skelton, D-Mo., and Joe Barton, R-Texas, come in response to the December 2009 EPA finding that greenhouse gases qualify as dangerous pollutants under the Clean Air Act. The finding triggered the EPA to require regulation of carbon emissions by March 2010.

Such regulatory actions could have severe consequences for the U.S. economy, including America's farmers and ranchers, through increased input costs and international market disparities. View the letter.

**Cap and trade: Congress may be out, but the EPA may have final say (*Farm & Dairy*)**

Posted By Kristy Foster On March 15, 2010 @ 4:02 pm

WASHINGTON — Many legislators feel the issue may be dead for now, but cap and trade still has many farmers concerned about the future.

The Ohio Farm Bureau's county presidents made their annual trip to Washington D.C. last week to let the members of Congress know they are not in favor of the cap and trade proposal.

Some counties leaders found Congressional delegates in their corner; others did not.

On Capitol Hill, county presidents could be heard reiterating the same points: The cap and trade legislation will impose higher energy and food costs for consumers, raise fuel and fertilizer and energy costs for farmers, shackle Ohio farmers with new costs and offer few benefits to farmers.

The bill, H.R. 2454, passed the House in 2009, but S.B. 1733, has stalled in the Senate and is expected to stay there with this session.

However, it was clear cap-and-trade is still a concern for many of the trip attendees, because while it may be considered a non-issue in congress, it is a different story with the Environmental Protection Agency.

This is because the EPA now has the power to regulate greenhouse gas emissions. In December, the EPA made its official “endangerment finding” that said six greenhouse gases — carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride — “threaten the public health and welfare of current and future generations.”

The finding paves the way for EPA regulation of greenhouse gases being released, regulations such as the “cow tax,” digesters requirements, and a construction permit process for farms, have been suggested. Under the Clean Air Act, the EPA could develop other regulations as it sees fit and begin enforcement.

U.S. Sen. George Voinovich told the group he is not for a one-size-fits-all approach to the problem.

“I’m not going to support any kind of economy-wide cap and trade system,” Voinovich said.

He wants to instead fund the development of biofuels including ethanol. He suggested finding more sources of fuel and using less of the natural resources that can’t be replaced readily.

A group of Farm Bureau presidents from Mahoning, Portage and Summit counties pressed the issue when they met with an aide from Rep. Tim Ryan’s office.

Ryan voted in favor of the cap and trade bill passed by the U.S. House of Representatives in June 2009.

U.S. Rep. John Boccieri also voted in favor of the bill, but took the time to explain why to the presidents of Wayne, Mahoning, Medina, Stark and Ashland counties.

Boccieri explained that agriculture and forestry are exempt from the bill, and he feels that it holds benefits to farmers with the creation of carbon credits.

Boccieri also said if the EPA takes over regulation of the problem, it will be a bandage for the problem and it will not take in to consideration different U.S. industries.

An aide from Rep. Steven LaTourette’s office also met with a local group to discuss cap and trade. The aide said LaTourette does not support cap and trade and that the congressman feels it is a dead issue for the time being.

**Judge dismisses NSR allegations against 5 Ill. power plants (*Greenwire*)**

Robin Bravender, E&E reporter
03/15/2010
A federal judge has sided with a Midwestern energy company, agreeing to dismiss allegations of Clean Air Act violations at five Illinois coal-fired power plants and partially dismiss claims of violations at a sixth plant.

Judge John Darrah of the U.S. District Court for the Northern District of Illinois last week **granted** Midwest Generation LLC's request to dismiss nine counts of a 38-count complaint brought by the Obama administration and partially dismissed a 10th count.

The Justice Department and the state of Illinois sued Midwest Generation last summer, saying the utility made major modifications at the plants without installing the required pollution controls (*Greenwire*, Aug. 27, 2009).

At issue are six Illinois plants that Midwest Generation purchased from Commonwealth Edison Co. in 1999, including Chicago-area plants Crawford Station, Fisk Station, Joliet Station, Waukegan Station and Will County Station, as well as the Powerton Station plant near Peoria.

Prior to that sale, the federal and state governments say, ComEd modified each of the six plants and subsequently operated them without first obtaining the appropriate New Source Review (NSR) permits. Under the NSR program, new and modified sources must obtain prevention of significant deterioration (PSD) permits, which require the installation of the best available pollution controls.

The lawsuit alleges that Midwest Generation violates the PSD provisions every day by continuing to operate plants that ComEd modified without a permit. Those illegal modifications have led to unsafe air quality in the region, including high levels of ground-level ozone and soot that are linked to asthma and other respiratory ailments, the lawsuit says.

But the judge agreed with Midwest's argument that EPA regulations prohibit only the construction or modification of major stationary sources without obtaining the proper pre-construction permits.

Because the violation occurred at the time of construction, Darrah said, Midwest Generation cannot be liable for the modifications that occurred prior to Midwest Generation's ownership of the plants.

"There is no statutory basis for holding Midwest Generation liable for ComEd's actions," Darrah wrote.

Darrah refused to dismiss in its entirety the claim that Midwest Generation constructed major modifications on its Will County plant without first obtaining a PSD permit

because the lawsuit argues that the utility made those modifications after buying it from ComEd.

The judge barred claims of monetary relief on that claim, however, because the five-year statute of limitations has expired since the alleged major modifications were made in 2000.

The judge's order did not address additional allegations that Midwest Generation had violated Title V operating permits as well as opacity and soot limitations under Illinois's federally approved pollution control plan.

Several citizen and environmental groups have also intervened in the case, arguing that Midwest Generation's illegal particle pollution has harmed and will continue to harm the public health, environment and economy of neighboring communities.

That complaint is not affected by the judge's order, said Michael Soules, an attorney at the Environmental Law & Policy Center, one of the intervenors in the case.

Attorneys for Midwest Generation were not available for comment.

**ARSENIC**
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**Arsenic and Old Studies (*E Magazine*)**

By Pell, Sheila.

SHEILA PELL is a journalist living in Northern California.

According to Tyson, the average U.S. consumer eats about 89 pounds of chicken a year (compared to 28 pounds per person in 1960). In 2004, 150 Prairie Grove residents sued Tyson, other poultry companies and Alpharma, the drug manufacturer that markets roxarsone, alleging that airborne **arsenic** from litter spread around Prairie Grove caused their cancer and other health problems.

Pressure Is On to Ban a Hazardous but Profitable Feed Additive

It was almost a decade ago when seven families in Prairie Grove, Arkansas, a town of only about 2,500 people, got together to discuss the high number of rare cancers

diagnosed there in recent years. Many of the afflicted were children. "We asked ourselves, 'What in the world is going on?'"says Beth Green, whose son Michael "Blu" was one of 17 children diagnosed with diseases ranging from brain and testicular cancer to leukemia.

Huge poultry factories hug the rural town, run by contractors and owned by corporations like Tyson Foods, the nations second-largest poultry producer. So residents began looking into the companies' decades-old practice of disposing of chicken waste or "litter" as fertilizer on fields beside homes and schools; a practice typically followed by complaints of asthma attacks, rashes, headaches and nausea. The manure-fertilizer, alive with viruses and bacteria, also contains toxic metals, residents learned, from the growth -promoting feed additive "roxarsone," an **arsenic**-based drug fed to an estimated 70% of U.S. broiler (meat) chickens, as well as turkeys and swine. Studies in 2003 showed the majority of organic **arsenic** in roxarsone is excreted in manure, then breaks down into inorganic **arsenic:** a potent human carcinogen.

"Almost nothing is known regarding health effects of organic **arsenic** compounds in humans," says the Agency for **Toxic Substances** and Disease Registry. But inorganic **arsenic** in drinking water has been linked to liver, kidney, J Ling, bladder and skin cancer, according to the **Environmental Protection Agency (EPA)**. The poultry industry says there is no evidence that exposure to litter causes cancer, but others point to a dearth of studies. John F. Stolz, a microbiologist at Duquesne University, told reporters the 2003 discovery indicates a topic "screaming for research" into how the body processes **arsenic.**

Dr. David Bourne of the Arkansas Department of Health called the five cases of testicular cancer diagnosed within five years "higher than expected and therefore troublesome." Another major poultry region, the Delmarva Peninsula, has one of the highest cancer rates in the nation. No one knows why.

In September, New York Congressman Steve Israel introduced "The Poison-Free Poultry Act of 2009," a food safety bill that calls for a ban on roxarsone. On December 8, 2009, Dr. David Wall inga of the Institute for Agriculture and Trade Policy, filed a petition with the Food and Drug Administration (FDA) requesting "the immediate withdrawal of approvals for all animal drug applications for **arsenic**-containing compounds used in animal feed."

"Chicken is safe," says Richard Lobb, director of communications for the industry trade group, the National Chicken Council. "If roxarsone is banned, advantages in animal health and welfare, food safety and environmental sustainability would be sacrificed." Roxarsone promotes animal growth by controlling parasites and other diseases.

Food saftey concerns arose after a 2004 U.S. Department of Agriculture (USDA) study revealed that more **arsenic** is retained in chicken meat than previously thought. According to Tyson, the average U.S. consumer eats about 89 pounds of chicken a year (compared to 28 pounds per person in 1960). The FDA's tolerance level for

**arsenic** in chicken, set decades ago, has never been revised.

And in Prairie Grove, residents can't avoid the **arsenic** in chicken litter. In 2004, 150 Prairie Grove residents sued Tyson, other poultry companies and Alpharma, the drug manufacturer that markets roxarsone, alleging that airborne **arsenic** from litter spread around Prairie Grove caused their cancer and other health problems.

In a 2001 seminar, speakers from the USDA reported that poultry litter contains considerably more **arsenic** than the muscle tissue in poultry, and poses an environmental risk. Wallinga estimates that 75% of the **arsenic** in U.S. poultry feed winds up in the 26-55 billion pounds of chicken litter created annually; most is spread as fertilizer on fields and crops, with the remainder fed to livestock. In 2005, the FDA, which regulates poultry litter, calculated the costs to producers of banning litter from feed and determmea, "The annual supply of poultry litter can potentially feed between 1.3 million and 3.2 million cows." The following year, the FDA issued a statement saying it had no data indicating harm from roxarsone.

Ellen Silbergeid, a Johns Hopkins toxicologist who studies the issue, says roxarsone's safety testing is completely outdated. Over the past several decades, she says, "Our understanding of the health risks of **arsenic** have changed radically."

The safety and environmental tests still relied on for every new roxarsone-containing drug were done by employees of the drugs developer - Iowa-basêd Dr. Salsbury Laboratories in 1944. A new drug does not have to be proven safe and effective if it was previously approved and is being reformulated as a "combination drug" - which accounts for over 100 roxarsone-based drugs trademarked by Alpharma alone. The most recent was approved by the FDA on May 22, 2009.

Only 20, or 5%, of all animal drugs approved in the 1940s are still in use, according to the FDA's website. Of the 426 new animal drugs approved in the 1940s, 406 were later withdrawn. The majority approved from 1930-1960 have been voluntarily withdrawn by the drug's sponsor, the FDA's website says.

Despite calls to ban roxarsone, the meat industry is not eager to abandon a drug that increases profits by speeding animal growth - and as a classified antibacterial, may fill in to fight Salmonella and other diseases if growth-promoting antibiotics are phased out. A "Roxarsone Fact Sheet" issued by the American Meat Institute argues that "Roxarsone has no known carcinogenic chemicals in the product and does not contain any chemicals listed in California Proposition 65." (This tails to mention that it readily degrades into carcinogenic **Arsenic**-containing chicken feed speeds growth by controlling parasites and other diseases.

inorganic **arsenic,** a Prop 65 hazardous chemical).

Animal drugs generate considerable income for their manufacturers - and for the FDA, which passed laws in 2003 and 2008 requiring user fees for both new and generic

drugs. The fees will bring in $125 million over five years and hasten drug approvals, shortening review time from 700 to 270 days. For fiscal year 2010, the animal drug user tee rates are $290,400 for an animal drug application and $75,000 for an abbreviated generic new animal drug application requiring safety or effectiveness data. (As a previously approved drug, roxarsone requires no new safety testing).

So, will the PDA, underfunded and under-staffed, reconsider its ancient approval of roxarsone? Silbergeld is skeptical. The agency "has some serious limitations imposed by law," she says, "in addition to its own culture of inaction."

On November 10, 2009, after years of fighting, nine plaintiffs dropped out of the Prairie Grove lawsuit. The Greens case is the only one that made it to trial. In 2006, a jury took just 21 minutes to find for Alpharma. Beth Green has always been uncertain about the odds of prevailing in her rural hometown. "This is chicken country," she says.

CONTACTS: Agency for Toxic Sustances and Disease Registry, www.atsdr.cdc .gov; Alpharma, www.kingpharm.com.

The FDA's tolerance level for **arsenic** in chicken, set decades ago, has never been revised.

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

**Report cites gaps in climate change strategy (*Los Angeles Times*)**

March 16, 2010 Tuesday
Home Edition

MAIN NEWS; National Desk; Part A; Pg. 9
Jim Tankersley
WASHINGTON
The federal government has "significant gaps" in its strategy to cope with the increasing effects of climate change on the country, according to a White House report scheduled to be released Tuesday.

The report will call for better risk assessments, more thorough scientific research and improved coordination of federal and local governments in order to handle the effects of warming temperatures, according to a draft of the report.

Adapting to warming temperatures, the report concludes, "will require a set of thoughtful, preventative actions, measures and investments to reduce the vulnerability of our natural and human systems to climate change impacts."

The report urges federal agencies to fundamentally change how they plan for the future, by factoring the potential risks and opportunities of a changing climate into their decision-making. It also advises agencies to rely less on historical climate data when making plans for transportation, energy, infrastructure and natural resource use.

The task force that produced the report includes the White House Council on Environmental Quality, the Office of Science and Technology Policy and representatives from nearly every corner of the federal government.

The report comes at a time when global warming skeptics are increasingly criticizing the science of climate change, fueled by a string of controversies surrounding leading climate scientists.

President Obama has asked the task force to lay the groundwork, by this fall, for an explicit federal strategy to adapt to climate change.

The draft report is a first step in that process and is light on specific recommendations.

It concludes that climate change "is affecting, and will continue to affect, nearly every aspect of our society and the environment" through increasingly severe floods, droughts, wildfires and heat waves, along with rising sea levels.

Those impacts are already "affecting the ability of federal agencies to fulfill their missions," the report said.

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Special interests are now his interests too;

**Senator who decried corporate influence finds he needs it for a climate change bill(*Los Angeles Times*)**

By Jim Tankersley
WASHINGTON

As he toured union halls and factory floors in his 2006 Senate campaign, Ohio Democrat Sherrod Brown repeatedly railed against the "prescription bill the drug companies wrote," the "energy bill the oil companies wrote" and all the other policy decisions dominated by special interests.

Now halfway through his first Senate term, Brown seems to see at least one major Washington policy push differently.

Brown is one of a handful of senators trying to line up support for a climate bill that would put new limits on greenhouse gas emissions and spur production of renewable energy.

And surprising as it may seem, the heart of those senators' strategy is to woo special interests -- major electric utilities, steel and cement producers, farmers and coal and oil companies.

"I know, it doesn't sound like me," Brown conceded on a recent afternoon. But in his own defense, he added, "I really do think this is different. I think people understand that if industry doesn't -- if this doesn't work for them, if this doesn't keep them in business . . . it hurts the country."

Whatever else, it's the education of a junior senator.

Brown, along with Senate climate negotiators and the Obama administration, has embraced one of Washington's enduring realities: It's easier to get agreement on a major policy issue if powerful business groups are inside the tent helping to shape the decisions, instead of outside the tent working to blow it down.

In the case of efforts to craft a climate bill, business support is deemed so crucial that, before meeting with President Obama and some swing-vote senators at the White House last week, the bill's architects sat down with a group of industry lobbyists who are members of a U.S. Chamber of Commerce energy committee.

In blunt terms, the senators asked the lobbyists what the bill needed to say to receive industry backing.

Sens. John F. Kerry (D-Mass.), Joe Lieberman (I-Conn.) and Lindsey Graham (R-S.C.) "acknowledged that this needs broad industry support, or it ain't gonna happen," said Bruce Josten, the chamber's executive vice president of government affairs, who helped organize the meeting.

Kerry said as much in an interview.

"This is a bill with major impact on our economy, and we want the important players at the table," he said. "There is no question in my mind that if a broad cross-section of American business is saying we need this to create jobs and we need this to be competitive and we want this certainty, I can't imagine senators ignoring the job creators on that."

The approach has breathed a glimmer of life into a Senate effort many had left for dead, stoking hopes that half a dozen Republicans could sign onto the bill.

But the strategy carries dangers too. The efforts by Obama and congressional Democrats to curry industry support to overhaul healthcare and financial regulation

have not pushed either bill across the finish line. In both cases, deals between business groups and lawmakers triggered popular backlash.

Some analysts also suggest that the dynamics of Washington have shifted -- that major industry support does not affect votes in the way it once did, particularly for Republicans who feel intense pressure from "tea party" and other activists to oppose Obama and congressional Democrats across the board.

The activist pressures are certainly real, but so is the ability of major business groups to mobilize opposition to policy initiatives.

That's why the climate bill's supporters are aggressively courting big business.

Last week alone, White House officials discussed energy with leaders in the utility, nuclear and oil and gas sectors. Democrats have also met with environmentalists and renewable-energy executives.

One issue is at the heart of all the meetings: money.

Limiting greenhouse gas emissions almost certainly will lead to higher prices for fossil fuels such as coal and oil. Any business that produces or consumes a lot of energy wants assurances that its bottom line won't suffer as a result of new legislation.

To address those concerns, Kerry, Brown and the others have embraced yet another tried-and-true Washington approach -- a strategy as old as the country itself: They are planning to cushion the impact with subsidies, delays and exemptions.

The still-forming Senate plan would cap power plant emissions right away but issue a large portion of emissions permits free, instead of forcing utilities to pay for them.

It would offer sweeteners to expand offshore oil drilling, nuclear power plant construction and "clean coal" technology.

Negotiations continue on how to deal with the cost of reducing emissions from cars and trucks that burn petroleum; oil interests are pushing for a straight tax they could pass directly to consumers.

The bill would slowly phase in emissions limits for factories -- the steel, cement, chemical and other companies that Brown wants to ensure won't be driven offshore by high energy prices -- while buffering them from price increases. The legislation also would create incentives for renewable-energy manufacturing.

Brown calls those protections crucial for the economy and for efforts to combat **climate change:** If factories move to countries that have more relaxed environmental rules, such as China, global emissions could increase, he argues.

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**Planet Panel (Washington Post)**

washingtonpost.com/planetpanel

Adapted from The Post's online **climate-change** discussion.

Q With the recent discovery that methane is bubbling out of the Arctic faster than expected, how worried should we be about abrupt changes in climate such as this one?

William O'Keefe is chief executive at the George C. Marshall Institute, a think tank that promotes better use of science in public policy. He is a former chief operating officer at the American Petroleum Institute.

It would be helpful to know better how long this release has been taking place as well as to gain some insights into whether similar releases took place when temperatures were as warm as or warmer than the present. Context is important. What shouldn't happen, but probably will, is that **climate-change** advocates use this report to create a false sense of urgency about passing cap-and-trade legislation. Nothing that the Congress can do will change the fact that if permafrost continues to melt, methane releases will continue as well.

With almost 2 billion people living in a state of extreme poverty and without access to commercial energy, efforts to increase their standard of living and their physical well-being are not only inevitable, they are a moral imperative. Therefore, greenhouse gas emissions will continue to increase; only the rate of increase is in doubt.

Given that reality, more attention and emphasis should be placed on adaptation in case the warming trend of the past three decades continues and time proves advocates right that human activities are a primary cause of warming. On the other hand, the lack of warming this decade could continue and provide more evidence that natural variability is the primary reason for the warming that occurred between 1976 and 1998 and the potential cooling trend that now may be taking place.

Although slowing the growth in greenhouse gases in an economically sensible manner makes sense, it also makes sense to inform ourselves about how we should adjust to a potentially warmer world. Investing in knowledge about adaptation is important, because we need another hedging strategy to complement mitigation strategies.

**ENRON VALUES AT EPA (*National Center for Policy Analysis*)**

March 15, 2010
Sen. Lisa Murkowski (R-Alaska), has introduced a bipartisan bill that would stop the Environmental Protection Agency (EPA) from regulating greenhouse gas emissions by overturning its finding that global warming poses a clear and present danger to public health and welfare.

With the hacked/leaked e-mails of Climategate becoming public, we know that key scientists behind the 2007 report of the Intergovernmental Panel on Climate Change (IPCC) covered up data that showed an unexpected decline in temperature and tried to suppress research that cast doubt on the notion that humans are responsible for catastrophic warming. Once the press in the United Kingdom started investigating the IPCC's predictions in detail, it found that one claim after another was based on faulty, non-peer-reviewed literature, say James Franko, a legislative assistant, and H. Sterling Burnett, a senior fellow, both with the National Center for Policy Analysis.

For instance:

> The IPCC reported that Himalayan glaciers would melt in a few decades because of global climate change, but the best research indicated that was incorrect.
>
> Other alarmist claims made by IPCC that have been shown to either lack supporting evidence or simply be wrong include the pace and impact of the loss of the Amazonian rain forests, the effects of climate upon rainfall and food production in Africa, and even something so straightforward as the proportion of Holland that sits below sea level.

Despite these flaws and others, the EPA relied on the IPCC to find that CO2 emissions pose a threat sufficient to take command of the U.S. economy. The EPA claims that its regulations won't increase costs or otherwise harm the economy. However, the regulations can't work if the costs of fossil fuels don't increase and force the public to shift to less reliable, more expensive alternative fuels, say Franco and Burnett.

Worst of all, the economic downturn brought on by the EPA's regulations will do nothing to reduce CO2 emissions because fast-growing economic competitors such as China and India, not hampered by U.S. energy restrictions, will continue to generate huge growth in their emissions, say Franco and Burnett.

Source: James Franko and H. Sterling Burnett, "Enron values at EPA," Washington Times, March 12, 2010.

For text:

http://washingtontimes.com/news/2010/mar/11/enron-values-at-epa/

For more on Global Warming:

http://www.ncpa.org/sub/dpd/index.php?Article_Category=32

**Activists Ramp Up Efforts To Retain Carbon Limits In Senate Climate Bill (*Inside EPA*)**

Monday, March 15, 2010
Environmentalists are ramping up appeals to Senate lawmakers to ensure pending energy and climate legislation includes mandatory limits on carbon emissions, warning that they could oppose an “energy only” bill that does not have such limits, or has limits but makes too many concessions to energy development that boosts pollution and sullies sensitive wilderness areas.

Some environmentalists express cautious optimism that the pending measure -- being crafted by Sens. John Kerry (D-MA), Joseph Lieberman (I-CT) and Lindsey Graham (R-SC) -- is likely to include carbon constraints through some combination of a price for greenhouse gases or hard carbon emission limits for at least some sectors. The latest lobbying efforts are aimed in part at ensuring that the lawmakers follow through with their pledges to include carbon limits in the bill, amid persistent talk that the lawmakers are entertaining a plan that would at least start with utility sector emissions limit, and possibly include a "linked fee" assessed on carbon in transportation fuels.

On a separate note, one source following the issue says it appears additional details along these lines could be released the week of March 15, but that it appears unlikely that a draft text will be out before the Easter Senate break, which begins at the end of March.

Yet, even if a proposal includes carbon controls, environmental groups say they fear that specific environmental safeguards for energy development may get scant attention in the bill (*see related story*).

In one sign of the environmentalists' latest push for carbon limits, the Union of Concerned Scientists March 11 released a letter urging the Senate to act swiftly on reducing carbon emissions.

One source familiar with development of the letter says the recent “Climategate” issue over the veracity of Intergovernmental Panel On Climate Change (IPCC) data on global warming was one motivating factor for scientists who signed the letter, as they felt that the controversy threatens to harm the case for regulating carbon. Still, the source says that signature gathering for the letter was underway before the issue broke.

The letter states, “The most risky thing we can do is nothing,” and embraces the fundamental IPCC conclusions that human activity is warming the planet. The letter also

urges senators to to work toward mandating emissions cuts of 80 percent below current levels by 2050 and 15-20 percent below current levels by 2020.

Signers of the letter also visited the Hill the week of the letters' release to brief staff and talk up the issue with lawmakers. The were accompanied by clean energy companies with operations in Missouri and Arkansas -- two states with senators seen as potential swing votes on climate legislation.

**Mobilization Efforts**

Other efforts to secure carbon limits include mobilization efforts by a coalition including environmentalists, faith, national security and other groups to launch a series of events in the 40 days leading up to Earth Day, billed as a call for an Earth Day Revolution focused on clean energy and climate change. Participants in the effort, which featured a March 11 kickoff event on Capitol Hill, include the League of Conservation Voters, Environment America, Sierra Club, American Hunters and Shooters, Operation Free, and the National Catholic Rural Life Conference.

Natural Resources Defense Council's (NRDC) David Doniger in a recent blog post emphasized the importance of including carbon caps in global warming legislation and criticized the idea of energy-only legislation.

In his post, Doniger cited an NRDC analysis suggesting that energy-only bills would worsen air pollution, create far fewer jobs, fall short on national and energy security, and cost taxpayers more when compared to a bill with a GHG cap. The NRDC analysis relies in part on a University of California Berkeley study stating that a comprehensive bill with a carbon cap would result in 1.9 million net new jobs in 2020, while even the backers of a narrower Senate energy bill approved last year say it would create at most 500,000 jobs over the next decade.

A source familiar with the analysis and its message says, “We are communicating these messages. It is not premised on an assumption on what strategy is up and what strategy is down.”

One environmentalist says that proponents of carbon caps are “cautiously optimistic” that the pending Kerry-Lieberman-Graham proposal will include significant GHG controls.

“We haven't gotten any indication that Kerry, Graham and Lieberman are throwing carbon under the bus," the source says, expressing hopes that the lawmakers will also embrace renewable energy.

Environmentalists express optimism following a March 9 White House meeting of key senators on energy and climate change, saying it appears to show interest in a bill broader than an energy-only measure.

Another environmentalist says the fact the meeting occurred is itself a morale booster for climate bill proponents, and the relatively minimal comments post-meeting from the dozen lawmakers who attended -- besides Kerry, Lieberman and Graham -- could indicate that lawmakers are seriously working to get a deal that includes climate.

**Kerry Cites 'Great Deal Of Consensus'**

After the White House meeting, Kerry told reporters there was “a great deal of consensus” on the need for a policy to boost energy independence, and he added that President Obama made clear during the meeting that it is “critical to have a price on carbon” as the next step in America’s economic recovery.

After that same meeting, Graham also called an energy only bill a recipe for “mediocrity,” said business needs a carbon price, that there are not 60 votes in the Senate for drilling proposals without climate change provisions, and criticized calls for what he has termed a “half-assed” energy bill.

However, the senators declined to offer details on the carbon price mechanism in their legislation. And in remarks unlikely to win broad approval from many anti-drilling environmentalists, Graham said that Republicans wanting to “drill, baby, drill” need to get on board with a comprehensive energy and climate bill.

One day later in a conversation with reporters March 10, Graham delivered an explicit endorsement of the “linked fee” approach being pushed by several major oil companies for imposing a carbon restriction -- but not a hard emissions cap -- on the transportation sector. Graham, however, said it was unclear whether the proposal would be included in the legislation he, Kerry and Lieberman are assembling. “The idea of a linked fee, of taking the oil & gas industry out of the cap-and-trading system, put them under a cap but do a linked fee to do this, to me makes sense.”

Multiple sources within the environmental movement say they are reserving judgment on the pending bipartisan measure until they see the details of the proposal, and say environmentalists could wind up opposing the eventual bill if it makes too many concessions on reducing GHGs or other issues.

A major concern among many environmentalists is that the benefits of the climate change provisions -- such as GHG caps -- would not outweigh the damage done by provisions to promote offshore drilling and other energy supplies that activists oppose. “You stick a carbon cap on a bill, that is not going to get us to favor opening up the Arctic wilderness,” to drilling one source says. “If the carbon cap isn't sufficient that would also be a problem.”

Another informed source also express concerns at recurring calls by some players in the energy debate to work from Senate energy legislation many groups oppose that does not address limits on carbon emissions. In a related vein, there is some speculation that a variety of energy efficiency proposals floated in recent weeks could

be added to the energy bill to provide additional greenhouse gas reductions in the absence of a carbon price if efforts to move a comprehensive climate bill fall short. -- *Doug Obey*

**Midwest power companies pushing Senate for more allocations (*Greenwire*)**

Darren Samuelsohn, E&E senior reporter
03/15/2010
A group of 14 Midwestern electric utilities continued its push today for a different direction on global warming legislation, asking the Senate's lead climate negotiators to get a full economic study on their bill for businesses and consumers in coal-dependent states.

The Midwest Climate Coalition -- an *ad hoc* group that includes MidAmerican Energy Holdings Co., Wisconsin Energy Corp. and Alliant Energy Corp. -- requested the comprehensive economic report from all federal agencies that looks into the costs over the next 20 years from the legislation still being crafted by Sens. John Kerry (D-Mass.), Joe Lieberman (I-Conn.) and Lindsey Graham (R-S.C.).

"We want to make sure the Senate does its due diligence before they write the bill," said Zach Hill, a senior manager for federal affairs at Alliant, a Madison, Wis.-based company that serves about 1 million customers in Wisconsin, Iowa and southern Minnesota.

The Midwest Climate Coalition formed in 2008 in response to an internal agreement forged by the Edison Electric Institute on how investor-owned power companies would prefer a global warming bill distribute valuable emission allowances.

EEI urged a 50-50 split in allocations between companies based on their historic emission levels and retail sales -- an approach adopted in the House-passed climate bill (**H.R. 2454**). But the MCC companies insist the formula should be changed in the Senate to reflect allocations based solely on emissions.

MCC companies have since won support from 14 Senate Democrats who wrote Majority Leader Harry Reid (D-Nev.) last November indicating their vote on the climate bill hinges in part on this issue (*E&ENews PM*, Nov. 12, 2009). Sen. Carl Levin (D-Mich.), a member of that group, met with Kerry on Friday to discuss the legislation, including allocations.

In their letter, the MCC companies suggested that Kerry, Graham and Lieberman obtain more information about how their bill would affect Midwestern electricity rates and reliability, regional and international competitiveness, unemployment and household

income rates and the effect on regional jobs if developing countries like China and India don't adopt their own comparable emission cuts.

During the House debate, the MCC companies complained that lawmakers were using outdated information from before the recession that also didn't go into enough detail on a state-by-state or regional basis.

"Hopefully, they get the message to get through the Midwest you've got to make it fair to us," Hill said.

A Kerry spokeswoman declined comment on the Midwestern utilities' letter. And an EEI official said the group would wait until it sees the Kerry-Graham-Lieberman framework before commenting.

Other members of the MCC are Black Hills Corp., CMS Energy Corp., Detroit Edison Co., Great Plains Energy Inc., MDU Resources Group Inc., Minnesota Power, NiSource Inc., NorthWestern Energy, Oklahoma Gas & Electric Corp., Vectren Corp. and Westar Energy Corp.

**Click here** for the Midwest Climate Coalition's letter.

**ENERGY**
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**Plans for George W. Bush library include wetlands, solar power (*Greenwire*)**

03/15/2010
Plans for the George W. Bush Presidential Center in Dallas include native plants and underground cisterns to catch and recycle rainwater. The building also will get nearly 10 percent of its electricity and all hot water from solar energy.

Groundbreaking on the center, to be located between Southern Methodist University's campus and the North Central Expressway, is expected late this year.

"There's definitely a need for our society to evolve to more sustainable development practices," said Mark Langdale, president of the George W. Bush Foundation. "This is an important national building that could serve as a role model and as an example of using these important sustainable development practices."

The library's creators are hoping to earn a Leadership in Energy and Environmental Design platinum certification. The building will also use energy-efficient windows, heating and air conditioning and window overhangs to offer shade. The landscape is designed to mimic a North Texas ecosystem, with woods, wetlands and a backland

prairie. They will not perfectly restore the native ecosystem, but developers say they will come as close as possible in an urban environment.

Building plans are not complete and questions still remain about whether the building will follow green practices. There are also concerns about whether the landscape will be gardened with organic fertilizers and pesticides (Randy Lee Loftis, *Dallas Morning News*, March 14). **– JP**

**FUEL**
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**Corn ethanol an 'unattractive compliance option' for carbon mandates -- study (*Greenwire*)**

Jenny Mandel, E&E reporter
03/15/2010
The use of corn ethanol in place of gasoline causes enough carbon emissions from land-use changes to cancel immediate tailpipe benefits, according to research published last week that confirms a controversial earlier study.

The analysis examines a hypothesis by Timothy Searchinger and his co-authors published in 2008 in *Science* magazine that says using U.S.-grown corn for fuel triggers commodity price changes that ultimately lead to native ecosystems being destroyed, with a high carbon price tag.

The new study, published in the March issue of *BioScience*, finds much lower emissions from indirect land-use change than the Searchinger paper calculated but still enough to tip the balance away from corn ethanol.

The analysis by Thomas Hertel of Purdue University found that the indirect greenhouse gas releases associated with corn ethanol are 800 grams of carbon dioxide per megajoule, or 27 grams of carbon dioxide per megajoule per year over 30 years of production.

That amount is about a quarter of what Searchinger estimated. "Nonetheless, 800 grams are enough to cancel out the benefits that corn ethanol has on global warming," Hertel wrote.

Hertel said the indirect emissions are in addition to 60 to 65 grams of carbon dioxide equivalent per megajoule in direct emissions from cultivating and processing the fuel. Those emissions are subject to process improvements and farming practice changes that could improve the overall picture, he said.

Hertel concluded corn ethanol has limited potential for use in California's low-carbon fuel standard.

He noted that while both Californian and federal regulators have, like himself, found lower indirect land-use change estimates than Searchinger estimated, the figures have consistently been high enough to make corn ethanol "an unattractive compliance option for mitigating current carbon intensity or meeting fuel-use mandates."

Hertel's analysis uses a different model for the price-mediated market analysis than Searchinger did, relying on a global economic commodity and trade model known as GTAP-BIO, and breaks the globe down into 18 distinct regions.

He also used a different analytical approach than that used by U.S. EPA for its analysis of the renewable fuel standard, a comparative static analysis, and said he welcomes further scientific comparisons of the two strategies.

**GENERAL**

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March 16, 2010

**PROMISES, PROMISES: Is Gov't More Open With Obama? (*Associated Press*)**

**Story also appeared: *New York Times***

By THE ASSOCIATED PRESS
Filed at 6:28 a.m. ET
WASHINGTON (AP) -- Federal agencies haven't lived up to President Barack Obama's promise of a more open government, increasing their use of legal exemptions to keep records secret during his first year in office.

An Associated Press review of Freedom of Information Act reports filed by 17 major agencies found that the use of nearly every one of the law's nine exemptions to withhold information from the public rose in fiscal year 2009, which ended last October.

Among the most frequently used exemptions: one that lets the government hide records that detail its internal decision-making. Obama specifically directed agencies to stop using that exemption so frequently, but that directive appears to have been widely ignored.

Major agencies cited that exemption at least 70,779 times during the 2009 budget year, up from 47,395 times during President George W. Bush's final full budget year, according to annual FOIA reports filed by federal agencies. Obama was president for nine months in the 2009 period.

Departments used the exemption more even though Obama's Justice Department told agencies to that disclosing such records was "fully consistent with the purpose of the FOIA," a law intended to keep government accountable to the public.

For example, the Federal Aviation Administration cited the exemption in refusing the AP's FOIA request for internal memos on its decisions about a database showing incidents in which airplanes and birds collided. The FAA initially tried to withhold the bird-strike database from the public, but later released it under pressure.

The FAA claimed the same exemption to hold back nearly all records on its approval of an Air Force One flyover of New York City for publicity shots -- a flight that prompted fears in the city of a Sept. 11-style attack. It also withheld internal communications during the aftermath of the public relations gaffe.

In all, major agencies cited that or other FOIA exemptions to refuse information at least 466,872 times in budget year 2009, compared with 312,683 times the previous year, the review found. Agencies often cite more than one exemption when withholding part or all of the material sought in an open-records request.

The AP examined the 2008 and 2009 budget year FOIA reports from the departments of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Homeland Security, Housing and Urban Development, Interior, Justice, Labor, State, Transportation, Treasury and Veterans Affairs; the Environmental Protection Agency; and the Federal Reserve Board.

Other FOIA exemptions cover information on national defense and foreign relations, internal agency rules and practices, trade secrets, personal privacy, law enforcement proceedings, supervision of financial institutions and geological information on wells.

One, known as Exemption 3, covers dozens of types of information that Congress shielded from disclosure when passing other laws.

In sentences that are often vaguely worded and buried deep in legislation, Congress has granted a wide array of information special protection over the years: information related to grand jury investigations, the additives in cigarettes, juvenile arrest records, the identities of people applying restricted-use pesticides to their crops, and the locations of historically significant caves are a sampling of the broad range of information the public cannot get under FOIA.

The chairman of the Senate Judiciary Committee, Sen. Patrick Leahy, D-Vt., was so concerned about what he called "exemption creep" that last year he successfully pressed for a new law that requires FOIA exemptions to be "clear and unambiguous."

The federal government cited Exemption 3 protections to withhold information at least 14,442 times in the last budget year, compared with at least 13,599 in the previous one, agency FOIA reports show.

The prolific use of FOIA exemptions is one measure of how far the federal government has yet to go to carry out Obama's promise of openness. His first full day in office, Obama told agencies the Freedom of Information Act, "which encourages accountability through transparency, is the most prominent expression of a profound national commitment to ensuring an open government."

Obama told agencies they shouldn't hide information merely because it might make them look bad. "The presumption of disclosure should be applied to all decisions involving FOIA," Obama wrote.

Following up on Obama's words, the Justice Department advised agencies against withholding records sought under FOIA "merely because an exemption legally applies." Most recently, the White House encouraged agency officials to hold contests, complete with prizes, to encourage employees to promote open government.

Describing the Justice Department's actions on FOIA on Monday at the start of Sunshine Week, when news organizations promote open government and freedom of information, Attorney General Eric Holder said his agency is making progress. He noted that Justice provided everything sought in a FOIA request in more than 1,000 more cases than it had the previous year.

"Put simply, I asked that we make openness the default, not the exception. Today, I'm pleased to report that the disturbing 2008 trend -- a reduction in this department's rate of

disclosures -- has been completely reversed," Holder said. "While we aren't where we need to be just yet, we're certainly on the right path."

Much of the Obama administration's early effort on FOIA seems to have been aimed at clearing out a backlog of old cases: The number of requests still sitting around past the time limits spelled out in the open-records law fell from 124,019 in budget year 2008 to 67,764 at the end of the most recent budget year over the 17 agencies, the AP's review found. There is no way to tell whether those whose old cases that were closed ultimately received the information they sought.

On the Net:

Freedom of Information Act: http://www.justice.gov/oip/04(underscore)7.html

**HAZARDOUS WASTES**

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**Full ash cleanup in Tenn. is impossible, officials say (*Greenwire*)**

03/15/2010
It is technologically impossible to remove all of the coal ash deposited into Tennessee's Emory River from the 2008 Kingston ash spill, federal regulators say.

Leo Francendese, who oversees the emergency cleanup operation for U.S. EPA, said in a memo that the ash removal is entering its final stage. The crew's goal is to remove ash from dredging along the riverbed while also disturbing as little sediment as possible, but Francendese warns that up to 20 percent of the ash will get suspended in the water, then settle on the riverbed after the dredging is complete, making a 100 percent removal impossible.

The cleanup follows a December 2008 spill that deposited 5.4 million cubic yards of coal ash sludge into the Emory River and areas surrounding the Tennessee Valley Authority's Kingston Fossil Plant. Steve McCracken, TVA's cleanup project manager, said that the group's goal is simply to leave the area better than it was before the spill, not to eliminate all of the ash.

A memo from Steve Scott of the U.S. Army Corps of Engineers also offered the possibility that officials would not be able to remove ash that migrated along the Clinch and Tennessee rivers. Bryce Payne, an independent Pennsylvania-based soil scientist, said that it is not a failure to leave some ash behind, since a full removal is "physically impossible."

Officials say they would rather leave some ash in the river than dredge up pollutants like PCBs, dioxins and cesium that are contained in the sediments. However, residents say they need to remove more ash, which contains heavy metals like arsenic, lead, selenium and mercury. It is unclear how the ash will affect the water and surrounding population in the long term (Scott Barker, *Knoxville News Sentinel*, March 14). **-- JP**

**MINING**
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**No hardrock reform this year -- Reid (*Greenwire*)**

Patrick Reis, E&E reporter
03/15/2010
There will be no reform this year of the 1872 law governing hardrock mining, Senate Majority Leader Harry Reid said last week.
The Nevada Democrat told the Elko, Nev., Daily Free Press that he sees a need for reform, but the congressional calendar won't permit it.

"We're just overloaded. We won't have time to get to this," he said. "The mining companies want it, and I want it, but based on the schedule of the Senate, it won't make it this year."

Reid's pronouncement is likely a fatal setback for several mining reform bills. One of those measures, **S. 796**, from Senate Energy and Natural Resources Chairman Jeff Bingaman (D-N.M.), would authorize the Interior Department to establish a royalty of between 2 and 5 percent on new mining operations and charge a new abandoned-mine fee for hardrock operations.

In the House, Natural Resources Chairman Nick Rahall (D-W.Va.) is sponsoring a bill, **H.R. 699**, that calls for a 4 percent gross royalty on minerals taken from existing mining operations and an 8 percent gross royalty on new ones.

Mining for minerals such as copper, uranium and gold remains largely regulated by the 1872 law, which doesn't charge a royalty on extracted minerals or include a mechanism for funding the cleanup of hundreds of abandoned hardrock sites.

"Everyone seems to agree that the Mining Law Act of 1872 is an antique in need of an update," said Bill Wicker, a spokesman for Bingaman. "I think most folks also share Senator Reid's outlook that these changes are not going to happen this year. [He] has acknowledged the reality of a crowded election-year calendar."

With this session ruled out, reform advocates are looking ahead to the 112th Congress.

Lauren Pagel, policy director for the mining watchdog group Earthworks, said reform has bipartisan support and legislation should have the votes it needs regardless of the results of the November elections.

"I think the stars are in alignment at this point, if we can just find time," she said. "It's clear to me that Senator Reid is open to something happening."

But several other sources privately speculated that Reid's decision to delay reform is connected to his tough fight for re-election in 2010.

Several polls have shown Reid running behind Republican primary challengers such as state GOP chairwoman Sue Lowden and area businessman Danny Tarkanian, and federal reform could prove controversial in Nevada, where the industry holds considerable sway in the state's economy and politics.

*Reporter Alex Kaplun contributed.*

**SUPERFUND**
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**EPA reviewing benzene testing at Perdido Superfund site (*al.com*)**

By Connie Baggett
March 15, 2010, 9:28AM
PERDIDO -- Some 45 years after a train derailment spilled benzene in this north Baldwin community, the government is preparing for another review of the Superfund cleanup and hoping to see further decline in the toxic plume.

The five-year review scheduled for this year will be detailed in a report due in December.

"What we've found over the last several reviews is that the plume of benzene in the groundwater has shrunk dramatically," said James Hou, a remedial project manager for the Superfund Division of the Environmental Protection Agency.

Hou said that a 2005 review found that benzene levels had fallen below the target of 5 parts per billion in 32 of 42 monitoring wells. By 2007, testing showed that only three wells still had some level of elevated contamination.

After five years of clean tests, Hou said, the cleanup of the 1965 spill will be deemed successful and closed out.

In the 2010 review, Hou said, workers will see what has transpired since 2005, check for new standards of contamination, examine testing data, inspect the property and interview everyone affected.

The EPA declared the Perdido contamination area as a Superfund site after testing in 1982 confirmed the suspicions of local families that their wells were polluted with the carcinogen.

Carolyn Presley was among the first to approach local and state officials with her fears that water wells had been compromised.

After a lawsuit and subsequent analysis, the EPA got involved.

"Somebody had to do something," Presley said recently, recalling the fight to bring attention to the problem.

The impact zone for the contamination covers a mile around the spill site. Initial testing revealed a plume of benzene in the aquifer some 1,000 feet to the southwest of the site.

Drinking and bathing water trucked in by the National Guard and later by the Coca-Cola Bottling Co. helped households get by until the railroad company paid for a water line to be installed from nearby Atmore.

In 1988, a recovery well field was set up with the plan of pumping out contaminated water, cleaning it and re-injecting it into the aquifer, according to EPA records. The plan changed in 1993 with the treated water being discharged into Perdido Creek.

Benzene is a gasoline additive and industrial solvent and is also used in the pharmaceutical industry. It varies from clear and colorless to light yellow, and has a gasoline-like odor.

Research shows a close link to acute myelogenous leukemia, various other leukemias, blood disorders and diseases of the lymph system. Some common exposures happen through gasoline fumes at filling stations and cigarette smoke.

According to the EPA, the median exposure for most people in nonsmoking households is 2.2 parts per billion. The agency lists no established safe level of exposure.

Federal officials never conclusively linked any health issues in Perdido to the benzene spill. People in the Dyas community, less than five miles from Perdido, still drink from individual wells, most drawing water from the same aquifer contaminated by the 1965 spill. A grant application set for filing this spring to provide municipal water to 71 households in the community could bring them peace of mind, several said.

**TOXICS**
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**EPA To Release Findings on Pet Flea, Tick Powders (*Consumer Affairs*)**

Pet owners invited to participate in EPA Webinar as results are revealed
Wade McCormick
ConsumerAffairs.com
March 16, 2010
The wait is almost over for pet owners who have wondered what action the Environmental Protection Agency (EPA) will take in response to the increasing number of adverse reactions linked to topical flea and tick products.

The EPA on Wednesday (March 17) will finally release the findings of its nearly year-long evaluation of these topical or spot-on flea and tick products, which pet owners say have triggered “horrific” reactions in their dogs and cats.

The EPA will discuss its findings during a free, public Webinar “Evaluation of Pet Spot-on Flea and Tick Products and Next Steps” from 4-6pm EST on Wednesday. Pet owners can submit questions during the session and agency officials will “address” as many as time allows, the EPA said.

The agency announced last April that it was “intensifying” its scrutiny of topical flea and tick products because of the growing number of bad reactions associated with the treatments, including skin irritations, burns, neurological problems, and even deaths.

The EPA told ConsumerAffairs.com last fall that it planned to release its findings in late 2009. But the agency later postponed that action.

"Due to the large amount of data and the complex technical issues associated with the review of the data, our report is not ready for public release,” agency's spokesman, Dale Kemery, told us last December.

The EPA has confirmed that it’s received more than 44,000 reports of harmful reactions associated with topical flea and tick products and documented an uptick in complaints about these treatments from previous years.

ConsumerAffairs.com has also received hundreds of complaints about these products from pet owners nationwide. Dog and cat owners say their pets suffered burns and welts on their skin, started to drool excessively, shake uncontrollable, whimper in agony, lose control of their legs, or experience other neurological problems after using topical flea and tick treatments.

“I applied this product (Sergeant Gold Flea & Tick) to my 14 year-old dog and 12 hours later she was drooling, shaking, and could hardly walk,” Florida pet owner Debra O. told us earlier this month. “There were no dangerous side effects listed on the box. I called

the emergency number on the box and was told (my dog) was having an adverse reaction to the meds.

“I had to give her three baths with dish soap, pour water down her throat, and also give her vitamin E oil,” Debra added. “I am still watching her behavior closely…she is still suffering right now.”

**Outraged**

Debra is outraged that a product linked to so many horrible reactions in pets is still on the market.

“I had no idea or I would have never bought (it) and risked the life of my 14-year-old buddy,” she said. “This product hurts and kills animals. Someone needs to do something.”

Another Florida pet owner told us her dog also experienced a potentially deadly reaction to that same flea and tick product.

“I purchased Sergeant’s Gold Flea and Tick and applied it to my 10.9 pound Yorkie mix,” Shelby T. of North Port, Florida, told us in February. “He suffered seizures and a severe chemical burn. This needs to be taken off the shelves. My poor baby has been in so much pain… this is poison.”

Shelby contacted the company about her dog’s experience, but said Sergeant’s representatives blamed her for the Yorkie’s reaction.

“They (said) I didn't read the label right or misused it,” she told us. “They are crazy. My vet put in writing that this product caused this. The vet said his hair will probably never grow back where the burn is. It is a massive burn.”

A North Carolina pet owner told us in February that her dogs suffered terrible reactions to the topical product she used to protect them from fleas.

“I purchased this product (Sentry Pro XFC) from PetSmart and applied it to my two dogs – Lab and Boxer,” Celia K. of Greenville, North Carolina, said. “That evening the Lab experienced neurologic side effects - his body jerked every 15 seconds.”

Celia contacted the company, which told her to bathe both dogs in dish soap and apply vitamin E oil and cold compresses to the application sites. She heeded that advice, but said the problems continued.

“The following day, my Boxer experienced uncontrollable leg jerking,” she said. “These issues are resolving, but I would never purchase this product and suggest it be pulled off the shelf.”

**Other risks**

But removing topical flea and tick products from store shelves is an option a leading veterinary toxicologist and other experts in the field do not support.

They say an outbreak of fleas and ticks could pose more serious health problems to pets and humans. They also say topical flea and tick products pose minimal risks to pets when used as directed.

A 2009 study by the American Society for the Prevention of Cruelty to Animals (ASPCA) supports that position. The study revealed the majority of illnesses linked to “proper use” of topical flea and tick products are mild -- and cats are more susceptible to illnesses and deaths from the “misuse” of these products.

“The important take-home message is that although adverse reactions can occur with all flea and tick products, most effects are relatively mild and include skin irritation and stomach upset,” said Dr. Steven Hansen, ASPCA veterinary toxicologist and Senior Vice President Animal Health Services. “Pet parents should not discontinue using products as directed by the product label when faced with a flea infestation.”

**Used as directed**

But pet owners have repeatedly told ConsumerAffairs.com that they used the topical flea and tick products according to the manufacturer’s direction. And their dogs and cats still suffered horrifying reactions.

“I bought Sergeant’s Gold Flea & Tick squeeze-on to use on my Min Pin and within one hour of applying to my dog she was convulsing, agitated, scratching, biting, and writhing in pain,” said Chris C. of Florence, Alabama. “Her eyes are swelled up and her head is scratched from her rolling around bumping her head into things as she flails attempting to rid herself of whatever is on her skin.”

Chris immediately bathed the Min Pin in Dawn dishwashing soap, but continues to worry that his “best friend” may never be the same.

“My dog may have seizures or worse health symptoms for life due to this product,” he said. “She was healthy and happy until I applied this poison to her and I'm now petrified at the looming consequences. I want someone to be held accountable.”

On Wednesday, pet owners will learn the results of the EPA’s “intensive evaluation” of topical flea and tick products and what action the agency is taking to ensure the safety of dogs and cats that receive these treatments.

“EPA will present an overview of its evaluation of these products and its plans to further protect pets,” the agency said in a statement about its upcoming Webinar.

Pet owners who want to participate in the agency's Webinar can register online.

More information about the session is available on the EPA's Web site.

**Bit by Bit, EPA Opening Up Toxics Program (*OMB Watch*)**

The Environmental Protection Agency (EPA) has announced it is taking another small step increasing transparency by providing free access to a key database that lists every chemical in commerce. Well…almost every chemical. Of the more than 84,000 chemicals on the Toxic Substances Control Act (TSCA) Chemical Substance Inventory, the identities of almost 17,000 are kept secret because the manufacturers allege the information is confidential business information (CBI). Such CBI claims are widely abused by manufacturers, and with the EPA's acquiescence, large amounts of information are inappropriately withheld from the public.

The EPA has acknowledged that CBI claims under TSCA are a problem and has taken additional steps to curtail the abuse. In January the agency announced it would reject a manufacturer's claim that the chemical identity is secret if the chemical identity already appears publicly in the inventory. This was a sensible move, and it shows that there likely are many other common sense actions the agency can take to improve the public's access to crucial information that should not be kept secret.

Comprehensive TSCA reform legislation is expected to be introduced in Congress any week now (it's been expected any week now for the last several months) and that might help the problem even more. However, EPA's toxics program is not the only program that sees abuses of CBI claims. For example, pesticides are regulated under a different law and illegitimate CBI claims infect that program too, impeding the public from learning what poisons are being applied near them or near sensitive ecosystems (like your drinking water source). EPA gathers information from businesses under a variety of regulations, and the public's right to know about a range of potential harms is impaired by illegitimate and exploitative trade secrets claims.

Before today's action, the list of chemicals was only available for a fee from the Commerce Department. Now the data are available for free in multiple formats from www.data.gov or from the EPA website.

EPA also announced it is planning additional steps to open up the chemical regulatory process. The agency will add TSCA facility information and the list of chemicals manufactured at the facility to the Facility Registry System (FRS). FRS is a database of the thousands of facilities covered by numerous EPA regulations. According to EPA, "The addition of TSCA facility and chemical databases to FRS will provide the public with information on the facilities in their communities using industrial chemicals." No time frame was provided for this action.

(Brian Turnbaugh 03/15/10)

**EPA: Deadline near for lead certification (*Kansas.com*)**

BY KAREN SHIDELER
The Wichita Eagle
Posted on Mon, Mar. 15, 2010
The Environmental Protection Agency is reminding contractors that the deadline is approaching for certification in the new EPA Renovation, Repair and Painting Rule.

The rule requires specific work practices when performing work that disturbs paint in homes, child care facilities or schools built before 1978. The rule was issued April 22, 2008; contractors were given two years go be trained and certified.

Landlords, property managers and their employees are responsible for ensuring compliance with the rule.

More information about the Kansas certification and training program is at www.kshealthyhomes.org.

**First Chinese drywall trial set to begin (*Greenwire*)**

03/15/2010
The first case over toxic Chinese drywall is scheduled to go to trial today, serving as a bellwether for hundreds of lawsuits in which homeowners claim that gases emitted by the drywall have damaged fixtures, destroyed appliances and caused health problems.

U.S. District Judge Eldon Fallon has combined several hundred cases into a single proceeding in federal court in New Orleans. The first case, which will focus on property damage, will set the tone for the hundreds to follow, attorneys said.

It will provide "a remediation protocol to guide future litigants," said Scott Weinstein, a Fort Myers, Fla.-based attorney on the steering committee for plaintiffs in the consolidated proceeding. "This trial is intended to be guidance for the future," he said.

In the case, New Orleans residents Tatum and Charlene Hernandez accuse Knauf Plasterboard Tianjin Co. of negligence, saying the drywall produced by the German-owned, China-based subsidiary was "unsafe, defective and inherently dangerous." The plaintiffs seek damages and reimbursement for the cost of replacing the drywall.

Those costs could total between $8 billion and $10 billion in the thousands of homes allegedly affected by the drywall, according to a recent estimate by the insurance trade publication *National Underwriter* (Duane Marsteller, *Bradenton* [Fla.] *Herald*, March 14).
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**WATER**
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The Associated Press March 15, 2010, 2:34PM

**Wis. board examines limits on phosphorus pollution (*Associated Press*)**

**Story also appeared: *BusinessWeek***

By TODD RICHMOND
MADISON, Wis.
Wisconsin residents may soon pay more to flush the toilet but enjoy cleaner lakes, rivers and streams under a plan to more strictly regulate phosphorus pollution in state waterways.

The state Natural Resources Board is set Tuesday to approve public hearings on tougher limits on the pollution, which can cause algae blooms and fish kills, endanger health and ruin beaches and fishing spots.

Environmental groups have applauded the proposed limits, saying they are long overdue and will help protect the public and state water quality.

"We'll be able to swim in our lakes again. We'll have better fishing. Our water resources will be more attractive for tourism," said George Meyer, executive director of the Wisconsin Wildlife Federation.

Affected industry groups, however, say the cost of adhering to the new standards will be high, and that consumers will be left holding the bill.

The Department of Natural Resources estimates up to 163 municipal wastewater plants may need new filtration systems to comply that could cost a total of $300 million to $1.13 billion.

The Municipal Environmental Group Wastewater Division, which is made up of 95 wastewater plants in small-to-mid-size cities, puts the cost at $1.4 billion to $4.3 billion. Paul Kent, an attorney for the group, said the DNR's figures don't account for smaller facilities that may need to buy more land to set up their new systems or reconfigure their sites.

"This is hugely expensive," Kent said. He said if the state adopts the changes, it has to do more to regulate other sources of phosphorus pollution, such as farms that produce runoff.

Dave Taylor, the director of special projects at the Madison Metropolitan Sewage District, estimates it would cost his district $85 million in new construction plus operating costs to comply with the standards. That would probably mean $40 more a year for typical residential customers on top of what their respective city charges them, he said.

Other industries that would be affected, including paper and food producers, say the proposal would put them at a competitive disadvantage with other states. The DNR estimates that up to 35 such business facilities could face up to $440 million in increased costs under the plan.

"The bottom line is we have to find a way to satisfy the EPA and the environmentalists," said Nick George, the executive director of the Midwest Food Processors Association. "We've been saying we're doing as much as we can financially. We're constantly struggling to bring our phosphorus levels down."

Biologists believe phosphorus, a chemical commonly found in fertilizer and manure, can cause ugly algae blooms and dissolve oxygen in the water, killing fish and insects. The blooms can produce toxins that can cause a host of health problems, including rashes, respiratory irritation, headaches, fever and nausea and potentially cancer, according to the DNR.

The agency considers 172 lakes and streams in the state "impaired waters" because of phosphorus pollution.

The DNR currently limits how much phosphorus individual wastewater facilities can discharge directly into state waters. Agency rules contain a general prohibition on excessive phosphorus in state waters, but don't lay out any hard limits.

The U.S. Environmental Protection Agency has been pushing states for over a decade to impose more precise standards, known as numeric limits, on the total amount of phosphorus allowed in a body of water, but only a few states have done so.

Last year, the EPA imposed standards on a state for the first time after a number of environmental advocacy groups sued to force the agency to take action in Florida. And in November, several groups, including the Sierra Club and the Wisconsin Wildlife Federation, warned the EPA that they also planned to sue in Wisconsin unless action was taken.

Todd Ambs, the DNR's water division administrator, said it took the agency more than a decade to complete its research because the phosphorus pollution issue is so complex. He said the EPA wants strict limits in place in Wisconsin by the end of the year.

Ambs acknowledged the new standards come with a cost. But people already pay for polluted waters through closed beaches, dirty vacation spots and higher treatment costs for tap water, he said.

Peggy McAloon, 62, lives on Tainter Lake in Colfax in northwestern Wisconsin. She says foamy algae that resembles manure and smells like a "barnyard" covers the lake for nearly half the year. Her grandchildren refuse to visit because of the algae, she said.

"Seven months out of the year it's like living in a cathedral. It's spectacular. The other five months are like living in a toxic waste dump," McAloon said. "I applaud the DNR and anything they're trying to do to clean the water."

The rules would be subject to legislative review. Ambs said he hopes to get the package to lawmakers by August.

**Work begins on PCB contaminated sediment in Mich. (*Waste & Recycling News*)**

March 15 -- Work has begun on what the U.S. Environmental Protection Agency calls a "short-term cleanup" of polychlorinated biphenyl contaminated sediment in the St. Clair Shores, Mich., storm sewer drainage system.
The project includes a 10-mile portion of the system as well as two canals that drain into Lake St. Clair, the EPA said. The drain system is "an enclosed concrete sewer about 10 feet below street level," the agency said.

Work will include removal and disposal of the PCB-contaminated sediment that has collected in the drain since 2006 and removal and disposal of sediment from the adjacent sewer outfall that leads to the canals.

Past work has been done to remove PCBs from the drainage system, but the agency has not determined the source of the contamination.

The site recently was proposed to be included on the Superfund Natural Priorities List, the EPA said.

The EPA, in 2006, installed a synthetic liner designed to prevent PCB seepage around the cement drain pipe. Contaminated soil was also removed from several yards or public easements along the drainage system, the EPA said. Despite this work, the EPA said, the source has not been determined.

Contact Waste & Recycling News senior reporter Jim Johnson at 937-964-1289 or jpjohnson@crain.com

**Cardin's Draft Chesapeake Bill Limits Citizen Suits But Fails To Calm Farmers (*Inside EPA*)**

Monday, March 15, 2010
Sen. Ben Cardin (D-MD) has revised his Chesapeake Bay cleanup bill to limit citizen enforcement suits against farmers, but the bill is still under fire from industry critics because it retains broad new permitting authority for states and EPA and does not spare previously exempt farms from citizen suits outright.

The draft Cardin bill obtained by *Inside EPA* says no citizen enforcement suits "shall be brought . . . against an agricultural producer" for permits and other requirements related to the state cleanup plans the bill requires. The bill does not include any similar limitations for other sectors like construction.

A source with the Chesapeake Bay Foundation (CBF) cautions that the bill's exact citizen suit language is still in flux. "The citizen suit provision has been one of the issues that is most controversial . . . the intent is to not change at all the underlying provisions in the Clean Water Act (CWA), with the sole exception of citizens being allowed to sue states for not following their cleanup plans," the source says.

Under the draft bill, anyone can sue a state if it is not following its plan to meet nutrient reductions required by a Bay-wide total daily maximum load (TMDL) EPA is in the process of establishing. A TMDL is a calculation of maximum amount of a pollutant that a waterbody can receive and still meet water quality standards.

To help states implement the cleanup plan, the bill provides them new authority to require strict CWA section 402 permits for "any discharge from a pollution source" located within that state, which would encompass any activity that alters the physical, chemical or biological integrity of jurisdictional waters.

The bill also provides EPA the authority, if states are not meeting cleanup goals, to withhold implementation funds and even take over a state's cleanup program, including requiring 402 permits for some nonpoint sources.

Industry and Republican critics of the legislation say 402 permits are a bad idea for nonpoint sources that have long been exempt from the requirements. "To say that nonpoint sources aren't suited for 402 permits is an understatement," one industry source says.

The critics also fear EPA is eager to exercise its authority to take over state cleanup plans, whereas they are seeking to retain state authority over regulation of nonpoint sources. The industry source argues states ought to retain sole authority over nonpoint sources because nonpoint pollution is highly site-specific, and local authorities are closer to the circumstances they are regulating.

## 'One Tool In The Toolbox'

But the CBF source says the new 402 authority for nonpoint sources is only “one tool in the toolbox” and states “completely” retain the choice of using it. The source also emphasizes EPA’s authority is only a backstop if a state refuses to meet cleanup goals, noting that EPA can only rescind a state’s authority after a “detailed” process that affords the state many opportunities to improve its cleanup results.

In written answers to questions from lawmakers on the Senate Environment & Public Works Committee (EPW), obtained by *Inside EPA* under the Freedom of Information Act, EPA says it “does not envision” withholding funds from states and “fully support[s] the [CWA’s] goal that states be authorized and supported to run effective” permitting programs.

The industry source says the agency is being “artful” in its answers, appearing to favor state authority while downplaying the role of states in the CWA. In that particular passage, EPA is responding to a question from Sen. James Inhofe (R-OK), EPW ranking member, who says he is concerned EPA is ignoring the “congressionally mandated partnership” between EPA and the states. EPA’s response instead calls the balance a “goal” of the water law.

Activists are hoping that funding in the bill for farmers will help proponents mollify strident opposition from agriculture groups. Environmentalists say farmers will still have to make the same pollution reductions regardless of whether the bill passes, but the bill’s funding would make those reductions easier for farmers.

The CBF source hopes implementation funding in the bill will in particular change the attitude of local farmers in the Bay watershed, who are already facing costly pollution reductions and are less likely to care about a national precedent than agriculture trade associations.

While limiting citizen suits, the draft language is still drawing industry criticism because it fails to spare previously exempt farms outright.

## Previous Citizen Suit Exemption

An industry source says under the draft bill, a previously nonpoint source exempt from citizen suits becomes a point source subject to citizen suit enforcement if a state or EPA chooses to exercise its authority under the bill to require a section 402 permit for that source. In that case, a source previously exempt from citizen suits can face citizen suit enforcement just like any point source.

What the bill appears to prevent are citizen enforcement suits over discharges from pollution sources for which the state has not required a section 402 permit, so long as they are following other requirements like nutrient management plans. Even in that

case, “nothing in this provision shields farmers from a suit claiming ‘noncompliance’,” the industry source says.

But while criticizing the bill, industry sources are for the first time praising Cardin, who they say has provided extensive outreach to groups opposed to the bill. “I really mean that -- we appreciate him keeping the dialogue going . . . my hat’s off to him,” the industry source says.

A Cardin spokeswoman says, “The Bay bill is still under discussion and Senator Cardin has been conducting meetings with a variety to stakeholders, including farmers, developers, scientists, local governments and environmentalists. The meetings have been very positive and we making solid progress.”

Cardin’s bill addresses several other criticisms of the bill, like allowing EPA new flexibility to change TMDL pollutant limits in accordance with new scientific research.

The bill says the Bay-wide TMDL shall “be updated as necessary” like it would be under current law. Critics -- and EPA -- had said pollution limits set by the bill would need to be updated to reflect new information, something the original bill did not allow.

Another change is that states may only issue permits for facilities within their boundaries.

**Month long search has netted no Asian carp (*Greenwire*)**

03/15/2010
A team of biologists and fishers has been searching Chicago-area waterways for Asian carp since mid-February but has not turned up any of the invasive fish.

Federal authorities previously said fishers were unlikely to net any of the Asian carp, only a few of which are thought to have passed an electric barrier intended to keep them out of Lake Michigan. But the empty nets will likely discourage federal agencies from closing Chicago-area navigation locks, which could help hold back the carp but would hurt the local shipping industry.

"We'd like physical evidence ... before we are willing to acknowledge that there are fish there," said Charlie Wooley, deputy regional director for the Fish and Wildlife Service.

Environmental DNA testing has detected traces of the fish dozens of times beyond the electric barrier, but only one dead Asian carp has been found. Michigan and several other states have filed a Supreme Court lawsuit against Illinois and the U.S. Army Corps of Engineers, arguing that the ravenous fish would cripple fishing and recreation industries if allowed to enter the Great Lakes.

The latest round of searches has cost tens of thousands of dollars per week. A federal framework unveiled last month set aside $4.6 million for searches, sampling and DNA testing intended to determine the spread of Asian carp.

"It is a waste of time and money," said Tom Marks, New York director of the Great Lakes Sport Fishing Council. "I think they believe that a 'good show' with no results will prove what they have been saying -- there are no carp above the barrier," Marks said. "Very few people ... understand the gear being used and its limitations in the environment it is being used" (Dan Egan, *Milwaukee Journal Sentinel*, March 15). **-- GN**

**EPA: Some Coal Ash to Remain in Emory River (*Clean Skies – Energy & Environment Network*)**

By: Clean Skies News; compiled from other sources, Published: 03/15/10 4:03pm
Federal regulators say it's technologically impossible to remove all the coal ash from the December 2008 Kingston spill from the Emory River.
And that means an undetermined amount of coal ash will remain, even after the cleanup ends.

The leader of EPA's emergency cleanup operation says the removal of ash from the Emory River has entered its final stage. But because dredging along the riverbed stirs up sediments and ash, 5 to 20 percent of the material will remain suspended in the water, then settle back on the riverbed after the dredges move on.

TVA's cleanup project manager tells the Knoxville News Sentinel that doesn't contradict TVA's stated goal of leaving the area better than it was before the accident. In fact, he maintains that water quality "will be better than it was before."

**EPA vows dredging even without GE (*Albany Times Union*)**

Feds say work to remove PCBs from Hudson River will continue in 2011 even if it has to go it alone
By **BRIAN NEARING**, Staff writer
**Click byline for more stories by writer.**
First published: Tuesday, March 16, 2010
FORT EDWARD -- Dredging of PCBs from the Hudson River will continue as planned in 2011, regardless of whether General Electric Co. decides against continuing to pay for and run the cleanup, according to the U.S. Environmental Protection Agency.

EPA will take over work if it has to, a position that the agency has held since reaching the landmark cleanup deal with GE in 2002, said EPA spokeswoman Kristen Skopeck on Monday.

The possibility that GE may not continue the cleanup has been discussed after EPA and GE last week issued reports on the first year of dredging at For Edward that reach widely different conclusions.

GE said the dredging stirred up too much PCBs downriver and cannot be finished safely by 2015 as planned without leaving more PCBs behind in the river. But EPA said there are many more PCBs in the river than initial studies predicted, more dredging is needed and that changes in dredging procedures can keep escaping PCBs at safe levels.

Under the 2002 cleanup agreement signed by GE and EPA, the company can decline to continue dredging -- now projected to resume its second phase in 2011 -- if the company feels the project is not practical or effective.

"Regardless of the decision GE makes about moving forward, EPA is committed to seeing this project is completed," said EPA project administrator Dave King.

"EPA fully reserved all of its enforcement authorities, including its right to direct the company to perform the dredging and/or sue in district court to require GE to perform Phase 2, or to reimburse EPA for its costs if the (EPA) conducts Phase 2 using government funds. EPA's priority is to clean up the Hudson River for future generations in a way that protects the people who live along the river, and we plan to do just that."

GE spokesman Mark Behan said he agreed with King that "there is room for improvement in the design and the standards for the project. Both EPA and GE are pursuing the same goal: A better, more effective dredging project. We hope ongoing technical dialogue with EPA will help us get to the answer."

It is unclear what level of financial obligation for dredging that EPA could potentially assume, although it appears to be in the hundreds of millions of dollars. GE, which is paying for the work, has refused to disclose its budget, although EPA has estimated the project's six-year price tag at about $460 million

In reports issued last week, GE and EPA laid out two very different road maps for future dredging. GE wants to limit dredging to reduce the amount of PCBs that get stirred up, and cover over more river bottom where relatively small amounts of PCBs are difficult to reach. The company raised doubts the project could be done in five years without the changes.

EPA maintains the schedule can be kept even though the amount of toxic PCBs in the river between Fort Edward and Troy is almost triple estimates because "hot spots" were much deeper than predicted. EPA wants to dredge more river bottom more deeply but

with fewer attempts, or "passes," and make changes to dredging and project-related boat traffic to capture more PCBs while causing less stirring up.

The reports go to a panel of independent experts who by June are expected to recommend possible changes to the nation's largest Superfund cleanup project.

Some observers are now questioning whether GE is laying legal groundwork to back away from the project as ineffective. Ned Sullivan, executive director of Scenic Hudson, a river advocacy organization that is part of an EPA citizens group monitoring the dredging, said he is concerned that GE is trying to buttress an argument that the project would resuspend more PCBs than was worth the effort.

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Article published Mar 16, 2010

**Soggy and soaked, the area is flooded (*Worcester Telegram*)**

By Steven H. Foskett Jr. TELEGRAM & GAZETTE STAFF
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After living along the Blackstone for 17 years, Joseph Holland has come to know the rushing river he shares his backyard with pretty well.

From the back porch of his house at 2171 Providence Road in Northbridge yesterday, Mr. Holland pointed to an area where the river, looking ominously high after several days of rain, swirled around a bit.

“That's a wall right there, or what's left of it, really,” Mr. Holland said. “When the level is down, if you walk on it, you can feel it move.”

Mr. Holland pointed to another area to the right of the wall, where the river seemed to also be moving around something.

“There's a big tree stump right there,” he said. “When I look out there and I can't see the tree stump, I know I'm going to get water in the cellar.”

There was no tree stump to be seen yesterday afternoon, as the river leveled off slightly, to about 8-1/2 feet, from its high of almost 9 feet Sunday night. At last count, Mr. Holland estimated he had 6 inches of water in his basement. But as someone who made it through the devastating flooding when the river spilled over its banks in October 2005, Mr. Holland was taking it in stride.

“We're professionals,” he joked, as two of the three pumps he owned whirred down in the cellar. The pumps had been running for a few days, he said.

“It comes right up through the floor, bubbling over,” Mr. Holland said. “It looks like ‘The Beverly Hillbillies.' ”

He said he wasn't too worried about what the night would bring, even though he heard there was still another 1 to 3 inches of rain left in the storm. He had the third pump ready to go, and a generator in reserve, too, in case the power went out.

Others across the region dealing with the pre-spring rain were not so lucky. Clinton saw some substantial flooding that forced the early dismissal at Clinton Elementary School.

Gov. Deval L. Patrick yesterday afternoon declared a statewide state of emergency in response to the impact of the storm.

The declaration enables the governor to take steps to mobilize many of the state's assets, including the National Guard, and to assist local communities in their response and recovery.

Jack Donahue, 76, of 178 College St. in Worcester, was one of those people who had an unpleasant encounter with the weather.

“I just happened to open the shades and looked out,” Mr. Donahue said. “And there it was. I thought, holy mackerel.”

The “it” was a giant limb — about 20 inches in diameter and 20 feet long — that cracked free from a giant oak tree in front of his home overnight during the storm. The limb landed on his car and his wife's car. His wife's car sustained the heaviest damage, with smashed windows and a crunched back end.

Mr. Donahue woke up his wife, Mary, to tell her the news about 7:30 a.m.

“You better get up,” he said. “Wait until you see this.”

Robert L. Moylan Jr., commissioner of Public Works and Parks in Worcester, said the city fared relatively well compared to other communities.

“We've received 3-1/2 to 4 inches of rain since the storm began,” Mr. Moylan said. “We know there are some flooded basements, some streets with poor drainage, but for the most part we've done well.”

Several roads in the region, including Route 117 in Bolton, were closed because of the flooding.

In Westminster, 2-foot-high batter boards on top of Crocker Pond dam broke loose, as

they are designed to do in high water.

“There may have been a surge from that when that broke loose,” said Joshua Hall, director of public works.

Downstream, the bridge on Whitmanville Road near Old Gardner Road was closed because of flooding. Bartherick Road, a gravel road, was also closed because a culvert washed out, as was the end of Overlook Drive, Mr. Hall said.

The Westminster Fire Department pumped out flooded cellars and sandbagged homes where floodwaters threatened, according to Mr. Hall.

In Fitchburg yesterday, John Fitch Highway was blocked off on the north side of Lunenburg Street because of deep water. Falulah Brook, which runs along the highway, swelled over its banks in that area.

Caution tape and barriers had no effect on five drivers in Leominster, who sank their vehicles in a flooded area of the parking lot in the Mall at Whitney Field over the past two days.

Deputy Fire Chief Scott Cordio said firefighters were called out twice yesterday to rescue drivers who attempted to drive through a flooded area of the parking lot and ended up with flooded vehicles. One of the vehicles was an armored car.

The deputy chief said the vehicles ran into an area that has a section of a retention culvert and the vehicles were stalled in about 3 feet of water. The armored car got into trouble about 2 p.m. and had to be towed after the driver was assisted by firefighters. The second occurred about 6 p.m., when a sport utility vehicle drove into the same place.

“There were three cars (Sunday) in exactly the same spot,” Deputy Chief Cordio said.

During the past two days, Monoosnoc Brook has flooded its banks and turned a section of the mall parking lot near the J.C. Penney Store into a pond.

Three days of soaking rain caused four rivers in Central Massachusetts to surge above flood stage, while others were placed at flood warning.

U.S. Army Corps of Engineers spokesman Tim Dugan said yesterday the Ware River at Barre Plains in Barre, the Nashua River at East Pepperell, the Assabet River at Maynard, and the North Nashua River in Fitchburg all rose above flood stage.

The Ware River was about 6 inches over flood stage, he said, while the North Nashua and Nashua rivers were each a foot and a half above flood stage.

The Blackstone was placed on a flood warning. The river reached flood stage in

Woonsocket, R.I., and was at flood warning level in sections that run through Millbury, Northbridge and Uxbridge.

Dams in Central Massachusetts monitored by the U.S. Army Corps of Engineers were in no danger, Mr. Dugan said. No dams were above 50 percent of capacity, meaning that they can accept much more water before spilling over.

The U.S. Environmental Protection Agency issued a warning about the potential hazards of floodwaters, and said contact should be limited because of potentially elevated levels of contamination associated with raw sewage and other hazardous substances. People who come into contact with floodwaters should follow several guidelines, including washing hands thoroughly, making sure vaccinations are up to date, and paying attention to open wounds or cuts.

According to the National Weather Service, it will remain mostly cloudy through this morning, but the skies will gradually clear. Tomorrow's forecast calls for sunny skies with a high near 60 degrees.

*Linda Bock, John J. Monahan, Karen Nugent, George Barnes and Mark E. Ellis of the Telegram & Gazette staff contributed to this report.*

**EPA Reconsiders 2002 Lake Cleanup Plan (*WPTZ News 5*)**

Douglas Feels Vt. Doing Good Job Already
By Heather Van Arsdel
Reporter
hvanarsdel@hearst.com
POSTED: 5:49 pm EDT March 15, 2010
UPDATED: 7:48 pm EDT March 15, 2010
COLCHESTER, Vt. -- The U.S. Environmental Protection Agency is going to reconsider a 2002 plan to clean up lake champlain.
But Buzz Hoerr, the chairman of the Vermont Citizens Advisory Committee on Lake Champlain, said a lot more needs to be done if that's ever going to happen. So he's not opposed to the EPA taking another look at Vermont's pollution goals for the lake.
"If the numbers aren't happening and the results aren't happening then they have every right to come in and reexamine how things are going,"said Hoerr.
The main concern is reducing the amount of phosphorous that reaches the lake and drives algae blooms and weed growth. The biggest cause, Hoerr said, is agriculture.
A recent lawsuit brought by the Conservation Law Foundation claims Vermont's plan isn't working, and that prompted the EPA into agreeing to re-evaluate lake clean-up efforts.

But Governor Jim Douglas feels the state is doing a good job and should be left alone. "It's been successful. Not as quickly as I or others would like but if you look at the latest report from the Lake Champlain Basin program, it will show we have made progress and that we've stabled the amount of phosphorous," said Douglas.
Part of the state's efforts have been building sewer plants and manure pits, regulating construction and educating the public. Still, even tougher anti-pollution steps for Lake Champlain could be costly and include more regulations and put more pressure on dairy farmers who are already hurting financially
Hoerr said an entire overhaul of the program isn't going to do it, but a combined effort from all parties is the best solution.
"I think the best result is the feds continue to apply pressure but bring with it resources to help the state deal with problems and review it on a very regular basis so the state realizes it has to hit it's targets by dates and amounts," said Hoerr.

**Petition asks EPA to take over part of Ky. enforcement of Clean Water Act (*Courier Journal*)**

By James Bruggers • jbruggers@courier-journal.com • March 15, 2010

Environmental groups have petitioned the U.S. Environmental Protection Agency to take over a key part of Kentucky's enforcement of the Clean Water Act, saying state regulators have failed to protect rivers and streams from mining pollution.

The four groups also made public an outside analysis of an EPA survey of streams near mining activities in Kentucky and West Virginia that found 14 of 17 were toxic to aquatic life; eight of those streams are in Eastern Kentucky.

At issue is the state program that regulates sources that directly discharge pollutants into Kentucky waters. The EPA has delegated management of the program to the state while retaining oversight.

"We recognize we are asking EPA to take drastic action," the petition to EPA Administrator Lisa M. Jackson says. "Given the nearly complete breakdown of Kentucky's implementation and enforcement of its (pollution discharge) program, however, withdrawal of (that) program is the only remedy that will bring Kentucky into compliance with the Clean Water Act."

The groups — the Appalachian Center for the Economy and the Environment, Sierra Club, Public Justice and Kentuckians for the Commonwealth — cited numerous problems, including a lack of staffing. For example, they said Kentucky water quality officials have to manage seven times as many permits as their counterparts in West Virginia.

“The problem is much more widespread and more serious than the state admits,” said Tim Guilfoile, a Northern Kentucky resident and Sierra Club representative.

State officials on Monday said they had not seen the petition, nor had they seen the analysis of the EPA water sampling. But they said they are moving to try to meet new EPA demands to reduce water pollution from surface mining.

But R. Bruce Scott, commissioner of the Kentucky Department for Environmental Protection, also acknowledged “severe funding concerns” that have left his agency struggling to meet its obligations. Division of Water, which oversees the pollution discharge program, has lost more than 50 positions in recent years, dropping from more than 300 to about 250, he said.

Gov. Steve Beshear has not included the environment as a top budget priority during the recession.

EPA officials in Atlanta had not seen the petition. When it arrives, they will examine it from a legal and technical perspective and ask the Kentucky Division of Water, part of the state’s environmental-protection department, to respond to the petition’s individual elements, according to an EPA statement.

Since last year, the EPA has promised closer scrutiny of coal mining in the Appalachian Mountains to protect public health and enhance water quality. It said last week that new requirements were on the way, but it would not be specific.

It’s unlikely EPA would take over the program. The agency has never revoked a state’s delegated authority under the Clean Water Act.

Louisville environmental attorney Tom FitzGerald, who was not involved in filing the petition, said EPA would be more likely to try to work with Kentucky to improve any shortcomings, including the funding problem.

“These folks are trying to do their jobs,” he said. “They just don’t have the resources.”

Last week, state officials said they were moving to immediately modify pending water quality permits for 27 mining operations to address EPA concerns, including increasing monitoring and adding provisions to require more stringent pollution controls if problems are found.

Bill Bissett, executive director of the Kentucky Coal Association, called the four groups’ tactics “an attempt to stop Kentucky’s coal production, and the benefits we receive from this abundant and reliable resource.”

He said mining in Kentucky is heavily regulated by both the state and U.S. governments, and he blamed illegal sewage discharges for much of the region’s water pollution.

Carys L. Mitchelmore, an associate professor at the University of Maryland Center for Environmental Science, conducted the analysis of the EPA water toxicity tests.

She looked at the results of tests that expose water fleas to the water samples of various dilutions to see how long the creatures live. The creatures are said to be representative of aquatic life.

At two of these sites — Long Fork and Lower Fork along the Breathitt and Perry county line — levels were more than 50 times what are acceptable by the EPA, Mitchelmore concluded.

EPA officials said they provided raw data to the environmental groups under a Freedom of Information Act Request.

“EPA conducted this … testing to better inform our knowledge about mining impacts,” said Terri A. White, a spokeswoman for the agency’s regional office in Philadelphia. The EPA has not completed its own review of the data, she said.

Reporter James Bruggers can be reached at (502) 582-4645.

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