

Message

**From:** Executive Director [ExecutiveDirector@nationalenergyresources.com]  
**Sent:** 8/10/2018 12:44:01 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group  
(FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** NERO Luncheon Series - Chairman Greg Walden 9/12/18

Please join us! RSVP requested not later than Noon on 9/6/18.

# **National Energy Resources Organization (NERO)**

**Cordially invites you to attend the**

## **2018 NERO Luncheon Series**

**Energy & Commerce Committee**

**Chairman**

**Greg Walden**

**Wednesday, September 12, 2018**

**Doors Open at 11:45 a.m.**

**Hyatt Regency on Capitol Hill**

**400 New Jersey Avenue, NW, Washington, DC**

**RSVP:** ExecutiveDirector@NationalEnergyResources.com or 703-548-1764

*Please Note: Counsel has advised that under House and Senate rules, this event is a "widely attended event".  
Under these rules, only NERO may extend invitations to House or Senate Members or staff to attend this event.*

*Individual members of NERO are not permitted to extend invitations.  
Violations of these rules may result in criminal liability.*

**NERO is a non-profit, non-partisan organization bringing together individuals  
and groups actively engaged in fostering our national energy activities.  
[www.nationalenergyresources.com](http://www.nationalenergyresources.com)**

**NERO Reservation Information**  
**Wednesday, September 12, 2018**  
**Lunch with E & C Committee**  
**Chairman Greg Walden**

*Please RSVP with complete guest lists*  
**no later than 12:00 Noon, Thursday, September 6**  
*Due to contractual obligations, we cannot offer refunds or credits for no-shows,*  
*or for cancellations after this date.*

**Please RSVP by e-mail: [ExecutiveDirector@NationalEnergyResources.com](mailto:ExecutiveDirector@NationalEnergyResources.com)**  
**Or by phone: (703) 548-1764**

**Seating:**

- **Table of 8 @ \$800.00 – Member Rate/Priority Seating (Non-Member Rate \$1,600)**
- **Table of 4 @ \$500.00 – Member Rate/Priority Seating (Non-Member Rate \$1,000)**
- **Individual seat(s) @ \$150.00 - Member Rate/Priority Seating (Non-Member Rate \$300)**
- **Government Employee Member @ \$45.00**

\*NERO is a 501(c)(3). Your payments are tax deductible.

**Register and pay online:**

Visit our website: <http://nationalenergyresources.com/luncheonseries.html>  
Please include names of attendees in the "Notes to Seller" section, or e-mail them to us at  
[ExecutiveDirector@NationalEnergyResources.com](mailto:ExecutiveDirector@NationalEnergyResources.com)

**Register and pay by check:**

Please email names of attendees to us at [ExecutiveDirector@NationalEnergyResources.com](mailto:ExecutiveDirector@NationalEnergyResources.com).  
Send checks, payable to NERO, to NERO, c/o Carole Goeas & Associates, 1707 Prince Street, #5, Alexandria, VA 22314.

***Please Note: Counsel has advised that under House and Senate rules, this event is a "widely attended event".  
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and groups actively engaged in fostering our national energy activities.

<http://nationalenergyresources.com>

Message

---

**From:** Merek, Lindsey J. [Lindsey.Merek@faegrebd.com]  
**Sent:** 3/13/2018 6:55:59 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** RE: Infrastructure Event

Hi Byron,

Apologies for the delayed reply. I will register you for the event and send you the event reminder that went out this morning.

Lindsey J. Merek, CMP

*Meeting & Event Planner*

[lindsey.merek@faegrebd.com](mailto:lindsey.merek@faegrebd.com) Download vCard

US Direct: +1 317 237 1289

UK Direct: +44 (0) 20 7450 4586

**Faegre Baker Daniels LLP**

300 N. Meridian Street | Suite 2700 | Indianapolis, IN 46204, USA

7 Pilgrim Street | London, EC4V 6LB, England

---

**From:** Brown, Byron [mailto:[brown.byron@epa.gov](mailto:brown.byron@epa.gov)]

**Sent:** Monday, March 12, 2018 5:03 PM

**To:** Merek, Lindsey J.

**Subject:** Infrastructure Event

Hi Lindsey – I am interested in attending this week's infrastructure event. Please let me know if that is a possibility. Thanks.

Byron R. Brown

Deputy Chief of Staff for Policy

Office of the Administrator

U.S. Environmental Protection Agency



Message

---

**From:** Jackson, Ryan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=38BC8E18791A47D88A279DB2FEC8BD60-JACKSON, RY]  
**Sent:** 11/8/2017 8:08:45 PM  
**To:** Ford, Hayley [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4748a9029cf74453a20ee8ac9527830c-Ford, Hayle]  
**CC:** Lyons, Troy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=15e4881c95044ab49c6c35a0f5eef67e-Lyons, Troy]; Bowman, Liz [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c3d4d94d3e4b4b1f80904056703ebc80-Bowman, Eli]; Wehrum, William L. [wwehrum@hunton.com]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Harlow, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b5a9a34e31fc4fe6b2beadda2affa44-Harlow, Dav]; Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]; Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]; Vizian, Donna [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cb2401bf8d4f441dbf27f21e122be2c5-Vizian, Donna]  
**Subject:** Re: Timing on Bill Wehrum

Perfect. Thanks.

---

Ryan Jackson  
Chief of Staff  
U.S. EPA  
(202) 564-6999

On Nov 8, 2017, at 1:50 PM, Ford, Hayley <[ford.hayley@epa.gov](mailto:ford.hayley@epa.gov)> wrote:

Let's do the swearing-in in the Administrator's office around 11:45AM/12PM on Monday. I'll have Pruitt come straight here from the airport to do it.

Bill, as we discussed earlier, once you know who is coming from your family, feel free to send their names directly to me so that they can easily get through security. You can have them enter the South building lobby and ask for me when they arrive.

Thanks all!

*Hayley Ford*

Deputy White House Liaison and Personal Aide to the Administrator  
Environmental Protection Agency

[ford.hayley@epa.gov](mailto:ford.hayley@epa.gov)

Phone: 202-564-2022

Cell: Personal Phone / Ex. 6

---

**From:** Jackson, Ryan  
**Sent:** Wednesday, November 8, 2017 2:46 PM  
**To:** Ford, Hayley <[ford.hayley@epa.gov](mailto:ford.hayley@epa.gov)>  
**Cc:** Lyons, Troy <[lyons.troy@epa.gov](mailto:lyons.troy@epa.gov)>; Bowman, Liz <[Bowman.Liz@epa.gov](mailto: Bowman.Liz@epa.gov)>; Wehrum, William L. <[wwehrum@hunton.com](mailto:wwehrum@hunton.com)>; Gunasekara, Mandy <[Gunasekara.Mandy@epa.gov](mailto:Gunasekara.Mandy@epa.gov)>; Harlow, David

<[harlow.david@epa.gov](mailto:harlow.david@epa.gov)>; Dominguez, Alexander <[dominguez.alexander@epa.gov](mailto:dominguez.alexander@epa.gov)>; Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>; Vizian, Donna <[Vizian.Donna@epa.gov](mailto:Vizian.Donna@epa.gov)>

**Subject:** Re: Timing on Bill Wehrum

His presence is important.

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Ryan Jackson  
Chief of Staff  
U.S. EPA  
(202) 564-6999

On Nov 8, 2017, at 1:08 PM, Ford, Hayley <[ford.hayley@epa.gov](mailto:ford.hayley@epa.gov)> wrote:

FYI, the Administrator is flying in Monday morning. Do you want him present for this I believe? If so, can we do 1:45PM or so? If he doesn't need to be here, we can do first thing Monday morning, but I think you want him here.

*Hayley Ford*

Deputy White House Liaison and Personal Aide to the Administrator  
Environmental Protection Agency

[ford.hayley@epa.gov](mailto:ford.hayley@epa.gov)

Phone: 202-564-2022

Cell: Personal Phone / Ex. 6

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**From:** Jackson, Ryan

**Sent:** Wednesday, November 8, 2017 2:05 PM

**To:** Lyons, Troy <[lyons.troy@epa.gov](mailto:lyons.troy@epa.gov)>; Ford, Hayley <[ford.hayley@epa.gov](mailto:ford.hayley@epa.gov)>; Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)>

**Cc:** Wehrum, William L. <[wwehrum@hunton.com](mailto:wwehrum@hunton.com)>; Gunasekara, Mandy <[Gunasekara.Mandy@epa.gov](mailto:Gunasekara.Mandy@epa.gov)>; Harlow, David <[harlow.david@epa.gov](mailto:harlow.david@epa.gov)>; Dominguez, Alexander <[dominguez.alexander@epa.gov](mailto:dominguez.alexander@epa.gov)>; Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)>; Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>; Vizian, Donna <[Vizian.Donna@epa.gov](mailto:Vizian.Donna@epa.gov)>

**Subject:** Re: Timing on Bill Wehrum

All, Bill will arrive Monday for the swearing in. Hayley, we'd like to do it in the Administrator's office. Very short swearing in with Bill's immediate family. Liz, we'll take some shots with the official photographer. We won't need the green room. We'll all be set. Mandy and company can then escort him to the 5th floor. Donna, can we get Bill's computer and accounts set up for his arrival Monday? Thanks all.

---

Ryan Jackson  
Chief of Staff  
U.S. EPA  
(202) 564-6999

On Nov 8, 2017, at 11:13 AM, Lyons, Troy <[lyons.troy@epa.gov](mailto:lyons.troy@epa.gov)> wrote:

Update--

Just locked in 2 votes for 4:15 today, 2<sup>nd</sup> of those vote is cloture on Wehrum, confirmation vote on him shooting for mid-day tomorrow.

Sent from my iPhone

On Nov 8, 2017, at 10:54 AM, Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)> wrote:

If it's early enough Thursday, Byron has a swearing official prepared.

However we can wait until Monday when the Administrator is present to do in his office or green room.

---

Ryan Jackson  
Chief of Staff  
U.S. EPA  
(202) 564-6999

On Nov 8, 2017, at 9:38 AM, Lyons, Troy <[lyons.troy@epa.gov](mailto:lyons.troy@epa.gov)> wrote:

Update

McConnell is hopeful that the cloture vote occurs this evening and confirmation occurs around lunch time tomorrow. That could change, but that is our current hope/plan.

Sent from my iPhone

On Nov 7, 2017, at 11:28 AM, Wehrum, William L. <[wwehrum@hunton.com](mailto:wwehrum@hunton.com)> wrote:

Thanks for the update.

---

**From:** Lyons, Troy  
[<mailto:lyons.troy@epa.gov>]  
**Sent:** Tuesday, November 07, 2017 11:09 AM  
**To:** Jackson, Ryan;  
Gunasekara, Mandy;  
Harlow, David;  
Dominguez, Alexander

**Cc:** Wehrum, William L.  
**Subject:** FW: Timing  
on Bill Wehrum

FYI

---

**From:** Van Doren, Terry  
(McConnell)

[mailto:Terry.VanDoren@mcconnell.senate.gov]

**Sent:** Tuesday,  
November 7, 2017  
11:04 AM

**To:** Lyons, Troy  
<lyons.troy@epa.gov>

**Cc:** Palich, Christian  
<palich.christian@epa.gov>

**Subject:** RE: Timing on  
Bill Wehrum

Still too early to tell, but it may be that we invoke cloture on Wehrum on Thursday, start the 30 hour clock, and then do the confirmation vote upon our return Monday. Still too many moving pieces to know for sure. If we can get him confirmed before we leave this week, we will. Depends on attendance and how much Dems drag their feet on the NLRB nomination.

*Terry Van  
Doren*

Policy Advisor  
Office of Majority  
Leader McConnell  
Washington, DC  
20510  
(202) 224-3135

---

**From:** Lyons, Troy  
[mailto:lyons.troy@epa.gov]  
**Sent:** Tuesday,  
November 7, 2017  
10:48 AM  
**To:** Van Doren, Terry  
(McConnell)  
<Terry\_VanDoren@mcc  
onnell.senate.gov>  
**Cc:** Palich, Christian  
<palich.christian@epa.gov>  
**Subject:** Timing on Bill  
Wehrum

Terry—I wanted to check in to see if Bill’s nomination is still on schedule for being on the floor tomorrow.

I appreciate your help, Terry.

Many thanks,

Troy

---

**Troy M. Lyons**  
Associate Administrator  
Office of Congressional  
& Intergovernmental  
Relations  
U.S. Environmental  
Protection Agency  
[Personal Phone / Ex. 6] (cell)

Message

---

**From:** Ghanta, Venu G [Venu.Ghanta@duke-energy.com]  
**Sent:** 12/27/2017 6:15:25 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group  
(FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** CWA discussion

Hi Byron-

Hope you have had a good holiday. When might be a good time to reschedule our call on CWA issues?

Thanks, Venu



Venu Ghanta  
*Federal Regulatory Affairs Director*  
325 7th Street NW, Suite 300, Washington, DC 20004  
Office: 202-824-8013  
Cell:

Message

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**From:** Jackson, Ryan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=38BC8E18791A47D88A279DB2FEC8BD60-JACKSON, RY]  
**Sent:** 11/8/2017 7:47:16 PM  
**To:** Bowman, Liz [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c3d4d94d3e4b4b1f80904056703ebc80-Bowman, Eli]  
**CC:** Lyons, Troy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=15e4881c95044ab49c6c35a0f5eef67e-Lyons, Troy]; Ford, Hayley [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4748a9029cf74453a20ee8ac9527830c-Ford, Hayle]; Wehrum, William L. [wwehrum@hunton.com]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Harlow, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b5a9a34e31fc4fe6b2beadda2affa44-Harlow, Dav]; Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]; Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]; Vizian, Donna [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cb2401bf8d4f441dbf27f21e122be2c5-Vizian, Donna]; Konkus, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=555471b2baa6419e8e141696f4577062-Konkus, Joh]  
**Subject:** Re: Timing on Bill Wehrum

Yes

---

Ryan Jackson  
Chief of Staff  
U.S. EPA  
(202) 564-6999

On Nov 8, 2017, at 1:19 PM, Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)> wrote:

Got it, looking forward to it.

---

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**Sent:** Wednesday, November 8, 2017 2:05 PM  
**To:** Lyons, Troy <[lyons.troy@epa.gov](mailto:lyons.troy@epa.gov)>; Ford, Hayley <[ford.hayley@epa.gov](mailto:ford.hayley@epa.gov)>; Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)>  
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*Terry Van Doren*  
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Office of Majority Leader  
McConnell  
Washington, DC 20510  
(202) 224-3135

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**Troy M. Lyons**

Associate Administrator  
Office of Congressional &  
Intergovernmental Relations  
U.S. Environmental Protection Agency  
202-309-2490 (cell)

Message

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**From:** Ghanta, Venu G [Venu.Ghanta@duke-energy.com]  
**Sent:** 1/8/2018 10:46:00 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]; Fotouhi, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=febaf0d56aab43f8a9174b18218c1182-Fotouhi, Da]  
**Subject:** RE: CCR-CWA discussion

Great., thanks 4 pm is shaping up as the best option on our end. Does that still work for both of you? How long would you have available?

-----Original Message-----

From: Brown, Byron [mailto:brown.byron@epa.gov]  
Sent: Monday, January 08, 2018 4:36 PM  
To: Ghanta, Venu G; Fotouhi, David  
Subject: RE: CCR-CWA discussion

\*\*\* Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. \*\*\*

Hi Venu -- Maybe Wednesday at 4 or 4:30? - Byron

-----Original Message-----

From: Ghanta, Venu G [mailto:Venu.Ghanta@duke-energy.com]  
Sent: Monday, January 8, 2018 1:50 PM  
To: Brown, Byron <brown.byron@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>  
Subject: CCR-CWA discussion

Byron and David-

Hope you both have had a good start to the new year.

Can we set up some time to talk about CCR-CWA issues when you both are free?

Thanks, Venu

Message

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**From:** Jackson, Ryan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=38BC8E18791A47D88A279DB2FEC8BD60-JACKSON, RY]  
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*Hayley Ford*

Deputy White House Liaison and Personal Aide to the Administrator  
Environmental Protection Agency  
[ford.hayley@epa.gov](mailto:ford.hayley@epa.gov)  
Phone: 202-564-2022  
Cell: 202-306-1296

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**From:** Jackson, Ryan  
**Sent:** Wednesday, November 8, 2017 2:05 PM  
**To:** Lyons, Troy <[lyons.troy@epa.gov](mailto:lyons.troy@epa.gov)>; Ford, Hayley <[ford.hayley@epa.gov](mailto:ford.hayley@epa.gov)>; Bowman, Liz <[Bowman.Liz@epa.gov](mailto: Bowman.Liz@epa.gov)>  
**Cc:** Wehrum, William L. <[wwehrum@hunton.com](mailto:wwehrum@hunton.com)>; Gunasekara, Mandy <[Gunasekara.Mandy@epa.gov](mailto:Gunasekara.Mandy@epa.gov)>; Harlow, David <[harlow.david@epa.gov](mailto:harlow.david@epa.gov)>; Dominguez, Alexander <[dominguez.alexander@epa.gov](mailto:dominguez.alexander@epa.gov)>; Bowman, Liz <[Bowman.Liz@epa.gov](mailto: Bowman.Liz@epa.gov)>; Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>; Vizian, Donna <[Vizian.Donna@epa.gov](mailto:Vizian.Donna@epa.gov)>  
**Subject:** Re: Timing on Bill Wehrum

All, Bill will arrive Monday for the swearing in. Hayley, we'd like to do it in the Administrator's office. Very short swearing in with Bill's immediate family. Liz, we'll take some shots with the official photographer. We won't need the green room. We'll all be set. Mandy and company can then escort him to the 5th floor. Donna, can we get Bill's computer and accounts set up for his arrival Monday? Thanks all.

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Ryan Jackson  
Chief of Staff  
U.S. EPA  
(202) 564-6999

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Update--

Just locked in 2 votes for 4:15 today, 2<sup>nd</sup> of those vote is cloture on Wehrum, confirmation vote on him shooting for mid-day tomorrow.

Sent from my iPhone

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Update

McConnell is hopeful that the cloture vote occurs this evening and confirmation occurs around lunch time tomorrow. That could change, but that is our current hope/plan.

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Thanks for the update.

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**To:** Jackson, Ryan; Gunasekara, Mandy;  
Harlow, David; Dominguez, Alexander  
**Cc:** Wehrum, William L.  
**Subject:** FW: Timing on Bill Wehrum

FYI

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**From:** Van Doren, Terry (McConnell)  
[mailto:Terry\_VanDoren@mcconnell.senate.gov]  
**Sent:** Tuesday, November 7, 2017 11:04  
AM  
**To:** Lyons, Troy <lyons.troy@epa.gov>  
**Cc:** Palich, Christian  
<palich.christian@epa.gov>  
**Subject:** RE: Timing on Bill Wehrum

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*Terry Van Doren*

Policy Advisor  
Office of Majority Leader  
McConnell  
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**Sent:** Tuesday, November 7, 2017 10:48  
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**To:** Van Doren, Terry (McConnell)  
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Terry—I wanted to check in to see if Bill’s nomination is still on schedule for being on the floor tomorrow.

I appreciate your help, Terry.

Many thanks,

Troy

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**Troy M. Lyons**

Associate Administrator  
Office of Congressional &  
Intergovernmental Relations  
U.S. Environmental Protection Agency  
202-309-2490 (cell)

Message

---

**From:** Ghanta, Venu G [Venu.Ghanta@duke-energy.com]  
**Sent:** 11/30/2017 1:23:01 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** Re: Thursday

That makes sense. Is there another date/time that might work?

On Nov 30, 2017, at 7:20 AM, Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)> wrote:

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We're going to need to reschedule. David now has a conflict, and I think it is important that he participate.

---

**From:** Ghanta, Venu G [<mailto:Venu.Ghanta@duke-energy.com>]  
**Sent:** Monday, November 27, 2017 10:10 PM  
**To:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>  
**Subject:** Thursday

Are we confirmed for a call at 1 pm?

Hope you had a good Thanksgiving.



Message

---

**From:** Jackson, Ryan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=38BC8E18791A47D88A279DB2FEC8BD60-JACKSON, RY]  
**Sent:** 11/8/2017 7:04:31 PM  
**To:** Lyons, Troy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=15e4881c95044ab49c6c35a0f5eef67e-Lyons, Troy]; Ford, Hayley [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4748a9029cf74453a20ee8ac9527830c-Ford, Hayle]; Bowman, Liz [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c3d4d94d3e4b4b1f80904056703ebc80-Bowman, Eli]  
**CC:** Wehrum, William L. [wwehrum@hunton.com]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Harlow, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b5a9a34e31fc4fe6b2beadda2affa44-Harlow, Dav]; Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]; Bowman, Liz [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c3d4d94d3e4b4b1f80904056703ebc80-Bowman, Eli]; Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]; Vizian, Donna [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cb2401bf8d4f441dbf27f21e122be2c5-Vizian, Donna]  
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**Cc:** Wehrum, William L.  
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Troy

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**Troy M. Lyons**  
Associate Administrator  
Office of Congressional & Intergovernmental Relations  
U.S. Environmental Protection Agency  
202-309-2490 (cell)

Message

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**From:** Ghanta, Venu G [Venu.Ghanta@duke-energy.com]  
**Sent:** 8/9/2018 1:45:18 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** FW: EPA's deputy chief of staff to depart

Best of luck to you and thanks for your hard work. Hopefully you'll have a chance to grab coffee once you're on the outside.

---

**From:** POLITICO Pro Energy Whiteboard [mailto:politicoemail@politicopro.com]  
**Sent:** Thursday, August 09, 2018 9:17 AM  
**To:** Ghanta, Venu G  
**Subject:** EPA's deputy chief of staff to depart

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By Emily Holden and Alex Guillén

08/09/2018 09:09 AM EDT

Byron Brown, EPA's deputy chief of staff for policy, will depart the agency Friday.

Brown was among the EPA staffers who had formerly worked for Sen. Jim Inhofe (R-Okla.), a list that also includes acting Administrator Andrew Wheeler and chief of staff Ryan Jackson. Brown previously was senior counsel on the Senate Environment and Public Works Committee.

At EPA, Brown worked on the rollback of Obama-era coal ash regulations and on efforts to streamline permitting.

"Byron has been with EPA since day one of the Trump Administration and has been an invaluable member of our staff. We wish him the best on his future endeavors and thank him for his dedication and hard work implementing President Trump's agenda." Wheeler said in a statement.

It was Brown's third stint at the agency, according to his LinkedIn profile. His wife works as a lobbyist for oil and gas company Hess Corporation.

*To view online:*

<https://subscriber.politicopro.com/energy/whiteboard/2018/08/epas-deputy-chief-of-staff-to-depart-1741614>

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**POLITICOPRO**

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This email was sent to venu.ghanta@duke-energy.com by: POLITICO, LLC 1000 Wilson Blvd. Arlington, VA, 22209, USA

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Message

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**From:** DeLaquil, Mark [mdelaquil@bakerlaw.com]  
**Sent:** 7/21/2017 8:32:45 PM  
**To:** Davis, Patrick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7fca02d1ec544fbbbd6fb2e7674e06b2-Davis, Patr]  
**CC:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** RE: CERCLA Financial Responsibility Proposal

Dear Patrick,

I am just emailing to "re-confirm" our meeting next Tuesday, July 25, at 3:00 pm. I look forward to meeting then.

Best regards,

Mark

**Mark DeLaquil**  
Partner

---

**BakerHostetler**

Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
T +1.202.861.1527

mdelaquil@bakerlaw.com  
bakerlaw.com



---

**From:** Davis, Patrick [mailto:davis.patrick@epa.gov]  
**Sent:** Tuesday, June 20, 2017 6:42 PM  
**To:** DeLaquil, Mark; Jackson, Ryan  
**Cc:** Brown, Byron  
**Subject:** RE: CERCLA Financial Responsibility Proposal

Hi Mark,

How about 3 p.m. on July 25?

Thanks,

Patrick Davis  
Environmental Protection Agency  
Deputy Assistant Administrator, Office of Land and Emergency Management  
202-564-3103 office  
202-380-8341 cell

Information sent to this email address may be subject to FOIA.

---

**From:** DeLaquil, Mark [mailto:mdelaquil@bakerlaw.com]  
**Sent:** Tuesday, June 20, 2017 2:50 PM

**To:** Davis, Patrick <[davis.patrick@epa.gov](mailto:davis.patrick@epa.gov)>; Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>

**Cc:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>

**Subject:** RE: CERCLA Financial Responsibility Proposal

Dear Patrick,

Thanks for the response. How does 2:00 pm EDT on July 25 work? If not, is there another time that afternoon that would work? Thanks also for the note about the comment period --- Asarco will be submitting comments by that date as well.

Best regards,

Mark

**Mark DeLaquil**

Partner

---

**BakerHostetler**

Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
T +1.202.861.1527

[mdelaquil@bakerlaw.com](mailto:mdelaquil@bakerlaw.com)  
[bakerlaw.com](http://bakerlaw.com)



---

**From:** Davis, Patrick [<mailto:davis.patrick@epa.gov>]

**Sent:** Monday, June 19, 2017 5:11 PM

**To:** DeLaquil, Mark; Jackson, Ryan

**Cc:** Brown, Byron

**Subject:** RE: CERCLA Financial Responsibility Proposal

Hi Mark,

I am DC on July 25, 26 and 28 and could meet with you. FYI, the comment period for the CERCLA 108 (b) rule making closes on July 11.

Thanks,

Patrick Davis  
Environmental Protection Agency  
Deputy Assistant Administrator, Office of Land and Emergency Management  
202-564-3103 office  
202-380-8341 cell

Information sent to this email address may be subject to FOIA.

---

**From:** DeLaquil, Mark [<mailto:mdelaquil@bakerlaw.com>]

**Sent:** Monday, June 19, 2017 4:46 PM

**To:** Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>

**Cc:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>; Davis, Patrick <[davis.patrick@epa.gov](mailto:davis.patrick@epa.gov)>

**Subject:** RE: CERCLA Financial Responsibility Proposal

Thank you, Ryan, and good to see you as well. I will be in touch later this week to see if we can firm up a specific date.

---

**From:** Jackson, Ryan [mailto:jackson.ryan@epa.gov]  
**Sent:** Monday, June 19, 2017 1:35 PM  
**To:** DeLaquil, Mark  
**Cc:** Brown, Byron; Davis, Patrick  
**Subject:** Re: CERCLA Financial Responsibility Proposal

I'm sorry yes any of us can meet with you on this. Good to see you the other day.

---

Ryan Jackson  
Chief of Staff  
U.S. EPA  
(202) 564-6999

On Jun 15, 2017, at 1:07 PM, DeLaquil, Mark <mdelaquil@bakerlaw.com> wrote:

Dear Ryan,

I hope all is well. I am reaching out concerning EPA's CERCLA financial responsibility proposal. I represent Asarco LLC, which will be filing comments on the proposal. Asarco would also appreciate the opportunity to discuss its concerns with you or another appropriate EPA official.

Duane Yantorno, Asarco's Corporate Manager for State and Federal Regulatory Affairs, will be in Washington from Arizona in late July so I am hoping to schedule the meeting for either July 25, the morning of July 26, or July 28.

Please let me know if any of those dates work schedule-wise. If not, I can propose alternative dates. Also, if there is any other information I can provide to assist, please let me know.

One last note so that you are fully informed, in February I raised the possibility of a meeting with Kevin Minoli. We tabled the issue at that time due to the extension of the comment period.

Best regards,

Mark

**Mark DeLaquil**  
Partner

---

<image002.jpg>  
Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
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<image004.jpg><image006.jpg>

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Office of Congressional & Intergovernmental Relations

U.S. Environmental Protection Agency

202-309-2490 (cell)

Message

---

**From:** Jackson, Ryan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=38BC8E18791A47D88A279DB2FEC8BD60-JACKSON, RY]  
**Sent:** 5/29/2017 6:11:35 PM  
**To:** Kelly, Albert [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=08576e43795149e5a3f9669726dd044c-Kelly, Albe]; rich.gold@hklaw.com; Dimitri.Karakitsos@hklaw.com; roger.martella@ge.com  
**CC:** Fotouhi, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=febaf0d56aab43f8a9174b18218c1182-Fotouhi, Da]; Davis, Patrick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7fca02d1ec544fbbbd6fb2e7674e06b2-Davis, Patr]; Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** introductions

Gentlemen, I would like to make some introductions.

Rich and Dimitri represent the group which the Administrator met with called AROW and Roger is now with General Electric. All these entities have a lot of experience from the PRP side and from the brownfields revitalization side of land clean up and redevelopment.

As we are developing our team within headquarters of career and policy staff to work on the superfund initiatives to get clean ups done in a targeted and quicker manner, convening an outside advisory group of stakeholders from industry and ultimately from other stakeholders and NGOs will be helpful to get broader support and technical expertise.

This introduction is the first step on that to meet jointly, separately, or both to initiate those discussions.

Thanks

Ryan.

Ryan Jackson  
Chief of Staff  
U.S. Environmental Protection Agency  
(202) 564-6999

Message

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**From:** Ghanta, Venu G [Venu.Ghanta@duke-energy.com]  
**Sent:** 1/8/2018 6:49:39 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]; Fotouhi, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=febaf0d56aab43f8a9174b18218c1182-Fotouhi, Da]  
**Subject:** CCR-CWA discussion

Byron and David-

Hope you both have had a good start to the new year.

Can we set up some time to talk about CCR-CWA issues when you both are free?

Thanks, Venu

Message

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**From:** Chizmadia, Thomas A (Irving) USA [Thomas.Chizmadia@lehighhanson.com]  
**Sent:** 7/3/2017 6:00:30 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]; Traylor, Patrick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b6d06c6b766c4b4b8bfd6b0fea4b998-Traylor, Pa]  
**CC:** Rothenstein, Cliff L. (Cliff.Rothenstein@klgates.com) [Cliff.Rothenstein@klgates.com]; James, Patrick (Irving) USA [Patrick.James@LehighHanson.com]; Matz, Tim (Irving) USA [tmatz@htcnam.com]  
**Subject:** Thank You

Dear Byron and Patrick,

A short note of thanks for the time you devoted to our meeting on Friday. We appreciated your willingness to listen and were encouraged that you are open to reviewing the manner in which EPA has used Section 114 of the Clean Air Act as an enforcement tool to establish new permit limits outside of the established rulemaking process. Please let me know if there is anything I can do to assist in that review.

In the interim, if you would like to visit one of our cement manufacturing sites I am happy to arrange that for you. Our Union Bridge, MD plant is within a 90 minute drive from Washington, DC and a tour of the facility would provide a great perspective on the complexity as well as the precision involved in making cement.

Thanks again.

Best,

Tom

**Thomas A. Chizmadia**

Senior Vice President  
Government Affairs and Communications

Lehigh Hanson, Inc.  
300 E. John Carpenter Freeway  
Irving TX 75062

972-653-5631 (direct)

Personal Phone / Ex. 6 (mobile)

469-586-1411 (fax)

[Thomas.Chizmadia@LehighHanson.com](mailto:Thomas.Chizmadia@LehighHanson.com)

Message

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**From:** Ghanta, Venu G [Venu.Ghanta@duke-energy.com]  
**Sent:** 1/10/2018 8:18:49 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]; Fotouhi, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=febaf0d56aab43f8a9174b18218c1182-Fotouhi, Da]  
**Subject:** RE: CCR-CWA discussion

Later today could work. When were you thinking?

-----Original Message-----

From: Brown, Byron [mailto:brown.byron@epa.gov]  
Sent: Wednesday, January 10, 2018 3:09 PM  
To: Ghanta, Venu G; Fotouhi, David  
Subject: RE: CCR-CWA discussion

We now both have a conflict and will need to reschedule. Not sure if later today will work.

-----Original Message-----

From: Ghanta, Venu G [mailto:Venu.Ghanta@duke-energy.com]  
Sent: Wednesday, January 10, 2018 12:01 PM  
To: Brown, Byron <brown.byron@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>  
Subject: RE: CCR-CWA discussion

Yes. I will send a calendar notice shortly with a call-in number.

-----Original Message-----

From: Brown, Byron [mailto:brown.byron@epa.gov]  
Sent: Wednesday, January 10, 2018 11:53 AM  
To: Ghanta, Venu G; Fotouhi, David  
Subject: RE: CCR-CWA discussion

Venu -- confirming we are available at 4 pm and can probably talk for 30 min.

-----Original Message-----

From: Ghanta, Venu G [mailto:Venu.Ghanta@duke-energy.com]  
Sent: Monday, January 8, 2018 5:46 PM  
To: Brown, Byron <brown.byron@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>  
Subject: RE: CCR-CWA discussion

Great., thanks 4 pm is shaping up as the best option on our end. Does that still work for both of you? How long would you have available?

-----Original Message-----

From: Brown, Byron [mailto:brown.byron@epa.gov]  
Sent: Monday, January 08, 2018 4:36 PM  
To: Ghanta, Venu G; Fotouhi, David  
Subject: RE: CCR-CWA discussion

\*\*\* Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. \*\*\*

Hi Venu -- Maybe Wednesday at 4 or 4:30? - Byron

-----Original Message-----

From: Ghanta, Venu G [mailto:Venu.Ghanta@duke-energy.com]  
Sent: Monday, January 8, 2018 1:50 PM  
To: Brown, Byron <brown.byron@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>  
Subject: CCR-CWA discussion

Byron and David-

Hope you both have had a good start to the new year.

Can we set up some time to talk about CCR-CWA issues when you both are free?

Thanks, Venu





Message

---

**From:** DeLaquil, Mark [mdelaquil@bakerlaw.com]  
**Sent:** 5/29/2018 9:07:05 PM  
**To:** Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]; Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** SDWA Aquifer Exemption  
**Attachments:** ATT00001.txt

Dear Ryan and Byron,

I hope all is well.

I am reaching out concerning the status of a longstanding aquifer exemption under the SDWA that, Florence Copper, Inc., which I represent, is relying on for its operations.

We would appreciate the opportunity to meet with you or another appropriate EPA official to discuss issues surrounding that aquifer exemption. Florence Copper has received a permit for a production test facility, as the first step in ultimately beginning full scale operations on a mine that is projected to create \$3.4 billion in economic activity for and nearly 800 jobs in the State of Arizona.

One note so that you are fully informed, there is currently pending regulatory litigation related to the aquifer exemption and Florence Copper's permit. DOJ has granted permission for me to reach out directly to EPA on this matter but has requested that I inform it of the meeting, as it may wish to have an attorney attend.

Thanks for your time.

Best regards,

Mark

**Mark DeLaquil**  
Partner

---

Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
T +1.202.861.1527

mdelaquil@bakerlaw.com  
bakerlaw.com



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Any tax advice in this email is for information purposes only. The content of this email is limited to the matters specifically addressed herein.

and may not contain a full description of all relevant facts or a complete analysis of all relevant issues or authorities.

Internet communications are not assured to be secure or clear of inaccuracies as information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete, or contain viruses. Therefore, we do not accept responsibility for any errors or omissions that are present in this email, or any attachment, that have arisen as a result of e-mail transmission.

The content image001.jpg of type has been blocked.

Message

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**From:** Ghanta, Venu G [Venu.Ghanta@duke-energy.com]  
**Sent:** 11/16/2017 12:12:48 AM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group  
(FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** CCR

You have time to discuss this week?

Message

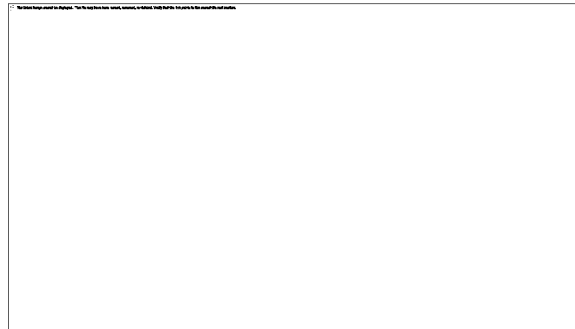
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**From:** Executive Director [ExecutiveDirector@nationalenergyresources.com]  
**Sent:** 7/30/2018 2:16:15 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** Wheels Up Happy Hour - THIS THURSDAY!  
**Attachments:** ATT00001.txt

Hi Byron,

Just a quick reminder of our **WHEELS UP Happy Hour** this week! We have more than 50 Staff RSVPs and have our fingers crossed for beautiful weather. Hope to see you there! Please let us know if you can make it.

**National Energy Resources Organization**



**WHEELS UP**

**Happy Hour**

Thursday, August 2, 2018

5:00 – 7:00 pm

**NRECA Townhouse**

**208 A Street, NE**

Washington, DC

**(By Invitation Only)**

**RSVP (with complete Guest List) by Noon on Thursday, July 26**

**ExecutiveDirector@NationalEnergyResources.com or (703) 548-1764**

**No refunds/credits for cancellations after July 26, or for non-attendance**

- **SPONSOR: 8 Tickets, Sponsor Sign and Name Badge Recognition  
\$1,000 Member ~ \$1,600 Non-Member**
- **4 Tickets \$550 Member ~ \$1,100 Non-Member**
- **Individual Ticket: \$150 Member ~ \$300 Non-Member ~ Government \$45**

**NERO is a 501c(3) organization. Payments are tax-deductible.**

- Register / Pay Online: <http://nationalenergyresources.com/specialevents.html>  
**OR** Check Payable to NERO, 1707 Prince Street, #5, Alexandria, VA 22314
- Please send Guest List to ExecutiveDirector@NationalEnergyResources.com

The content image001.jpg of type has been blocked.



Message

**From:** Executive Director [ExecutiveDirector@nationalenergyresources.com]  
**Sent:** 6/26/2018 8:26:48 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group  
(FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** NERO Luncheon Series - David Banks & Michael Catanzaro - July 12, 2018

Hi Byron,

We hope you will join us on July 12 for our next luncheon. Please RSVP by noon on Friday, July 6.

# **National Energy Resources Organization (NERO)**

**Cordially invites you to attend the  
2018 NERO Luncheon Series**

**Perspectives on U.S. Energy:  
Domestic and International**

**G. David Banks *and*  
Michael Catanzaro**

**Thursday, July 12, 2018**

Doors Open at 11:45 a.m.

**Hyatt Regency on Capitol Hill**  
400 New Jersey Avenue, NW, Washington, DC

**RSVP:** ExecutiveDirector@NationalEnergyResources.com or 703-548-1764

**You will receive an email confirming receipt of your RSVP.**

*Please Note: Counsel has advised that under House and Senate rules, this event is a "widely attended event". Under these rules, only NERO may extend invitations to House or Senate Members or staff to attend this event. Individual members of NERO are not permitted to extend invitations. Violations of these rules may result in criminal liability.*

NERO is a non-profit, non-partisan organization bringing together individuals and groups actively engaged in fostering our national energy activities.

[www.nationalenergyresources.com](http://www.nationalenergyresources.com)

**NERO Reservation Information**  
**Thursday, July 12, 2018**  
**Lunch with G. David Banks and Michael Catanzaro**

*RSVP with complete guest lists*  
**no later than 12:00 Noon, Friday, July 6, 2018.**  
*Due to contractual obligations, we cannot offer refunds or credits for no-shows,*  
*or for cancellations after this date.*

Please RSVP by e-mail: [ExecutiveDirector@NationalEnergyResources.com](mailto:ExecutiveDirector@NationalEnergyResources.com)  
Or by phone: (703) 548-1764

**Seating:**

- \_\_\_\_\_ Table of 8 @ \$800.00 – Member Rate/Priority Seating (Non-Member Rate \$1,600)
- \_\_\_\_\_ Table of 4 @ \$500.00 – Member Rate/Priority Seating (Non-Member Rate \$1,000)
- \_\_\_\_\_ Individual seat(s) @ \$150.00 - Member Rate/Priority Seating (Non-Member Rate \$300)
- \_\_\_\_\_ Government Employee Member @ \$45.00

\*NERO is a 501(c)(3). Your payments are tax deductible.

**Register and pay online:**

Visit our website: <http://nationalenergyresources.com/luncheonseries.html>  
Please include names of attendees in the "Notes to Seller" section, or e-mail them to us at  
[ExecutiveDirector@NationalEnergyResources.com](mailto:ExecutiveDirector@NationalEnergyResources.com)

**Register and pay by check:**

Please email names of attendees to us at [ExecutiveDirector@NationalEnergyResources.com](mailto:ExecutiveDirector@NationalEnergyResources.com).  
Send checks, payable to NERO, to NERO, c/o Carole Goeas & Associates, 1707 Prince Street, #5, Alexandria, VA 22314.

***Please Note: Counsel has advised that under House and Senate rules, this event is a "widely attended event". Under these rules, only NERO may extend invitations to House or Senate Members or staff to attend this event. Individual members of NERO are not permitted to extend invitations. Violations of these rules may result in criminal liability.***

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<http://nationalenergyresources.com>

Message

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**From:** Ghanta, Venu G [Venu.Ghanta@duke-energy.com]  
**Sent:** 1/10/2018 5:00:43 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]; Fotouhi, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=febaf0d56aab43f8a9174b18218c1182-Fotouhi, Da]  
**Subject:** RE: CCR-CWA discussion

Yes. I will send a calendar notice shortly with a call-in number.

-----Original Message-----

From: Brown, Byron [mailto:brown.byron@epa.gov]  
Sent: Wednesday, January 10, 2018 11:53 AM  
To: Ghanta, Venu G; Fotouhi, David  
Subject: RE: CCR-CWA discussion

Venu -- confirming we are available at 4 pm and can probably talk for 30 min.

-----Original Message-----

From: Ghanta, Venu G [mailto:Venu.Ghanta@duke-energy.com]  
Sent: Monday, January 8, 2018 5:46 PM  
To: Brown, Byron <brown.byron@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>  
Subject: RE: CCR-CWA discussion

Great., thanks 4 pm is shaping up as the best option on our end. Does that still work for both of you? How long would you have available?

-----Original Message-----

From: Brown, Byron [mailto:brown.byron@epa.gov]  
Sent: Monday, January 08, 2018 4:36 PM  
To: Ghanta, Venu G; Fotouhi, David  
Subject: RE: CCR-CWA discussion

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Hi Venu -- Maybe Wednesday at 4 or 4:30? - Byron

-----Original Message-----

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Sent: Monday, January 8, 2018 1:50 PM  
To: Brown, Byron <brown.byron@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>  
Subject: CCR-CWA discussion

Byron and David-

Hope you both have had a good start to the new year.

Can we set up some time to talk about CCR-CWA issues when you both are free?

Thanks, Venu

Message

---

**From:** DeLaquil, Mark [mdelaquil@bakerlaw.com]  
**Sent:** 6/18/2018 9:37:09 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** RE: SDWA Aquifer Exemption  
**Attachments:** ATT00001.txt

Dear Byron,

Look forward to meeting Wednesday. If you get a chance, I would appreciate a list of who from EPA will be participating. I will be attending on Florence Copper's behalf as will my co-counsel, George Tsiolis.

Best regards,

Mark

**Mark DeLaquil**  
Partner

---

**BakerHostetler**

Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
T +1.202.861.1527

mdelaquil@bakerlaw.com  
bakerlaw.com



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**From:** Brown, Byron <brown.byron@epa.gov>  
**Sent:** Thursday, June 14, 2018 1:46 PM  
**To:** DeLaquil, Mark <mdelaquil@bakerlaw.com>  
**Subject:** RE: SDWA Aquifer Exemption

OK, thanks. Please come to the EPA north building. Entrance is located near the escalators for the Federal Triangle metro stop. When you reach security, tell guards you are here to see me and I'll come down.

---

**From:** DeLaquil, Mark [mailto:mdelaquil@bakerlaw.com]  
**Sent:** Wednesday, June 13, 2018 5:55 PM  
**To:** Brown, Byron <brown.byron@epa.gov>  
**Subject:** RE: SDWA Aquifer Exemption

Dear Byron,

I can confirm June 20 at 11:30 am. I look forward to meeting then.

Best regards,

Mark

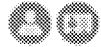
**Mark DeLaquil**

Partner



Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
T +1.202.861.1527

mdelaquil@bakerlaw.com  
bakerlaw.com



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**From:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>  
**Sent:** Tuesday, June 12, 2018 4:20 PM  
**To:** DeLaquil, Mark <[mdelaquil@bakerlaw.com](mailto:mdelaquil@bakerlaw.com)>  
**Subject:** RE: SDWA Aquifer Exemption

Hi Mark – would 11:30 am on Wednesday, June 20 work?

---

**From:** DeLaquil, Mark [<mailto:mdelaquil@bakerlaw.com>]  
**Sent:** Monday, June 11, 2018 5:44 PM  
**To:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>; Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>  
**Subject:** RE: SDWA Aquifer Exemption

Dear Byron,

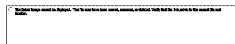
In-person is preferable. Thank you for your efforts setting up the meeting.

Best regards,

Mark

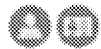
**Mark DeLaquil**

Partner



Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
T +1.202.861.1527

mdelaquil@bakerlaw.com  
bakerlaw.com



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**From:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>  
**Sent:** Monday, June 11, 2018 5:42 PM  
**To:** DeLaquil, Mark <[mdelaquil@bakerlaw.com](mailto:mdelaquil@bakerlaw.com)>; Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>  
**Subject:** RE: SDWA Aquifer Exemption

Hi Mark – I have not forgotten. I am trying to coordinate with one other person, and it will probably be another day before I can get you a date/time but am looking to June 20 for in person otherwise later in the week by phone.

---

**From:** DeLaquil, Mark [<mailto:mdelaquil@bakerlaw.com>]  
**Sent:** Monday, June 11, 2018 5:18 PM  
**To:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>; Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>  
**Subject:** RE: SDWA Aquifer Exemption

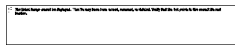
Dear Byron,

Just following back up on this. If an in-person meeting is not feasible, we can do a call instead. Please let me know.

Best regards,

Mark

**Mark DeLaquil**  
Partner



Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
T +1.202.861.1527

[mdelaquil@bakerlaw.com](mailto:mdelaquil@bakerlaw.com)  
[bakerlaw.com](http://bakerlaw.com)



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**From:** DeLaquil, Mark  
**Sent:** Wednesday, June 06, 2018 10:10 AM  
**To:** 'Brown, Byron' <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>; 'Jackson, Ryan' <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>  
**Subject:** RE: SDWA Aquifer Exemption

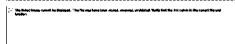
Dear Byron,

I am following up to see if any of the dates that I proposed would work. If not, please let me know and I will find other availability.

Best regards,

Mark

**Mark DeLaquil**  
Partner



Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
T +1.202.861.1527

[mdelaquil@bakerlaw.com](mailto:mdelaquil@bakerlaw.com)  
[bakerlaw.com](http://bakerlaw.com)



---

**From:** DeLaquil, Mark  
**Sent:** Thursday, May 31, 2018 4:26 PM  
**To:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>; Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>  
**Subject:** RE: SDWA Aquifer Exemption

Dear Byron,


I would prefer in person if that works for your schedule. One or more of the other folks working with Florence Copper may join us and I think it would be more productive that way. Please let me know if there is any day on June 13, 14, 18, 19 or 20 that works for your schedule. If not, I will suggest alternative dates.

Best regards,

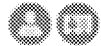
Mark

**Mark DeLaquil**  
Partner

---

  
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T +1.202.861.1527

[mdelaquil@bakerlaw.com](mailto:mdelaquil@bakerlaw.com)  
[bakerlaw.com](http://bakerlaw.com)



---

**From:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>  
**Sent:** Wednesday, May 30, 2018 4:41 PM  
**To:** DeLaquil, Mark <[mdelaquil@bakerlaw.com](mailto:mdelaquil@bakerlaw.com)>; Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>  
**Subject:** RE: SDWA Aquifer Exemption

Hi Mark – Happy to chat. Let me know if you want to discuss in person or over the phone.

---

**From:** DeLaquil, Mark [<mailto:mdelaquil@bakerlaw.com>]  
**Sent:** Tuesday, May 29, 2018 5:07 PM  
**To:** Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>; Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>  
**Subject:** SDWA Aquifer Exemption

Dear Ryan and Byron,

I hope all is well.

I am reaching out concerning the status of a longstanding aquifer exemption under the SDWA that, Florence Copper, Inc., which I represent, is relying on for its operations.

We would appreciate the opportunity to meet with you or another appropriate EPA official to discuss issues surrounding that aquifer exemption. Florence Copper has received a permit for a production test facility, as the first step in ultimately beginning full scale operations on a mine that is projected to create \$3.4 billion in economic activity for and nearly 800 jobs in the State of Arizona.



One note so that you are fully informed, there is currently pending regulatory litigation related to the aquifer exemption and Florence Copper's permit. DOJ has granted permission for me to reach out directly to EPA on this matter but has requested that I inform it of the meeting, as it may wish to have an attorney attend.

Thanks for your time.

Best regards,

Mark

**Mark DeLaquil**  
Partner

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Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
T +1.202.861.1527

mdelaquil@bakerlaw.com  
bakerlaw.com



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The content image001.jpg of type has been blocked.

Message

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**From:** DeLaquil, Mark [mdelaquil@bakerlaw.com]  
**Sent:** 8/3/2017 6:36:15 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** RE: follow up question  
**Attachments:** 2014-10-30 Clean Power Plan NODA.PDF

Dear Byron,

I was thinking of the attached notice that EPA issued in the context of the Clean Power Plan as a model for a supplemental notice for CERCLA 108. I have seen similar models over the year if additional examples would be of assistance. Please let me know.

Best regards,

Mark

**Mark DeLaquil**  
Partner

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**BakerHostetler**

Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
T +1.202.861.1527

mdelaquil@bakerlaw.com  
bakerlaw.com



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**From:** Brown, Byron [mailto:brown.byron@epa.gov]  
**Sent:** Tuesday, August 01, 2017 12:03 PM  
**To:** DeLaquil, Mark  
**Subject:** follow up question

Hi Mark – sorry I had leave the meeting early last week. I just left you a voicemail as well. You mentioned EPA could model a supplemental notice for CERCLA 108 on a CAA supplemental notice. What example were you thinking of? Thanks.

Byron R. Brown  
Deputy Chief of Staff for Policy  
Office of the Administrator  
U.S. Environmental Protection Agency

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 60**

[EPA-HQ-OAR-2013-0602; FRL-9918-53-OAR]

RIN 2060-AR33

**Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of data availability.

**SUMMARY:** The Environmental Protection Agency (EPA) is issuing this notice of data availability (NODA) in support of the proposed rule titled “Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units,” which was published on June 18, 2014. In this document, the EPA is providing additional information on several topics raised by stakeholders and is soliciting comment on the information presented. The three topic areas are the emission reduction compliance trajectories created by the interim goal for 2020 to 2029, certain aspects of the building block methodology, and the way state-specific carbon dioxide (CO<sub>2</sub>) goals are calculated.

**DATES:** Comments must be received on or before December 1, 2014.

**ADDRESSES:** *Comments.* Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2013-0602, by one of the following methods:

*Federal eRulemaking portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.

*Email:* [A-and-R-Docket@epa.gov](mailto:A-and-R-Docket@epa.gov). Include Docket ID No. EPA-HQ-OAR-2013-0602 in the subject line of the message.

*Facsimile:* (202) 566-9744. Include Docket ID No. EPA-HQ-OAR-2013-0602 on the cover page.

*Mail:* Environmental Protection Agency, EPA Docket Center (EPA/DC), Mail code 28221T, Attn: Docket ID No. EPA-HQ-OAR-2013-0602, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

*Hand/Courier Delivery:* EPA Docket Center, Room 3334, EPA WJC West Building, 1301 Constitution Ave. NW., Washington, DC 20004, Attn: Docket ID No. EPA-HQ-OAR-2013-0602. Such deliveries are accepted only during the Docket Center’s normal hours of operation (8:30 a.m. to 4:30 p.m., Monday through Friday, excluding federal holidays), and special arrangements should be made for deliveries of boxed information.

*Instructions:* All submissions must include the agency name and Docket ID number (EPA-HQ-OAR-2013-0602). The EPA’s policy is to include all comments received without change, including any personal information provided, in the public docket, available online at <http://www.regulations.gov>, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or email. Send or deliver information identified as CBI only to the following address: Ms. Amy Vasu, c/o OAQPS Document Control Officer (C404-02), Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA-HQ-OAR-2013-0602. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD-ROM that you mail to the EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information you claim as CBI. In addition to one complete version of the comment that includes information claimed as CBI, you must submit a copy of the comment that does not contain the information claimed as CBI for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

The EPA requests that you also submit a separate copy of your comments to the contact person identified below (see **FOR FURTHER INFORMATION CONTACT**). If the comment includes information you consider to be CBI or otherwise protected, you should send a copy of the comment that does not contain the information claimed as CBI or otherwise protected.

The [www.regulations.gov](http://www.regulations.gov) Web site is an “anonymous access” system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through <http://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to

technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available (e.g., CBI or other information whose disclosure is restricted by statute). Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the EPA Docket Center, EPA WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding federal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742. Visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm> for additional information about the EPA’s public docket.

In addition to being available in the docket, an electronic copy of the proposed rule is posted on the World Wide Web (WWW) at: <http://www2.epa.gov/cleanpowerplan/>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Vasu, Sector Policies and Programs Division (D205-01), U.S. EPA, Research Triangle Park, NC 27711; telephone number (919) 541-0107, facsimile number (919) 541-4991; email address: [vasu.amy@epa.gov](mailto:vasu.amy@epa.gov) or Ms. Marguerite McLamb, Sector Policies and Programs Division (D205-01), U.S. EPA, Research Triangle Park, NC 27711; telephone number (919) 541-7858, facsimile number (919) 541-4991; email address: [mclamb.marguerite@epa.gov](mailto:mclamb.marguerite@epa.gov).

**SUPPLEMENTARY INFORMATION:**

*Organization of This Document.* The information presented in this document is organized as follows:

- I. Background
  - A. Proposed Clean Power Plan
  - B. Purpose of the NODA
  - C. Overview of Topics Discussed in This NODA
- II. Stakeholder Input on Select Topics in the Proposed Rule
  - A. The 2020 to 2029 Glide Path
  - B. Certain Aspects of the Building Block Methodology
  - C. Implementation of the Goal-Setting Equation

### III. Topics Upon Which the EPA Is Soliciting Additional Comment

- A. The 2020 to 2029 Glide Path
- B. Certain Aspects of the Building Block Methodology
- C. Implementation of the Goal-Setting Equation

## I. Background

### A. Proposed Clean Power Plan

Under the authority of Clean Air Act (CAA) section 111(d), on June 18, 2014, the EPA proposed emission guidelines for states to follow in developing plans to address greenhouse gas (GHG) emissions from existing fossil fuel-fired electric generating units (EGUs) (79 FR 34830). The proposed rule, which we refer to as the Clean Power Plan, would continue progress already underway to lower the carbon intensity of power generation in the United States (U.S.). Lower carbon intensity means, for each megawatt-hour (MWh) of generation, fewer emissions of CO<sub>2</sub>, which is a potent greenhouse gas that contributes to climate change. The proposal incorporates critical elements that reflect the information and views shared during what stakeholders have called an unprecedented effort by the EPA, beginning in the summer of 2013, to interact directly with, and solicit input from, a wide range of states and stakeholders. This effort encompassed several hundred meetings across the country with, among others, officials in state environmental and energy agencies, as well as public utility commissions; entities in the electricity sector, including utilities, generators, and system operators; and tribal governments, industry, citizens groups and members of the public. Many participants submitted written material and data to the EPA as well.

### B. Purpose of the NODA

Since publication of the proposal on June 18, 2014, the EPA has held public hearings and has continued outreach to stakeholders. During the week of July 29, 2014, the EPA conducted eight days of public hearings in four cities. Over 1,300 people shared their thoughts and ideas about the proposal, and over 1,400 additional people attended those hearings. Agency officials have also continued to engage with states and stakeholders through meetings, webinars, and conference calls.

The agency has heard a broad range of questions, concerns, and constructive suggestions from stakeholders on how the proposed rule could be improved. Many of these comments and suggestions relate to the array of alternatives presented in the proposed rule. This document is not intended to

address all of the many issues that have been raised; we will summarize and respond to all comments in the final rule. Rather, the purpose of this document is to describe and seek comment on several ideas raised by multiple stakeholders that may go beyond those for which the agency sought comment in the June 18, 2014 proposal. By issuing this notice, we are ensuring that other stakeholders and the public have the opportunity to consider these ideas as they formulate their own comments on the proposal. In section II, we describe the specific issues and ideas raised by stakeholders and explain which of those ideas we consider to be within or possibly beyond the scope of comment already requested. In section III, we further discuss the approaches stakeholders have suggested which go beyond the June 18, 2014 proposal and on which we are seeking comment through this document.

The purpose of this document is to bring these ideas to the attention of other stakeholders and the public and provide commenters with a sense of the way in which the EPA believes these ideas relate to determining the best system of emission reduction (BSER) so that they have the opportunity to consider these ideas as they are formulating their comments on the proposal.

It should be noted that the topics discussed in the NODA interact with each other and some of them could have the effect of increasing the stringency of the BSER as reflected in each state's target, while others could have the impact of decreasing it. The effect of the ideas presented here may have different impacts in different states, increasing the stringency of the BSER as expressed in the state goals in some states while decreasing it in others. The EPA welcomes comment specifically on the potential changes identified in this document in terms both of the rationale for these changes and of their effects on the stringency of the state goals, as well as the ways in which the potential changes interact with each other.

### C. Overview of Topics Discussed in This NODA

Since the June 18, 2014 proposed rule, the EPA has received feedback on a wide range of topics. This feedback includes comments from a significant number of stakeholders that may go beyond the scope of what the EPA originally took comment on in the proposal. The EPA would like to identify these ideas for other stakeholders and the public so that all stakeholders and the public are made aware of these ideas and have the

opportunity to comment on them. The topics that the EPA is seeking additional comment on are: The compliance trajectory or glide path of emission reductions from 2020 to 2029, certain aspects of the building block methodology, and the way the state-specific CO<sub>2</sub> goals are calculated. These issues are described briefly here and discussed in more detail in sections II and III of this document.

Some stakeholders have expressed concern that, as proposed, the interim goals, which govern emission reductions over the 2020–2029 period, do not provide enough flexibility for some states—specifically, states in which building block 2 results in large amounts of the overall required CO<sub>2</sub> reductions relative to other building blocks—to choose measures other than relying heavily on re-dispatch from fossil steam generation (e.g., coal-, oil-, or gas-fired boilers) to natural gas combined cycle (NGCC) units to achieve the required reductions. Further, they have expressed concern that this effect of the interim goals severely limits the opportunity to fully take advantage of the remaining asset value of existing coal-fired generation. Some stakeholders have even suggested that the interim goals would force retirements of coal plants that could make unexpected events such as last winter's polar vortex more challenging to address. As reflected in the proposal, in a world impacted by climate change, such severe weather events are likely to become more frequent. The agency is seeking to ensure that, consistent with the BSER, the overall framework that we have proposed includes sufficient flexibility, particularly with respect to time and emission reduction strategies in meeting the required emission goals, to allow states and sources to readily respond to unexpected changes or demands on the system, such as severe weather. This flexibility also reflects consideration of cost (which could, in part, be reflected in concerns about stranded assets).

In section II.A, the EPA discusses these concerns in more detail, as well as two alternate approaches that have been suggested by stakeholders. We also explain that the original proposal already requests comment on one of these alternative approaches—achieving some reductions earlier than 2020 to allow for a more gradual reduction of emissions between 2020 and 2030. In section III.A, we discuss and solicit comment on another approach offered by stakeholders—the concept of phasing in the reductions required under building block 2 over time, just as

reductions required under building blocks 3 and 4 are phased in over time.

Stakeholders, including states, have also noted concerns with the methodology used for the individual building blocks, particularly building blocks 2 and 3. With respect to building block 2, stakeholders have offered a range of views. Some have commented that this component should be less stringent (i.e., require shifting less utilization from existing coal-fired units to existing NGCC units), some have offered that it should be more stringent (i.e., require shifting more utilization from existing coal-fired units to existing NGCC units), and others have offered that it should be more stringent in some states and less stringent in other states. Some stakeholders have also noted that they believe the higher levels of utilization of existing NGCC units proposed for building block 2 are not feasible in the early years of the 2020–2029 compliance period due to infrastructure constraints and recent significant capital investments at some existing coal-fired units.

Other stakeholders have suggested that focusing solely on increasing utilization of existing NGCC units ignores opportunities for emission reductions from the use of natural gas from states that are not already using natural gas for electricity generation.

With respect to renewable energy (RE), stakeholders have expressed concern about the discrepancy between setting targets based on in-state renewable assets or resources while allowing other states that import renewable energy to count certain amounts of that generation toward their compliance. Some have also expressed concern that the approaches proposed with respect to renewable energy impose greater stringency on states that have already taken action to promote and deploy renewable energy. With respect to nuclear facilities and generation, stakeholders have raised concerns about a variety of aspects of including nuclear power in the goal-setting equation.

In section II.B of this document, the EPA discusses these concerns in more detail, describes alternative approaches put forward by stakeholders and identifies which of these alternative approaches the EPA requested comment on in the original proposal. In section III.B, we discuss and solicit comment on additional concepts stakeholders have suggested for addressing concerns with the methodology used for building blocks 2 and 3. In particular, the EPA requests comment on ways that building block 2 could be expanded to include new NGCC units and natural gas co-

firing in existing coal-fired boilers and ways that state-level RE targets could be set based on regional potential for renewable energy. Although a number of stakeholders have also commented that building block 1 is too stringent, we are not discussing it at length in this document because we have already requested comment on this in the June 18, 2014 proposal. Comments that stakeholders have offered on the treatment of nuclear power are also covered in the June 18, 2014 proposal and, therefore, we do not believe that it is necessary to request additional comment on those ideas in this document.

Stakeholders, including states, have also noted concerns with the way the state-specific CO<sub>2</sub> goals are calculated. These include concerns that the numeric formula for calculating each state's goal is not consistent in its application of the best system of emission reduction (BSER) for building block 2, as compared with building blocks 3 and 4, and concerns with the use of data for the single year 2012. In section II.C, the EPA discusses these concerns in more detail, describes alternatives noted by stakeholders and explains that the original proposal requests comment on some of the potential alternatives suggested by stakeholders. In section III.C we discuss and solicit comment on two ideas suggested by stakeholders: Alternative approaches for the goal-setting equation and alternative uses of data in calculating the goals.

This document is not intended to be a complete summary of the wide variety of ideas that have been raised. The agency has heard many other concepts that are not highlighted in this document because they are covered in the June 18, 2014 proposal.

## II. Stakeholder Input on Select Topics in the Proposed Rule

In this section, the EPA explains some of the concerns, and ideas to address those concerns, that have been raised by multiple stakeholders. We also explain how some of those ideas have already been addressed in the June 18, 2014 proposal and, in section III of this document, we identify the additional new ideas on which the agency is seeking comment.

### A. The 2020 to 2029 Glide Path

Some stakeholders have expressed concern that the goal-setting methodology—in particular, calculating the interim goals on the basis of achieving the shift in generation assumed under building block 2 by 2020—requires states to achieve such a

significant portion of the required CO<sub>2</sub> emission reductions early in the interim period that it defeats the intended purpose of providing states flexibility in how they may achieve the required emission reductions. In addition, we have heard that there may be technical challenges associated with achieving all of the reductions that states would be required to make as early as 2020, when the interim period commences. Stakeholders also have expressed concerns that such a lack of flexibility would prevent them from taking advantage of more cost effective reduction strategies and from ensuring that the energy system can respond to severe weather events such as occurred during the polar vortex in 2014. The EPA is interested in considering additional stakeholder ideas, such as those regarding the 2020–2029 glide path, to ensure that the overall framework includes sufficient flexibility, particularly with respect to timing of and strategies for reducing emissions from the affected units so that states can develop cost-effective strategies, and states, utilities, grid operators and others can readily respond to unexpected changes or demands on the energy system, such as severe weather.

Stakeholders have suggested two ways of addressing these concerns. The first involves allowing credit for early CO<sub>2</sub> emission reductions that could be used to allow flexibility to defer additional CO<sub>2</sub> emission reductions until later in the 2020–2029 period. The second approach involves phasing in building block 2 over time, just as building blocks 3 and 4 are currently phased in.

#### 1. Early Reductions

With regard to the suggestion that early reductions could be used as a way to ease the 2020–2029 glide path, the agency believes that the existing proposal provides both stakeholders and the EPA the latitude to consider this concept. In the proposed rule, the EPA requests comment on a range of possible approaches to this type of credit for early action (79 FR 34918–34919). In the first approach, full accounting of emission reductions continues to begin in 2020 but credit could be received for certain pre-2020 reductions that could be used to reduce the amount of reductions needed during the 2020–2029 period. The EPA also requests comment in the proposed rule on a second approach in which states could choose early (e.g., pre-2020) implementation of state goal requirements, which could provide states with the ability to achieve the

same amount of overall emission reductions but do so by making some reductions earlier (79 FR 34919). The EPA recognizes that some measures may take longer than 2020 to implement, while others can be, and are being, implemented more quickly. Implementation of any of these ideas would allow states or sources to include such reductions in their compliance strategies in lieu of achieving the full measure of reductions otherwise required in 2020 to meet the interim goal, and would thereby result in states and/or sources being able to phase in these reductions.<sup>1</sup> It may be possible for at least some states to take advantage of these approaches by, for example, taking advantage of RE and demand-side energy efficiency (EE) projects already under development and scheduled to be implemented prior to 2020 or by expediting other projects currently scheduled to be implemented after 2020. The EPA is interested in these and other ways to ensure that states continue the progress they are making to reduce CO<sub>2</sub> from the power sector prior to 2020 and that this rule does not create disincentives for those pre-2020 actions.

## 2. Phasing in Building Block 2 and a More Gradual Glide Path

Some stakeholders have stated that significant shifts of generation away from coal-fired generators to NGCC units (as calculated under building block 2 and illustrated in the Regulatory Impact Analysis (RIA) in support of the June 18, 2014 proposal) will be difficult for some states to achieve by 2020 as a result of technical, engineering, and infrastructure limitations or other considerations, and may limit cost-effective options for emission reductions. According to these stakeholders, these concerns exist even though the proposal does not require all emission reductions to be achieved in 2020, but rather provides that the interim goal can be met on an average basis for the 2020–2029 period.

In the proposal, the EPA determined that emission reductions are feasible and achievable at fossil fuel-fired steam EGUs by shifting from more carbon-intensive EGUs to less carbon-intensive EGUs, as part of the BSER.<sup>2</sup> More

specifically, the EPA concluded that, by shifting generation from fossil fuel-fired steam units (which are primarily coal-fired) to NGCC units, up to a utilization of 70% could be achieved by 2020, as part of building block 2 and for purposes of establishing state goals. In contrast, in the approach to building blocks 3 and 4, the EPA concluded that reductions in CO<sub>2</sub> emissions from fossil fuel-fired units associated with increased utilization of RE and EE would be achievable on a phased-in basis between 2020–2029, reflecting the necessary time needed for deployment (79 FR 34866).

We note that the design of the guidelines makes clear that states are not required to reach their targets using precisely the building blocks that EPA used to determine each state's goal. Nevertheless, some stakeholders have expressed concern that it may not be feasible to ensure significantly higher levels of utilization for existing NGCC units that might be required in order to meet the interim state goals because of the time required to improve natural gas pipeline infrastructure in some states, as well as other factors. Stakeholders have also stated that, while some coal-fired units have recently been constructed and many have received significant capital investment (e.g., in the form of pollution control retrofits), some states' interim goals could not be achieved unless these units stop operating by 2020. According to stakeholders, this concern particularly applies for states that have both significant amounts of steam generation and significant amounts of existing NGCC capacity that is not currently being operated at high levels of utilization. While the EPA solicited comment in the proposal broadly on the proposed start date of 2020 (79 FR 34902), the proposal does not discuss specific potential rationales for phasing in dispatch changes under building block 2. Therefore, in this document, the EPA is explicitly requesting comment on that topic. More detail on specific suggestions we have heard from stakeholders is provided in section III.B of this document.

### *B. Certain Aspects of the Building Block Methodology*

While the agency has already received significant feedback on all four building blocks, there are specific comments and concerns regarding particular aspects of the way in which building blocks 2 and 3 were designed that may not have been fully evident in the original proposal and that commenters may want to consider as they prepare their comments.

## 1. Stringency of Building Block 2

With regard to the ultimate stringency of building block 2 (dispatch changes among affected EGUs), stakeholders have offered a wide range of views, with some suggesting that building block 2 should be less stringent, others suggesting that it should be more stringent and still others suggesting changes that could make it more stringent in some states and less stringent in others. Some stakeholders have expressed concerns that it might not be possible for all NGCC units to operate at capacity factors of 70%. Other stakeholders have raised concerns that, with respect to states with large amounts of steam generation, the proposed approach to building block 2 creates significant disparities in state goals between those states with little or no NGCC generating capacity and those with significant amounts of NGCC capacity not currently being used fully. Some stakeholders have also suggested that the EPA's BSER determination should recognize that there are additional opportunities to employ natural gas beyond what the EPA included in the proposed rule: The construction and/or increased utilization of new NGCC units and additional co-firing of natural gas at existing fossil steam units.

In the proposed rule, the EPA invited comment on whether the BSER should include: (1) Increasing utilization of NGCC units that are under construction, from an expected capacity factor of 55% to 70% (reflecting a 15% increase), and displacing generation from fossil fired-steam units by an equivalent amount (79 FR 34876); and (2) co-firing with natural gas (79 FR 34875). In the proposed rule, the EPA also discussed the opportunity to reduce CO<sub>2</sub> emissions at affected EGUs by means of the addition, and greater operation, of new NGCC units (i.e., beyond what is currently under construction). The agency also solicited comment on whether new NGCC units should be included as part of the BSER, and how to define state-level goals based on consideration of new NGCC deployment (79 FR 34876–77).

While the agency requested comment on the use of co-firing of natural gas and the inclusion of new NGCC units, a number of stakeholders have suggested that building block 2 should not focus purely on re-dispatch, but instead should focus more comprehensively or holistically on the use of natural gas as a means of reducing CO<sub>2</sub> from the power sector. This concept may go beyond ideas raised in the original proposal; therefore, the EPA invites comment on

<sup>1</sup> It should be noted that, in the June 2014 proposal, the EPA recognized that programs that are implemented between 2015 and 2020, to the extent that they continue to generate low- or zero-carbon in 2020 and beyond, are beneficial, even in the absence of crediting such emission reductions toward compliance in 2020 because states possessing these programs will be better positioned to comply beginning in 2020 (79 FR 34918).

<sup>2</sup> See 79 FR 34862 for a discussion of the BSER analysis of building block 2.



this idea, as discussed in section III.B.1 of this document.

It is also worth noting that, although the EPA calculated the proposed state goals on the basis of applying building block 2 on a state-by-state basis (under which generation from fossil fuel-fired steam units within the state is shifted to NGCC units within the state), the EPA also invited comment on whether building block 2 should be applied on a regional basis, under which generation from fossil fuel-fired steam units within a region is shifted to NGCC units within the region (79 FR 34865, 34899). The EPA is noting this idea to alert commenters to the fact that it might be another possible mechanism for addressing stakeholders' concerns about the disparity of the impact of building block 2 between states that have already invested significantly in developing NGCC generation and those that have not.

## 2. Methodology for Building Block 3 and How Building Block 3 Targets Relate to Compliance Options

Stakeholders have noted concerns both with the treatment of renewable generation and the treatment of nuclear generation in building block 3.

a. *Approaches for RE target setting.* Stakeholders have raised concerns regarding the renewable energy target-setting component of building block 3, specifically what they describe as a potential misalignment between estimating each state's target based on in-state renewables while allowing use of out-of-state renewables for compliance with state goals.<sup>3</sup> Stakeholders have expressed interest in a target-setting methodology that takes into account interstate exchanges of RE in the calculation of state goals, on the premise that such an approach would better align with existing state RE policies and potential claims on a given state's RE generation by parties from other states (such as renewable energy certificates and power purchase agreements). This feedback has been received both from states that are net suppliers of RE generation to other states and from states that are net consumers of RE generation produced in other states. Some stakeholders have highlighted that the state physically hosting the RE generation in question approved its siting, issued its permits, and may make other claims as to having supported its development and operation and, thus, has a stake in such

renewable resources. Other stakeholders have raised concerns that, due to dynamics of the target-setting calculations related to the in-state nature of targets, the RE target-setting approaches in the June 2014 proposal may require substantially more RE development from states that have already invested considerably in RE while requiring less from states that have not put significant effort into developing RE resources. Some stakeholders suggest that better aligning goal-setting to probable compliance approaches may mitigate some of these potential concerns.

The June 2014 proposed rule included two approaches for RE target-setting. The approach that the EPA proposed established state RE targets premised upon an average of state RPS requirements across states in certain regions (see 79 FR 34866–34869 and Chapter 4 of the technical support document (TSD) titled “GHG Abatement Methods,” Docket ID No. EPA–HQ–OAR–2013–0602–17180). The EPA also requested comment on an alternative approach that used a state-by-state determination of RE targets, based on technical and market potential (see 79 FR 34869–34870 and “Alternative RE Approach Technical Support Document,” Docket ID No. EPA–HQ–OAR–2013–0602–0458).

Both of these approaches focused on the ability to develop renewable generation within a state. At the same time, the EPA proposed that, for compliance, a state could take credit for any RE generation that was related to an enforceable measure in its state, whether that generation originated in its state or in another state. This approach was designed to reflect the nature of existing state policy that allows for compliance with out-of-state generation, such as renewable energy standards (RES).

The proposed rule acknowledged the interstate nature of the electricity system (79 FR 34921–34922), while focusing requests for comment on alternative state plan options that could help states better align interstate RE measures and related emission reductions in their plan with the proposed in-state RE targets that informed their goal.<sup>4</sup> These options included:

(1) Allowing states to participate in multi-state plans to distribute the CO<sub>2</sub> emission reductions among states in the multi-state area equivalent to the total

CO<sub>2</sub> emission reductions of each state's in-state emission reductions from RE measures, or to jointly demonstrate RE-related emission performance, which would make distribution of RE impacts unnecessary (note that these plans may be limited to, for example, RE or RE and EE, or they may encompass all of the building blocks);

(2) allowing states to take into account only RE generation related to emission reductions occurring in-state; and

(3) allowing a state to take credit for out-of-state emission reductions related to RE generation only if the state demonstrates that the generation will not also be credited by the other relevant state(s).

Some stakeholders have suggested a different way to align state goal setting and state compliance through adjusting the state goal-setting method. Consistent with the proposed idea that states could take credit for renewables developed in other states if they were attributable to state policies such as RES programs, these stakeholders have suggested that state targets could be developed by defining regional RE targets, then assigning shares of those regional targets to individual states within the region. We believe this idea lies beyond the scope of the June 18, 2014 proposal; thus, we are sharing this idea more broadly and requesting comment on this idea, which is discussed in more depth in section III.

b. *Inclusion of nuclear units in building block 3.* Stakeholders have provided numerous suggestions about inclusion of nuclear power in the calculation of state goals and as a compliance option. The EPA believes that the topics that stakeholders, including states, have raised related to whether to, and if so, how to, include nuclear units that are currently under construction and at-risk existing nuclear capacity in the calculation of goals are covered in the original proposal (79 FR 34870–34871). We are carefully considering stakeholders comments on these topics and others for which we requested comment in the June 18, 2014 proposal.

## C. Implementation of the Goal-Setting Equation

### 1. Goal-Setting Equation

Some stakeholders have raised concerns that the numeric formula for calculating each state's goal is not consistent in its application of the BSER for building block 2, as compared with building blocks 3 and 4. They state that the goal calculation for building block 2 not only reflects an increase in less carbon-intensive generation, but also

<sup>3</sup> While the June 2014 proposal included two different approaches for quantifying RE targets to inform state goals, both approaches premised RE targets on in-state generation potential.

<sup>4</sup> There is also an extensive discussion of interstate effects and related compliance strategies in section VII of the TSD titled “State Plan Considerations,” Docket ID No. EPA–HQ–OAR–2013–0602–0463.

applies an equal downward adjustment to each state's total existing fossil steam generation level in 2012, reflecting a generation shift away from higher-emitting fossil steam generation and toward lower-emitting NGCC generation. The result is that total generation is held constant, with only the mix of more and less carbon-intensive generation changing.<sup>5</sup> In contrast, they state, the approach in the proposal for incorporating building blocks 3 and 4 in the goal calculations does not reflect shifting generation away from fossil units because the total amount of generation is increased (including "megawatts" from EE as "generation") without any offsetting decrease in generation from 2012 fossil generation levels. Some stakeholders suggest that, by holding existing fossil generation at 2012 levels for purposes of goal calculation and estimating building blocks 3 and 4 independent of the interaction with those existing fossil generation levels, the state goals do not reflect the potential for added generation from building block 3 and avoided generation from building block 4 to shift generation away from existing fossil steam generation below the 2012 level and, therefore, do not reduce generation, and thus emissions, from affected fossil fuel-fired generation in keeping with the EPA's proposed approach to the BSER.

Since the EPA did not address this issue explicitly in the June 2014 proposal, the EPA discusses alternative approaches that have been suggested by stakeholders and solicits comment on these in section III.C of this document so that all stakeholders will have an opportunity to consider these ideas as they prepare their comments.

## 2. Alternatives to the 2012 Data Year

Since publication of the proposed rule, many states and other stakeholders have expressed concern over the use of 2012 as the single data year for calculating interim and final goals. Some states and stakeholders have identified anomalies with generation in their state or at their companies for 2012 that they believe make 2012 an inappropriate base year. At proposal, the EPA considered using average fossil generation and emission rate values over a longer period than a single year. As a result of the goal calculation methodology, the EPA determined that, on average, any potential changes to state goals using a multi-year base year

<sup>5</sup> Note that, in states with under-construction NGCC units, the total fossil generation assumed in the proposed goal-setting equation exceeds the 2012 level due the 55% capacity factor assumed from these new sources.

would be minimal, and would result in increases for some states and decreases for others (see "Goal Computation Technical Support Document" at 4, Docket ID No. EPA-HQ-OAR-2013-0602-0460). Numerous stakeholders have expressed interest in obtaining Emissions and Generation Resource Integrated Database (eGRID) data for years prior to 2012 to foster comparison with results from the 2012 dataset. As is discussed further in section III.C.2 of this document, the EPA is making available the 2010 and 2011 eGRID data and requesting comment on the use of 2010 and 2011 data, in addition to 2012 data, in setting state-specific CO<sub>2</sub> goals.

## III. Topics Upon Which the EPA Is Soliciting Additional Comment

As discussed above, stakeholders, including states, have raised questions or concerns, and provided suggestions, regarding several topics that relate either to the EPA's determination of the BSER or to states' and sources' options for compliance with the rule requirements and, if addressed in the final rule, could result in changes to the stringency of the proposed emission rate-based CO<sub>2</sub> goals, at least for some states. The EPA is identifying these topics to ensure that all stakeholders have the opportunity to consider these topics as they comment on the proposal.

This document is not a comprehensive presentation of the issues raised by stakeholders or under consideration by the EPA. The issues presented here arise from the agency having heard concerns and suggestions raised about the stringency of the CO<sub>2</sub> goals; the timeframe required for complying with those goals and its potential impact on flexibility and cost; and unwanted effects that may arise from the differences between and among state goals. Potential changes to the rule based on any one of these issues could increase or decrease the stringency of the goals or shift stringency levels between and among states.

### A. The 2020 to 2029 Glide Path

It was the EPA's intent in the proposal that, through the inclusion of a ten-year averaging period and other flexibility mechanisms, the interim goals would provide states with a reasonable glide path to compliance with their final goals by 2030. However, as noted in section II.A above, some stakeholders have expressed concerns with the approach that the EPA used to determine states' interim goals and have stated that, notwithstanding the flexibility provided in the proposal, significant shifts of generation away from coal-fired generators to NGCC units (as calculated

under building block 2) will be necessary by 2020 and will be difficult for at least some states to reasonably achieve in that timeframe. To facilitate further consideration of these and other stakeholder concerns about the potential challenges associated with achieving all of the reductions that states may need to obtain as early as 2020, the EPA is seeking comment on two additional specific adjustments to the interim goal calculations, discussed below, that would allow for a more gradual phase-in of building block 2 during the 2020–2029 period.

With regard to the glide path, some stakeholders have also suggested that a phase-in of building block 1 would be appropriate. The EPA is also requesting comment on that idea.

Stakeholders have suggested at least two additional ways that a trajectory for a gradual phase-in could be developed to respond to their concerns. First, a phase-in schedule could be developed for building block 2 on the basis of whether, and to what extent, any additional infrastructure improvements (e.g., natural gas pipeline expansion or transmission improvements) are needed to support more use of existing natural gas-fired generation. To the extent that more infrastructure is needed, the methodology for building block 2 could be modified on the basis of how much utilization shift toward existing NGCC generation would be possible by 2020, by factoring in how quickly additional infrastructure could be developed to support any additional use of natural gas-fired generation by that date. This would result in two parameters, parallel to the way that building blocks 3 and 4 are implemented in the proposal. The first parameter would define an amount of utilization shift to existing natural gas that is feasible by 2020, and the second parameter would define how quickly that amount could grow until the full amount of natural gas utilization could be achieved as part of the BSER.

Second, building block 2 could be modified to respond to stakeholder concerns about the pace with which generation in some states may need to be shifted from higher-emitting to lower-emitting units. In particular, stakeholders have expressed a concern that shifting generation away from existing generating assets, particularly coal-fired EGUs, could, in some situations, result in limiting cost-effective options. As discussed in the proposal (79 FR 34925), due to the flexibility provided by the EPA's approach to establishing state goals, and the flexibility provided to states in developing plans to achieve those goals, the EPA believes that the proposal

provides states the flexibility to specify appropriate requirements for individual EGUs, including coal-fired EGUs, taking into account the potential for stranded investments and other unit-specific factors. However, to the extent that stakeholders are concerned that the tools available to states under the proposal may, in some instances, be inadequate to address concerns regarding stranded investments, an additional way to address these concerns may be for the agency to take account of the book life of the original generation asset, as well as the book life of any major upgrades to the asset, such as major pollution control retrofits. For example, in its modeling, the EPA assumes a book life of 40 years for new coal-fired units.<sup>6</sup> The EPA requests comment on whether, and how, book life might be either used as part of the basis for the development of an alternative emission glide path for building block 2 or used to evaluate whether other ways of developing an alternative glide path (such as the phase-in approaches discussed above) would address stakeholders' stranded investment concerns. The EPA is providing this additional information, arising from stakeholder concerns, to allow additional continued engagement of stakeholders in the comment process.

It is also important to consider that changes to the structure of building blocks 2 and 3, as well as changes to the goal-setting equation discussed below in section III.D, would likely impact the glide path. The EPA continues to welcome other ideas on how to craft a glide path that offers states flexibility while still ensuring that they can achieve the final goals.

#### *B. Certain Aspects of the Building Block Methodology*

This section describes alternative approaches, including approaches based on regional considerations or allocations. In offering these stakeholder ideas for comment, the agency's intent is not to require regional plans. Rather, it is to respond to stakeholder concerns that currently proposed approaches could limit some states' flexibility in meeting the goals. To address this concern, the agency is offering additional stakeholder ideas that could support states' flexibility in achieving the goals. Under any of the approaches, each state would still have the option of submitting an individual CAA section

111(d) plan or of participating in a multi-state CAA section 111(d) plan.

The EPA acknowledges that determining the component of the BSER related to shifting generation from fossil fuel-fired units to renewable units based on regional considerations or allocations among states could result in changes to state's goals relative to a non-regional approach. Furthermore, ultimate decisions about how a source may respond are dependent both on whether a state participates in a regional plan (which could effectively change the impact of the goals across the states involved) and on how a state assigns obligations to sources. The agency is also aware that how states decide to assign reduction obligations in their state plans, as well as a state's decision to develop an individual state plan or to participate in a regional plan, can play a significant role in how sources respond.

#### 1. Stringency of Building Block 2

In section II.B.1 above, we identified stakeholder comments on the treatment of natural gas in building block 2 and described stakeholder suggestions for approaches that are covered in the June 2014 proposal. In this section, we further describe stakeholder comments and also present new approaches for the treatment of natural gas for which the agency is seeking comment. The EPA is providing this additional information, arising from stakeholder concerns, to allow additional continued engagement of stakeholders in the comment process.

Some stakeholders have raised concerns that, with respect to states with large amounts of steam generation, the proposed approach to building block 2 creates significant disparities in state goals between those states with little or no NGCC generating capacity, and those with significant amounts of NGCC capacity not currently being used fully. Stakeholders have also raised concerns that these disparities could result in distortions in regional electricity markets. Some stakeholders have suggested that these disparities could be reduced by increasing the obligation of those states with little or no NGCC generating capacity to employ natural gas beyond what the EPA included in the proposed rule, including the construction and/or increased utilization of new NGCC units and additional co-firing of natural gas at existing fossil steam units.

Greater use of new NGCC units or additional co-firing of natural gas at existing steam boilers could result in changes in natural gas use. Some have argued that if there is increased demand for natural gas for new NGCC units and/

or co-firing, it could add upward pressure on natural gas prices. However, commenters may want to consider whether there are ways to incorporate new NGCC units and co-firing into the BSER that might not result in an overall increase in the amount of natural gas usage. For example, if the EPA adopts the type of more gradual glide path for building block 2 described above in section III.A, increases in natural gas use from new NGCC units and increased co-firing might leave the amount of overall natural gas use similar to what would result from what the EPA proposed in building block 2 (at least in the early years of the glide path).

Some stakeholders have suggested other reasons to consider new NGCC generation and natural gas co-firing as part of building block 2. They note that the incorporation of natural gas as part of the BSER should consider the cost and feasibility of the total amount of natural gas used, as opposed to the extent to which the gas is used for particular types of generation (i.e., existing NGCC generation, new NGCC generation, or co-firing). In the proposal, the EPA concluded that existing NGCC generation, which relies upon existing infrastructure, was the most cost-effective manner in which to base building block 2. However, there may be other important considerations that can shape the relationship of the BSER to natural gas consumption, such as the ability to build new infrastructure and the flexibility that co-firing could provide.

These stakeholders note that this expanded approach would be more consistent with historic NGCC deployment, better reflect growing geographic availability of natural gas supply, contribute to expanded generation fuel diversity in states that currently have relatively little NGCC capacity, and offer more cost-effective emission reductions.

The EPA has identified one potential approach to accommodate these stakeholder suggestions about utilization of new NGCC generation or co-firing, especially in states with little or no existing NGCC capacity, to assist public engagement during the comment process and to solicit more specific comment. This approach would be to include an assumption about some minimum level of generation shift from higher-emitting to lower-emitting sources for all states containing some fossil steam generation in the state goals. In determining this minimum amount, it should be recalled that the proposal indicated a total amount of generation shift from fossil steam to NGCC generation assumed in building

<sup>6</sup> IPM version 5.13 Documentation, Chapter 8, Financial Assumptions, available at: [http://www.epa.gov/airmarkets/progsregs/epa-ipm/docs/v513/Chapter\\_8.pdf](http://www.epa.gov/airmarkets/progsregs/epa-ipm/docs/v513/Chapter_8.pdf).

block 2 for each state.<sup>7</sup> The 2012 eGRID data, used for purposes of setting state goals, reflects the total generation for each state. Dividing the former by the latter provides the percentage of each state's generation that is shifted from higher-emitting to lower-emitting sources. For example, on average, the states that are able to shift fossil steam generation to lower-emitting generation sources shift 55% of their fossil steam generation, on average, under the proposed approach. The lower quartile of these states shift approximately 12% of their fossil steam generation.<sup>8</sup>

The EPA solicits comment on whether to establish some minimum value as a floor for the amount of generation shift for purposes of building block 2, whether that shift takes the form of re-dispatch from steam generation to existing NGCC units, re-dispatch to new NGCC units, or co-firing natural gas in existing coal-fired boilers. The EPA also solicits comment on what that value should be, e.g., the lower quartile value of 12%, or any other value between 0 and the 55% average described above. To illustrate this minimum approach, if the lower quartile value were used, a state with 100 MWh of fossil generation and no existing NGCC generation in 2012 would have a state goal premised on 12 MWh shifting from higher-emitting to lower-emitting NGCC generation.

The EPA also solicits comment on how this approach to add a minimum requirement for states that currently have little or no NGCC capacity should relate to the proposed approach that requires states with significant amounts of unused NGCC capacity to utilize up to 70% of that capacity. Note at the outset that the total nationwide amount of NGCC generation assumed under building block 2 is approximately 1,450 terrawatt-hours (TWh). Should the minimum generation shifts in states with little or no NGCC capacity be in addition to this total amount?

<sup>7</sup> See "Regulatory Impact Analysis for the Proposed Carbon Pollution Guidelines for Existing Power Plants and Emission Standards for Modified and Reconstructed Power Plants" (June 2014). Docket ID No. EPA-HQ-OAR-2013-0602-0391 at 3-24.

<sup>8</sup> This is based on the forty states that had: (1) NGCC capacity in 2012, and (2) some fossil steam generation from which shifting could occur. The 55% and 12% discussed here are non-weighted averages of the percentage fossil steam generation shift observed in each state, the nationwide percentage of fossil steam generation shift assumed was 28%. See "Goal Computation Technical Support Document," Docket ID No. EPA-HQ-OAR-2013-0602-0460, "Appendix 1—State Goal Data and Computation," Docket ID No. EPA-HQ-OAR-2013-0602-0255, and "2012 Unit-level Data Using the eGRID Methodology," Docket ID No. EPA-HQ-OAR-2013-0602-0254.

Alternatively, should the total level of gas use for purposes of building block 2 be held the same? Under the latter approach, the amount of generation from states with higher amounts of NGCC capacity would be reduced in amounts equal to the additional NGCC generation applied to states with zero- or low-NGCC capacity states, for building block 2. This approach would further reduce the disparities between states with little or no NGCC capacity and those with significant amounts of NGCC capacity.

Some stakeholders have made additional observations about natural gas co-firing, in response to the EPA's solicitation of comment in the proposed rulemaking (79 FR 34865). They have brought to the EPA's attention that there are some benefits associated with the co-firing of natural gas with coal that might make it a practical option for consideration in goal setting and compliance in lieu of, or in addition to, shifting from coal-fired steam generating units to NGCC units. For example, stakeholders point out that co-firing can reduce emissions of nitrogen oxides (NO<sub>x</sub>); sulfur dioxide (SO<sub>2</sub>); particulate matter; and hazardous air pollutants, including mercury. Co-firing could also reduce some portion of the costs related to control of these pollutants (depending on the extent of co-firing). Co-firing might also provide additional operational flexibility, particularly for coal-fired units that are regularly used at less than full load or that cycle regularly. Co-firing may allow units to ramp up and down more quickly, which could give a company the opportunity to take advantage of low fuel prices, when they occur, to achieve cost savings. Co-firing could allow additional time for implementation of strategies in state plans that have a lengthier implementation timeframe, such as building up a robust energy efficiency program. Further, co-firing could provide an opportunity to achieve emission reductions at existing higher-emitting units with relatively low levels of capital investment, thereby addressing companies' concerns about stranded assets. It should also be noted that utilities continue to announce conversions or plans to convert coal-fired steam boilers to natural gas.<sup>9</sup> We noted and requested comment on some, but not all, of these observations in the

<sup>9</sup> "Coal unit retirements, conversions continue to sweep through power sector." M. Niven and N. Powell. SNL Financial, Charlottesville, VA. October 14, 2014. Accessed on 10/22/14 at: <https://www.snl.com/InteractiveX/Article.aspx?cid=A-9431641-13357>.

June 18, 2014 proposal (see 79 FR 34875–34876).

We are requesting comment on these aspects of the costs and potential benefits (or offsetting cost advantages) of co-firing natural gas at existing coal plants, to the extent they were not considered or presented for comment in the proposed rule, along with any other additional costs and potential benefits of such co-firing that could be considered in goal setting. In addition, we are requesting comment on other factors or variables that might affect the decision to use natural gas in co-firing at a particular unit (e.g., type, age, or size of a boiler), as well as factors that could limit the amount of co-firing that could be done. For units currently co-firing with natural gas, we request comment on the benefits experienced and the extent to which co-firing is being done.

It should be noted that in its June 2014 proposal, the EPA stated that replacing fossil steam generation with new NGCC units and natural gas co-firing at existing fossil steam units may be considered the BSER for various reasons. New NGCC units and natural gas co-firing at existing fossil steam units may be considered part of a "system of emission reduction," in light of the broad definition of that phrase; for example, the affected sources can themselves undertake those actions (i.e., fossil steam generators may invest in new NGCC units and coal-fired steam generators may co-fire with natural gas); and steam generators may reduce their utilization, which, through the operation of the market, would lead to the construction of new NGCC capacity (see 79 FR 34885–90). In addition, replacing fossil steam generation with new NGCC units and natural gas co-firing at existing fossil steam units are "adequately demonstrated" in light of the extent to which they have already occurred.

As discussed above in section II.B, the June 2014 proposal already solicits comment on an alternative approach to addressing the concern that states with little existing natural gas infrastructure do not have the same opportunities to shift generation to lower-emitting NGCC units. We are highlighting this alternative approach from the June 2014 proposal so that stakeholders can consider whether this approach could address their concerns. Under this approach, regional availability of NGCC generation would be considered rather than just in-state availability of NGCC generation in setting building block 2 targets. Determining the appropriate levels of generation shift under building block 2 in a similar, regional manner—

using either the same regional structure as that defined by the EPA for the RIA of the proposed rule (i.e., six regions whose borders are informed by North American Electric Reliability (NERC) regions and Regional Transmission Organizations (RTOs)) (79 FR 34865 n. 142),<sup>10</sup> or some alternative regional structure—could be another way to mitigate the concerns expressed by stakeholders that building block 2 has little or no effect on certain states with large amounts of coal-fired generation and limited excess NGCC capacity. The EPA seeks comment on the appropriate regional structure to use in such a framework and the appropriate manner in which the goals could be derived and allocated among states.

## 2. Methodology for Building Block 3 and How Building Block 3 Targets Relate to Compliance Options

In section II.B.2 above, we identified stakeholder comments on the renewable energy target-setting component of building block 3 and described two methodological approaches for RE target-setting that are within the scope of the June 2014 proposal. In this section, we provide a conceptual discussion of a third methodological option for RE targets that some stakeholders have suggested and which we refer to here as a regionalized approach. This approach adjusts each state's RE target based on the RE potential available across a multi-state region in which the state is located. Under this approach, a state's goal would be informed by the opportunity to develop out-of-state RE resources as part of its state plan, and thus better align RE targets with the proposal to allow the use of certain out-of-state renewables for compliance, in accordance with stakeholder comments described in section II.B.2. This regionalized approach could group states into regions; aggregate RE generation potential across states within each region; and then reapportion the aggregate identified RE generation to individual states according to criteria that assume regional RE development in which parties in multiple states participate, regardless of the specific state where the generation occurs. One example of this type of regionalized approach would be grouping states into the regional structure shown in the June

2014 proposal<sup>11</sup> (79 FR 34866–34867); for each region, summing the RE target generation identified under the alternative approach in the June 2014 proposal for all states in that region; and then reallocating that summed generation proportionally to each state within that region by a chosen criterion, such as each state's share of total electricity sales within that region in 2012.<sup>12</sup> The EPA requests comment on this regionalized approach for RE target setting, and specifically on the reallocation criterion.

The agency also requests comment on several key methodological assumptions involved in this regionalized approach. First, the EPA requests comment on what the regional structure would be, as well as a justification for that structure. One option would be grouping states together that are currently involved in interstate RE exchanges and are likely to do so in the future, and would include a balance of states that are net suppliers and states that are net consumers of RE generation. We invite comment on how a potential regional structure for this regionalized RE approach could address these concerns.

Regional structures could be informed by NERC regions,<sup>13</sup> FERC Planning Regions,<sup>14</sup> RTOs,<sup>15</sup> current regional renewable energy credit tracking systems,<sup>16</sup> or some other approach. We

<sup>11</sup> The regions were defined as follows, East Central: Delaware, District of Columbia, Maryland, New Jersey, Ohio, Pennsylvania, Virginia, West Virginia; North Central: Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, North Dakota, South Dakota, Wisconsin; Northeast: Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, Vermont; South Central: Arkansas, Kansas, Louisiana, Nebraska, Oklahoma, Texas; Southeast: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee; and West: Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming. Alaska and Hawaii were considered as two individual regions. Because Vermont and the District of Columbia lack affected sources, no goals are being proposed for these jurisdictions.

<sup>12</sup> This criterion could be informed by publicly available data in 2012 Retail Sales of Electricity by State by Sector by Provider, as reported from EIA Form 861, available at: <http://www.eia.gov/electricity/data/state/>

<sup>13</sup> Further information is available at: <http://www.nerc.com/AboutNERC/keyplayers/Pages/Regional-Entities.aspx>.

<sup>14</sup> An illustrative map is provided on p. 4 of the document at the following link: <http://www.ferc.gov/media/news-releases/2011/2011-3/07-21-11-E-6-presentation.pdf>.

<sup>15</sup> Further information and an illustrative map are available at <http://www.ferc.gov/industries/electric/indus-act/rto.asp>.

<sup>16</sup> There are several renewable energy tracking systems that serve to issue and retire renewable energy credits (RECs) across regions in the U.S. More information, including an illustrative map, is available from the U.S. Department of Energy at <http://apps3.eere.energy.gov/greenpower/markets/certificates.shtml?page=3>.

recognize that some of these structures may need to be adjusted to conform to state boundaries for the purposes of informing state goals, and we invite comment on how to do so. In addition, some of these regional structures may yield isolated states, and we seek comment on whether these should be single-state regions or whether adjustments should be made to incorporate such states into multi-state regions. We also cite the regional structure used in the proposed target-setting approach and in compliance modeling as one example of a regional structure that could be used (79 FR 34866–34867). We noted above in section II.B.1, as well as in section III.B.1, that the June 2014 proposal sought comment on a regional approach to building block 2 and provided analysis using a structure informed by NERC regions and RTOs. It may be appropriate to use the same regional structure for building blocks 2 and 3, whether it is the one specified in the block 2 analysis or an alternative structure, particularly if transmission concerns are a primary driver of the structure. The EPA seeks comment on these regional structure considerations.

Second, the EPA requests comment on the criteria that should be used for reapportioning state RE targets within given regions, as well as a justification for those criteria. The agency believes that a useful criterion would provide a simple state-specific quantitative characteristic that reflects interstate patterns to develop RE potential at reasonable cost across a region. Total electricity sales in each state in 2012 is an example of a possible criterion. Another possible criterion is total generation in each state in 2012. The EPA requests comment on other possible criteria.

Third, the EPA requests comment on what components of the state RE targets should be regionalized under such an approach. For example, a regional approach may or may not apply to the entirety of each state's RE target from the alternative approach in the June 2014 proposal; the generation that would be reallocated across states in a given region may or may not include existing generation (as of 2012), incremental generation (beyond 2012 levels), or all types of RE generation (e.g., solar, wind) considered. In the June 2014 proposed rule, the EPA sought comment on the role of existing hydropower in target-setting (79 FR 34869), and we also request comment on whether a regionalized approach should or should not reallocate existing hydropower generation across states (even if all other types of RE generation

<sup>10</sup> See "Regulatory Impact Analysis for the Proposed Carbon Pollution Guidelines for Existing Power Plants and Emission Standards for Modified and Reconstructed Power Plants" (June 2014) Docket ID No. EPA-HQ-OAR-2013-0602-0391 at 3-11; TSD on "GHG Abatement Measures" (June 2014), Docket ID No. EPA-HQ-OAR-2013-0602-0437 at 3-25.

are reallocated across states under a regionalized approach).<sup>17</sup>

The EPA is requesting comment on the above approach, the extent to which the approach allows for states to address interstate RE concerns, and whether there are other ways to treat RE target-setting informing state goals that would take into account interstate effects. We are also still taking comment on the two approaches for RE target-setting specified in the June 2014 proposal. Finally, the EPA notes that there are a number of possible methodologies for using technical and economic renewable energy potential to quantify RE generation for purposes of state goals. The EPA invites comment on other possible techno-economic approaches.

### C. Implementation of the Goal-Setting Equation

#### 1. Goal-Setting Equation

As noted above in section II.C.1, stakeholders have raised concerns that the proposed numeric formula for calculating each state's goal is not consistent in its application of the BSER for incremental generation from existing NGCC units under building block 2, as compared with incremental RE generation and EE generation avoidance under building blocks 3 and 4. (For ease of reference, unless otherwise indicated, we refer to both incremental RE generation and incremental EE generation avoidance<sup>18</sup> as "incremental RE and EE.")<sup>19</sup> They state that, for building block 2, the formula subtracts 1 MWh of fossil steam generation and corresponding emissions from the 2012 baseline levels for every 1 MWh of incremental NGCC generation (subtracting emissions from the numerator and subtracting generation

from the denominator of the goal calculation formula) (see 79 FR 34896 and "Goal Computation Technical Support Document," Docket ID No. EPA-HQ-OAR-2013-0602-0460, at 10-12). In the stakeholders' view, this approach reflects the assumption that incremental NGCC generation will supplant historical fossil steam generation levels.

In contrast, as the stakeholders also point out, the formula adds incremental RE and EE to 2012 baseline generation levels (in the denominator of that formula) but does not reduce the 2012 baseline levels of fossil generation (in the denominator of the formula) by that incremental RE and EE, or remove the corresponding emissions (in the numerator of that formula) (see 79 FR 34896 and "Goal Computation Technical Support Document," Docket ID No. EPA-HQ-OAR-2013-0602-0460, at 15-18). In the stakeholders' view, by holding existing fossil generation and the corresponding emissions at 2012 levels, and not reducing them based on the amounts of incremental RE and EE, the state goals fail to reflect the full potential, under the BSER, for incremental RE and EE to replace fossil steam generation. Instead, simply adding incremental RE and EE to the denominator, while making no equivalent subtraction from the 2012 levels of fossil generation and corresponding emissions, does not clearly indicate whether, and to what extent, that generation will replace existing fossil generation as opposed to future generation increases from existing sources.

Some stakeholders have suggested an alternative approach of applying generation from building blocks 3 and 4 to reduce fossil generation below 2012 levels in the goal calculation. They have stated that this alternative approach is more consistent with the treatment of generation under building block 2, while also achieving greater CO<sub>2</sub> reductions. They suggest that the alternative approach, in which incremental RE and EE explicitly replaces generation from fossil fuel-fired sources in the goal calculation, better represents the BSER by better reflecting the likely reductions in fossil generation (and corresponding reduction in emissions) that can be achieved by affected sources.<sup>20</sup>

The following subsections describe two different approaches for revising the state goal-setting formula to address this

concern. These approaches are being shared more broadly to allow continued stakeholder engagement and to enhance the ability of stakeholders to submit substantive comments.

a. *Replace all historical fossil generation on a pro rata basis.* The proposed state goal-setting formula assumes a constant level of generation for total existing fossil generation greater than or equal to 2012 historical levels (i.e., the amount of fossil generation in the denominator of the state goal equation is greater than or equal to 2012 levels).<sup>21</sup> In the proposal, incremental RE and EE was simply added to the denominator of the state goal formula. An alternative treatment of this incremental RE and EE would be to assume that it directly replaces 2012 fossil generation levels and the corresponding emissions on a pro rata basis across generation types (i.e., fossil steam and gas turbine). Although the incremental generation levels assumed for building blocks 3 and 4 would not change under this approach, this adjustment to the goal-setting formula would yield more stringent state goals. Note that, under this alternative approach, the incremental RE would replace fossil steam and NGCC generation in proportion (i.e., pro rata) to their historical generation.

The incremental RE and EE is assumed to replace generation from existing fossil sources in both the goal-setting calculation approach in the June 2014 proposal and this alternative approach. However, these two approaches reflect two different interpretations of how this replacement occurs. Under the approach in the June 2014 proposal, incremental RE and EE could replace a generation increase from existing fossil sources that would otherwise occur after 2012, while under this alternative approach, incremental RE and EE could replace historical fossil generation below 2012 levels. The assumption is that the former of these two scenarios results in a smaller reduction in carbon intensity and, hence, a less stringent state goal than under the latter scenario. The former scenario also implicitly assumes significant increases in existing fossil generation beyond 2012 levels absent building block three or four.

This alternative approach would recognize a greater reduction potential in carbon intensity from incremental RE and EE, and it would be more closely analogous to the treatment of

<sup>17</sup>It should be noted that the EPA is not, in this document, addressing stakeholder comments concerning whether existing RE generation should be included in building block 3 or what types of generation (e.g., hydropower) to include in existing RE or incremental RE, the possibility of a floor based on 2012 generation or the possibility of a limitation based on 2012 fossil fuel-fired generation—those issues are already clearly covered in the June 2014 proposal's request for comments and should be applied to this regionalized approach as well. Stakeholders are encouraged to provide input on these and other issues addressed in the proposal.

<sup>18</sup>EE avoidance is incorporated into the goal-setting formula as zero-emitting generation.

<sup>19</sup>This section discusses approaches for state goal calculations that focus specifically on the treatment of incremental RE generation and EE generation avoidance. The June 2014 proposal set out a methodology for state goal calculations that includes existing RE, and comments on that inclusion are within the scope of the proposal. The state goal calculation methods outlined in this section are independent of the treatment of existing RE.

<sup>20</sup>This alternative approach would be consistent with identifying, as part of the BSER, fossil generating sources replacing their historical generation levels with incremental RE and EE.

<sup>21</sup>Fossil generation in the formula is greater than 2012 historical levels in states where "existing" NGCC units were under construction during 2012 and, therefore, did not report generation in that year.



incremental NGCC generation identified under building block 2 (given that under the proposal, generation from building block 2 was assumed to reduce carbon intensity by replacing generation from 2012 levels). The rationale for this approach would be that the BSER for all fossil generation includes replacing that generation with incremental RE and EE. Moreover, this approach acknowledges that, taken by itself, such incremental generation would not necessarily replace the highest-emitting generation, but would likely replace a mix of existing fossil generating technologies.

b. *Prioritize replacement of historical fossil steam generation.* A second alternative approach would be similar to the one described above, but the adjustment would reflect incremental RE and EE first replacing *fossil steam* generation below 2012 levels rather than replacing *all fossil* generation on a pro rata basis. Subsequent to replacing *fossil steam* generation, if there were any remaining incremental RE or EE, it would replace gas turbine generation levels and the corresponding emissions. Therefore, the reduction in carbon intensity observed from this type of adjustment would be more than that estimated in the proposal's goal-setting formula and more than the alternative approach above, in section III.C.1.a, because incremental and avoided generation would replace generation from higher-emitting fossil steam sources first. The rationale for this alternative approach would be based on the view that, as part of the BSER, because fossil steam generation has higher carbon intensity, it should be replaced before NGCC generation.

By identifying the two alternative approaches above and providing more detailed data by which to assess them, the EPA is seeking additional engagement during the public comment process and supporting the ability of stakeholders to provide comment. The EPA is requesting comment on whether a formula change of this nature would better reflect the emission reduction potential from incremental RE and EE. In particular, the EPA is seeking comment on how the amount of incremental RE and EE in the June 2014 proposal relate to potential future generation increases from existing fossil sources. The EPA is also soliciting comment on approaches where some portion of such incremental generation is calculated to replace future increases in existing fossil generation with the remainder assumed to replace historical existing fossil generation. The EPA is also requesting comment on how to treat a state in which the incremental RE and EE exceeds historical fossil steam

generation levels. Together, the approach in the proposal and the alternative approach in this document reflect a range of possible emission rate impacts that could be expected through the application of the incremental RE and EE in the state goal calculation. The EPA is seeking comment on which approach better reflects the BSER. At the same time, we note that the alternative state goal formula approaches listed here may raise a number of additional considerations. These approaches, for example, would increase the collective stringency of the state goals, which would likely increase both the costs and benefits of the proposed rule.

As noted above, at least some of these alternative applications of the target-setting equation would result in many states having tighter rate-based goals. Therefore, in considering any of these changes, the EPA would also consider how they relate to other issues discussed in this document, as well as in the original proposal, particularly inclusion of new NGCC units in the state goal calculation and alternatives to the 2020–2029 glide path. While the goal-setting formula adjustments described here would tighten the state goals, the glide path adjustments discussed previously would have the offsetting effect of reducing the stringency of the goals. The EPA welcomes comment specifically on the potential changes identified in this document in terms both of the rationale for these changes and of their effects on the stringency of the state goals.

## 2. Alternatives to the 2012 Data Year

A number of stakeholders have raised concerns over the use of 2012 as the single data year for calculating interim and final goals. The EPA has identified several approaches that stakeholders may want to consider and upon which we are requesting comment. The EPA is seeking comment on whether we should use a different single data year or the average of a combination of years (such as 2010, 2011, and 2012) to calculate the state fossil fuel emission rates used in state goal calculations. The agency is also seeking comment on whether state-specific circumstances exist that could justify using different data years for individual states, as opposed to using the same data year, or combination of years, consistently across states.

Stakeholders have also expressed interest in obtaining eGRID data for years prior to 2012 in order to foster comparison with results from the 2012 dataset. The EPA is adding, to the docket for this action, data for the years 2010 and 2011 that are based on the

same information sources and presented in the same format as the 2012 dataset used for the June 2014 proposed rule. We are also making these data available at: <http://www2.epa.gov/cleanpowerplan/>.

Dated: October 27, 2014.

**Janet G. McCabe,**

*Acting Assistant Administrator, Office of Air and Radiation.*

[FR Doc. 2014–25845 Filed 10–29–14; 8:45 am]

BILLING CODE 6560–50–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 23

[Docket No. FWS–HQ–ES–2013–0052]

RIN 1018–AZ53

#### Notice of Intent To Include Four Native U.S. Freshwater Turtle Species in Appendix III of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule: Notice of intent to amend CITES Appendix III.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), propose to include the common snapping turtle (*Chelydra serpentina*), Florida softshell turtle (*Apalone ferox*), smooth softshell turtle (*Apalone mutica*), and spiny softshell turtle (*Apalone spinifera*) in Appendix III of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES or Convention), including live and dead whole specimens, and all readily recognizable parts, products, and derivatives. Listing these four native U.S. freshwater turtle species (including their subspecies, except *Apalone spinifera atra*, which is already included in Appendix I of CITES) in Appendix III of CITES is necessary to allow us to adequately monitor international trade in these species; to determine whether exports are occurring legally, with respect to State and Federal law; and to determine whether further measures under CITES or other laws are required to conserve these species.

**DATES:** To ensure that we are able to consider your comment on this proposed rulemaking action, you must send it by December 29, 2014.

**ADDRESSES:** You may submit comments by one of the following methods:

Message

---

**From:** Munoz, Darrin R. [Darrin.Munoz@FaegreBD.com]  
**Sent:** 8/17/2017 2:23:20 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group  
(FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** Carbon Neutrality

Hello Byron,

Not sure if you're the correct person to contact on this, but it was my understanding EPA is currently undertaking efforts in putting out a policy statement on carbon neutrality. Do you know where that is in the process? Thank you.

Darrin R. Munoz

*Director*

[darrin.munoz@FaegreBD.com](mailto:darrin.munoz@FaegreBD.com) Download vCard

D: +1 202 312 7468

**Faegre Baker Daniels LLP**

1050 K Street NW | Suite 400 | Washington, DC 20001, USA



Message

---

**From:** Munoz, Darrin R. [Darrin.Munoz@FaegreBD.com]  
**Sent:** 7/12/2017 8:21:37 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** General Mills Meeting  
**Attachments:** 2017-07-11 GENERAL MILLS\_Henkel Site - Textbook Example of Superfund Site - One Pager.docx

Hello Bryon,

I'm sorry you couldn't attend the meeting today with General Mills, but we definitely understand how schedules change. We were very appreciative of Albert Kelly and Nick Falvo's time and believe it was a very productive meeting. Albert informed us that he would be looking into the issues we presented regarding the former General Mills facility in Minneapolis in the very near future. In the meantime, since you were unable to attend we wanted to send you a summary of the issue (attached) that we presented to Albert and Nick. Thank you and we look forward to hearing back from your team.

Regards,

Darrin R. Munoz

*Director*

darrin.munoz@FaegreBD.com [Download vCard](#)

D: +1 202 312 7468

**Faegre Baker Daniels LLP**

1050 K Street NW | Suite 400 | Washington, DC 20001, USA

## GENERAL MILLS/HENKEL SITE

**The General Mills/Henkel Site is a textbook example of a Superfund site that has been fully remediated, but has yet to be closed.**

**Executive Summary:** The former General Mills, Inc. facility (“Site”) located in Minneapolis, Minnesota, has been fully remediated from historical releases of minor amounts of waste solvents. General Mills is not responsible for remaining impacts to groundwater and soil gas in the neighborhood. Instead, the remaining contamination is caused by a degreasing solvent, trichloroethylene (“TCE”), disposed by many industries in areas up gradient of the Site. The lead agency, Minnesota Pollution Control Agency (“MPCA”), speculates that some General Mills waste remains at the Site, even though none can be detected, and asserts that General Mills, therefore, remains responsible for the larger neighborhood contamination. MPCA has told General Mills that because MPCA has not identified financially-responsible parties for the up gradient neighborhood contamination, General Mills must continue to address the neighborhood impacts to which it has not contributed.

As Superfund reform progresses, it is important that EPA provide business certainty to companies that have cleaned up their historical disposal sites by acknowledging parties who are no longer responsible. General Mills investigated and remediated this Site for over 35 years. Recent scientific analysis using chemical identification methodologies demonstrates that General Mills is not a contributor to the current groundwater contamination. Cleanup of this Site was completed 20 years ago. EPA should ensure lead state agencies do not distort their decisions about closing Superfund sites because of concerns that they have not identified other financially-responsible parties for neighboring sites.

**Background:** From approximately 1947 to 1962, small amounts of solvent waste from a General Mills research facility were disposed in a small portion of the Site. In 1977, General Mills sold the subsidiary that operated at the Site, and in 1981 reported the disposal practice to the MPCA and the EPA. In 1981, soil and groundwater investigations were conducted at the Site revealing a large TCE plume in an aquifer present at the disposal area and down gradient of the Site. Because site investigation techniques and analytical methods were in their infancy, it was assumed the Facility was the sole source of TCE. In 1984, General Mills agreed to operate a “pump and treat” groundwater system, which operated for more than 25 years. The system was discontinued with MPCA consent in 2010. We now know that General Mills, in fact, successfully remediated the soil and groundwater impacts associated with its activities at the Site by 1996.

Due to emerging regulatory concerns about “vapor intrusion,” in 2013 General Mills’ further testing found elevated TCE concentrations, including its presence in groundwater up gradient of the Site that was greater in concentration than down gradient of the Site. General Mills

discovered information in MPCA files that other properties in the area had historic use and disposal of TCE. Due to the presence of these TCE sources, the MPCA listed this up gradient area as a new site, the Southeast Hennepin site, in 2016 on its Minnesota Permanent List of Priorities. MPCA presently is conducting a further investigation under the auspices of EPA, as it considers listing the Southeast Hennepin site on the National Priority List.

**Key Findings:** Recent comprehensive scientific reviews of the reports and investigation results for the General Mills Site found that early investigations relied on two faulty assumptions: 1) that waste from the Site caused all groundwater impacts; and 2) that it contained high amounts of TCE.

- The General Mills waste material was less dense than water and was, therefore, confined to a small area in the immediate vicinity of the disposal area; there is no evidence that the original waste migrated beyond the immediate area of the former General Mills Facility.
- General Mills successfully remediated its disposal by 1996, as demonstrated by non-detection of the unique General Mills' waste solvent signature after that time.
- The recent discovery of strong up gradient sources of TCE explains the larger TCE plume that has existed for decades, still impacts the Site today and which General Mills could not have caused. TCE, unlike the General Mills' waste mixture, is denser than water, causing it to sink into the subsurface and through groundwater tables until it meets a confining rock layer.
- Scientific advances in chemical identification protocols since the 1980's show that the TCE up gradient to the site could not have come from General Mills.
- These up gradient TCE sources in the Southeast Hennepin site, not the General Mills Site, explain the origin, age, size and shape of the TCE groundwater plume.
- No further response actions are necessary as a result of the General Mills Site.

**Conclusion:** The General Mills/Henkel Site needs to be delisted from the NPL in order to provide necessary business certainty to General Mills. EPA and MPCA's focus should be applied to the Southeast Hennepin site as to the source and the remediation strategy to address remaining TCE impacts. The Superfund program must adopt better finality to specific sites. Scientific advances in contaminant identification should be applied across the country to better identify the actual responsible parties. EPA should ensure that State agencies do not distort their investigations and conclusions about closing sites because they have not found financially-responsible parties to undertake cleanup of sites.

**Recommendations for Reforming the Superfund Program:**

- Provide Business Certainty
- Remove barriers and incentivize states to close sites
- Utilize current scientific techniques to support cleanup and closure

Message

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**From:** DeLaquil, Mark [mdelaquil@bakerlaw.com]  
**Sent:** 7/24/2018 9:03:52 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** RE: SDWA Aquifer Exemption  
**Attachments:** ATT00001.txt

Dear Byron,

I hope all is well. Could we please schedule a quick call to follow up on this?

Best regards,

Mark

**Mark DeLaquil**  
Partner

---

**BakerHostetler**

Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5403  
T +1.202.861.1527

mdelaquil@bakerlaw.com  
bakerlaw.com



---

**From:** DeLaquil, Mark  
**Sent:** Monday, June 18, 2018 5:37 PM  
**To:** Brown, Byron <brown.byron@epa.gov>  
**Subject:** RE: SDWA Aquifer Exemption

Dear Byron,


Look forward to meeting Wednesday. If you get a chance, I would appreciate a list of who from EPA will be participating. I will be attending on Florence Copper's behalf as will my co-counsel, George Tsiolis.

Best regards,

Mark

**Mark DeLaquil**  
Partner

---

  
Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
T +1.202.861.1527

mdelaquil@bakerlaw.com  
bakerlaw.com



---

**From:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>  
**Sent:** Thursday, June 14, 2018 1:46 PM  
**To:** DeLaquil, Mark <[mdelaquil@bakerlaw.com](mailto:mdelaquil@bakerlaw.com)>  
**Subject:** RE: SDWA Aquifer Exemption

OK, thanks. Please come to the EPA north building. Entrance is located near the escalators for the Federal Triangle metro stop. When you reach security, tell guards you are here to see me and I'll come down.

---

**From:** DeLaquil, Mark [<mailto:mdelaquil@bakerlaw.com>]  
**Sent:** Wednesday, June 13, 2018 5:55 PM  
**To:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>  
**Subject:** RE: SDWA Aquifer Exemption

Dear Byron,

I can confirm June 20 at 11:30 am. I look forward to meeting then.

Best regards,

Mark

**Mark DeLaquil**  
Partner



Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
T +1.202.861.1527

[mdelaquil@bakerlaw.com](mailto:mdelaquil@bakerlaw.com)  
[bakerlaw.com](http://bakerlaw.com)



---

**From:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>  
**Sent:** Tuesday, June 12, 2018 4:20 PM  
**To:** DeLaquil, Mark <[mdelaquil@bakerlaw.com](mailto:mdelaquil@bakerlaw.com)>  
**Subject:** RE: SDWA Aquifer Exemption

Hi Mark – would 11:30 am on Wednesday, June 20 work?

---

**From:** DeLaquil, Mark [<mailto:mdelaquil@bakerlaw.com>]  
**Sent:** Monday, June 11, 2018 5:44 PM  
**To:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>; Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>  
**Subject:** RE: SDWA Aquifer Exemption

Dear Byron,

In-person is preferable. Thank you for your efforts setting up the meeting.

Best regards,

Mark

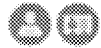
**Mark DeLaquil**

Partner



Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
T +1.202.861.1527

mdelaquil@bakerlaw.com  
bakerlaw.com



---

**From:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>  
**Sent:** Monday, June 11, 2018 5:42 PM  
**To:** DeLaquil, Mark <[mdelaquil@bakerlaw.com](mailto:mdelaquil@bakerlaw.com)>; Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>  
**Subject:** RE: SDWA Aquifer Exemption

Hi Mark – I have not forgotten. I am trying to coordinate with one other person, and it will probably be another day before I can get you a date/time but am looking to June 20 for in person otherwise later in the week by phone.

---

**From:** DeLaquil, Mark [<mailto:mdelaquil@bakerlaw.com>]  
**Sent:** Monday, June 11, 2018 5:18 PM  
**To:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>; Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>  
**Subject:** RE: SDWA Aquifer Exemption

Dear Byron,

Just following back up on this. If an in-person meeting is not feasible, we can do a call instead. Please let me know.

Best regards,

Mark

**Mark DeLaquil**

Partner



Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
T +1.202.861.1527

mdelaquil@bakerlaw.com  
bakerlaw.com



---

**From:** DeLaquil, Mark  
**Sent:** Wednesday, June 06, 2018 10:10 AM  
**To:** 'Brown, Byron' <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>; 'Jackson, Ryan' <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>  
**Subject:** RE: SDWA Aquifer Exemption

Dear Byron,

I am following up to see if any of the dates that I proposed would work. If not, please let me know and I will find other availability.

Best regards,

Mark

**Mark DeLaquil**  
Partner



Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
T +1.202.861.1527

[mdelaquil@bakerlaw.com](mailto:mdelaquil@bakerlaw.com)  
[bakerlaw.com](http://bakerlaw.com)



---

**From:** DeLaquil, Mark  
**Sent:** Thursday, May 31, 2018 4:26 PM  
**To:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>; Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>  
**Subject:** RE: SDWA Aquifer Exemption

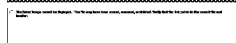
Dear Byron,

I would prefer in person if that works for your schedule. One or more of the other folks working with Florence Copper may join us and I think it would be more productive that way. Please let me know if there is any day on June 13, 14, 18, 19 or 20 that works for your schedule. If not, I will suggest alternative dates.

Best regards,

Mark

**Mark DeLaquil**  
Partner



Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
T +1.202.861.1527

[mdelaquil@bakerlaw.com](mailto:mdelaquil@bakerlaw.com)  
[bakerlaw.com](http://bakerlaw.com)



---

**From:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>  
**Sent:** Wednesday, May 30, 2018 4:41 PM  
**To:** DeLaquil, Mark <[mdelaquil@bakerlaw.com](mailto:mdelaquil@bakerlaw.com)>; Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>  
**Subject:** RE: SDWA Aquifer Exemption

Hi Mark – Happy to chat. Let me know if you want to discuss in person or over the phone.

---

**From:** DeLaquil, Mark [<mailto:mdelaquil@bakerlaw.com>]  
**Sent:** Tuesday, May 29, 2018 5:07 PM  
**To:** Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>; Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>  
**Subject:** SDWA Aquifer Exemption

Dear Ryan and Byron,

I hope all is well.

I am reaching out concerning the status of a longstanding aquifer exemption under the SDWA that, Florence Copper, Inc., which I represent, is relying on for its operations.

We would appreciate the opportunity to meet with you or another appropriate EPA official to discuss issues surrounding that aquifer exemption. Florence Copper has received a permit for a production test facility, as the first step in ultimately beginning full scale operations on a mine that is projected to create \$3.4 billion in economic activity for and nearly 800 jobs in the State of Arizona.

One note so that you are fully informed, there is currently pending regulatory litigation related to the aquifer exemption and Florence Copper's permit. DOJ has granted permission for me to reach out directly to EPA on this matter but has requested that I inform it of the meeting, as it may wish to have an attorney attend.

Thanks for your time.

Best regards,

Mark

**Mark DeLaquil**  
Partner

---

Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
T +1.202.861.1527

[mdelaquil@bakerlaw.com](mailto:mdelaquil@bakerlaw.com)  
[bakerlaw.com](http://bakerlaw.com)



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The content image001.jpg of type has been blocked.

Message

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**From:** DeLaquil, Mark [mdelaquil@bakerlaw.com]  
**Sent:** 6/13/2018 9:55:17 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** RE: SDWA Aquifer Exemption  
**Attachments:** ATT00001.txt

Dear Byron,

I can confirm June 20 at 11:30 am. I look forward to meeting then.

Best regards,

Mark

**Mark DeLaquil**  
Partner

---

**BakerHostetler**

Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
T +1.202.861.1527

mdelaquil@bakerlaw.com  
bakerlaw.com



---

**From:** Brown, Byron <brown.byron@epa.gov>  
**Sent:** Tuesday, June 12, 2018 4:20 PM  
**To:** DeLaquil, Mark <mdelaquil@bakerlaw.com>  
**Subject:** RE: SDWA Aquifer Exemption

Hi Mark – would 11:30 am on Wednesday, June 20 work?

---

**From:** DeLaquil, Mark [mailto:mdelaquil@bakerlaw.com]  
**Sent:** Monday, June 11, 2018 5:44 PM  
**To:** Brown, Byron <brown.byron@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>  
**Subject:** RE: SDWA Aquifer Exemption

Dear Byron,

In-person is preferable. Thank you for your efforts setting up the meeting.

Best regards,

Mark

**Mark DeLaquil**  
Partner

---



Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
T +1.202.861.1527

mdelaquil@bakerlaw.com  
bakerlaw.com



---

**From:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>  
**Sent:** Monday, June 11, 2018 5:42 PM  
**To:** DeLaquil, Mark <[mdelaquil@bakerlaw.com](mailto:mdelaquil@bakerlaw.com)>; Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>  
**Subject:** RE: SDWA Aquifer Exemption

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**To:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>; Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>  
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**Mark DeLaquil**  
Partner



Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
T +1.202.861.1527

mdelaquil@bakerlaw.com  
bakerlaw.com



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**Sent:** Wednesday, June 06, 2018 10:10 AM  
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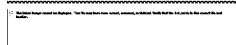
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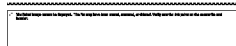
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**To:** DeLaquil, Mark <[mdelaquil@bakerlaw.com](mailto:mdelaquil@bakerlaw.com)>; Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>

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**From:** DeLaquil, Mark [mailto:mdelaquil@bakerlaw.com]

**Sent:** Tuesday, May 29, 2018 5:07 PM

**To:** Jackson, Ryan <jackson.ryan@epa.gov>; Brown, Byron <brown.byron@epa.gov>

**Subject:** SDWA Aquifer Exemption

Dear Ryan and Byron,

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Message

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**From:** Ghanta, Venu G [Venu.Ghanta@duke-energy.com]  
**Sent:** 11/28/2017 3:09:46 AM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group  
(FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** Thursday

Are we confirmed for a call at 1 pm?

Hope you had a good Thanksgiving.

Message

---

**From:** DeLaquil, Mark [mdelaquil@bakerlaw.com]  
**Sent:** 6/13/2018 1:03:02 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** RE: SDWA Aquifer Exemption  
**Attachments:** ATT00001.txt

Thanks, Byron. I am confirming and will get back to you ASAP.

---

**From:** Brown, Byron <brown.byron@epa.gov>  
**Sent:** Tuesday, June 12, 2018 4:20 PM  
**To:** DeLaquil, Mark <mdelaquil@bakerlaw.com>  
**Subject:** RE: SDWA Aquifer Exemption

Hi Mark – would 11:30 am on Wednesday, June 20 work?

---

**From:** DeLaquil, Mark [mailto:mdelaquil@bakerlaw.com]  
**Sent:** Monday, June 11, 2018 5:44 PM  
**To:** Brown, Byron <brown.byron@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>  
**Subject:** RE: SDWA Aquifer Exemption

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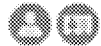
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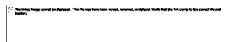
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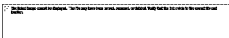
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The content image001.jpg of type has been blocked.

Message

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**From:** Ghanta, Venu G [Venu.Ghanta@duke-energy.com]  
**Sent:** 3/14/2017 9:41:19 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group  
(FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** checking in

Hi Byron-

Hope you're settling back in to EPA. Would you have some time, possibly next week, to grab coffee?

Thanks, Venu

Venu Ghanta  
Federal Environmental & Energy Policy Director  
Duke Energy  
325 7th Street NW, Suite 300, Washington, DC 20004  
Office: 202-824-8013  
Cell: Personal Phone / Ex. 6  
venu.ghanta@duke-energy.com

Message

---

**From:** DeLaquil, Mark [mdelaquil@bakerlaw.com]  
**Sent:** 8/2/2017 6:49:12 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** RE: follow up question

Dear Byron,

Sorry for the slow response, it has been a hectic week. I will send you what I was thinking about either later today or tomorrow.

Best regards,

Mark

**Mark DeLaquil**  
Partner

---

**BakerHostetler**

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1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
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mdelaquil@bakerlaw.com  
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---

**From:** Brown, Byron [mailto:brown.byron@epa.gov]  
**Sent:** Tuesday, August 01, 2017 12:03 PM  
**To:** DeLaquil, Mark  
**Subject:** follow up question

Hi Mark – sorry I had leave the meeting early last week. I just left you a voicemail as well. You mentioned EPA could model a supplemental notice for CERCLA 108 on a CAA supplemental notice. What example were you thinking of? Thanks.

Byron R. Brown  
Deputy Chief of Staff for Policy  
Office of the Administrator  
U.S. Environmental Protection Agency

---

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**From:** DeLaquil, Mark [mdelaquil@bakerlaw.com]  
**Sent:** 6/11/2018 9:44:29 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]; Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]  
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**Attachments:** ATT00001.txt

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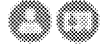
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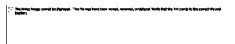
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Message

**From:** Executive Director [ExecutiveDirector@nationalenergyresources.com]  
**Sent:** 7/18/2018 5:44:10 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** NERO Wheels Up Happy Hour - 8.2.18  
**Attachments:** ATT00001.txt

Whether you are recessing or not, we hope you will join us for one more happy hour! Please RSVP by Noon on 7/26. Hope to see you there!

## National Energy Resources Organization



# WHEELS UP

# Happy Hour

Thursday, August 2, 2018

5:00 – 7:00 pm

**NRECA Townhouse**

**208 A Street, NE**

**Washington, DC**

**(By Invitation Only)**

*RSVP (with complete Guest List) by Noon on Thursday, July 26*

**ExecutiveDirector@NationalEnergyResources.com or (703) 548-1764**

*No refunds/credits for cancellations after July 26, or for non-attendance*

• **SPONSOR: 8 Tickets, Sponsor Sign and Name Badge Recognition**

**\$1,000 Member ~ \$1,600 Non-Member**

- **4 Tickets \$550 Member ~ \$1,100 Non-Member**
- **Individual Ticket: \$150 Member ~ \$300 Non-Member ~ Government \$45**

**NERO is a 501c(3) organization. Payments are tax-deductible.**

- Register / Pay Online: <http://nationalenergyresources.com/specialevents.html>  
OR Check Payable to NERO, 1707 Prince Street, #5, Alexandria, VA 22314
- Please send Guest List to [ExecutiveDirector@NationalEnergyResources.com](mailto:ExecutiveDirector@NationalEnergyResources.com)



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**From:** Ghanta, Venu G [Venu.Ghanta@duke-energy.com]  
**Sent:** 3/20/2018 9:41:24 PM  
**To:** Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]  
**CC:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** Re: Discussion on CCR proposed amendments

Thanks. Wednesday between 9 am and 1 pm looks clear, but we also have some availability on Monday and Tuesday.

On Mar 20, 2018, at 5:04 PM, Cook, Steven <[cook.steven@epa.gov](mailto:cook.steven@epa.gov)> wrote:

**\*\*\* Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. \*\*\***

Venu - should be doable. I have started the process to identify the right folks. Do you have some suggested times next week?

Sent from my iPhone

On Mar 20, 2018, at 12:59 PM, Ghanta, Venu G <[Venu.Ghanta@duke-energy.com](mailto:Venu.Ghanta@duke-energy.com)> wrote:

Hi Steven-

Hope you are well.

I wanted to see if we could set up a call with your staff to get a better understanding of some of the provisions in the recently proposed amendments to the CCR program.

The issues of most interest to us are:

- Definition of non-groundwater releases
- Corrective action procedures for non-groundwater releases that can be remediated within 180 days
- Use of CCR to close impoundments undergoing forced closure
- Addition of boron to App IV
- Alternate closure provision for non-CCR wastewaters

Let me know what works best on your end.

Thanks, Venu



Venu Ghanta  
*Federal Regulatory Affairs Director*  
325 7th Street NW, Suite 300, Washington, DC 20004  
Office: 202-824-8013  
Cell: Personal Phone / Ex. 6

Message

---

**From:** DeLaquil, Mark [mdelaquil@bakerlaw.com]  
**Sent:** 6/11/2018 9:18:18 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]; Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]  
**Subject:** RE: SDWA Aquifer Exemption  
**Attachments:** ATT00001.txt

Dear Byron,

Just following back up on this. If an in-person meeting is not feasible, we can do a call instead. Please let me know.

Best regards,

Mark

**Mark DeLaquil**  
Partner

---

**BakerHostetler**

Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
T +1.202.861.1527

mdelaquil@bakerlaw.com  
bakerlaw.com



---

**From:** DeLaquil, Mark  
**Sent:** Wednesday, June 06, 2018 10:10 AM  
**To:** 'Brown, Byron' <brown.byron@epa.gov>; 'Jackson, Ryan' <jackson.ryan@epa.gov>  
**Subject:** RE: SDWA Aquifer Exemption

Dear Byron,

I am following up to see if any of the dates that I proposed would work. If not, please let me know and I will find other availability.

Best regards,

Mark

**Mark DeLaquil**  
Partner



Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
T +1.202.861.1527

mdelaquil@bakerlaw.com  
bakerlaw.com



---

**From:** DeLaquil, Mark  
**Sent:** Thursday, May 31, 2018 4:26 PM  
**To:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>; Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>  
**Subject:** RE: SDWA Aquifer Exemption

Dear Byron,

I would prefer in person if that works for your schedule. One or more of the other folks working with Florence Copper may join us and I think it would be more productive that way. Please let me know if there is any day on June 13, 14, 18, 19 or 20 that works for your schedule. If not, I will suggest alternative dates.

Best regards,

Mark

**Mark DeLaquil**  
Partner



Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
T +1.202.861.1527

mdelaquil@bakerlaw.com  
bakerlaw.com



---

**From:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>  
**Sent:** Wednesday, May 30, 2018 4:41 PM  
**To:** DeLaquil, Mark <[mdelaquil@bakerlaw.com](mailto:mdelaquil@bakerlaw.com)>; Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>  
**Subject:** RE: SDWA Aquifer Exemption

Hi Mark – Happy to chat. Let me know if you want to discuss in person or over the phone.

---

**From:** DeLaquil, Mark [<mailto:mdelaquil@bakerlaw.com>]  
**Sent:** Tuesday, May 29, 2018 5:07 PM  
**To:** Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>; Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>  
**Subject:** SDWA Aquifer Exemption

Dear Ryan and Byron,

I hope all is well.

I am reaching out concerning the status of a longstanding aquifer exemption under the SDWA that, Florence Copper, Inc., which I represent, is relying on for its operations.

We would appreciate the opportunity to meet with you or another appropriate EPA official to discuss issues surrounding that aquifer exemption. Florence Copper has received a permit for a production test facility, as the first step in ultimately beginning full scale operations on a mine that is projected to create \$3.4 billion in economic activity for and nearly 800 jobs in the State of Arizona.

One note so that you are fully informed, there is currently pending regulatory litigation related to the aquifer exemption and Florence Copper's permit. DOJ has granted permission for me to reach out directly to EPA on this matter but has requested that I inform it of the meeting, as it may wish to have an attorney attend.

Thanks for your time.

Best regards,

Mark

**Mark DeLaquil**  
Partner

---

Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
T +1.202.861.1527

mdelaquil@bakerlaw.com  
bakerlaw.com



---

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Any tax advice in this email is for information purposes only. The content of this email is limited to the matters specifically addressed herein and may not contain a full description of all relevant facts or a complete analysis of all relevant issues or authorities.

Internet communications are not assured to be secure or clear of inaccuracies as information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete, or contain viruses. Therefore, we do not accept responsibility for any errors or omissions that are present in this email, or any attachment, that have arisen as a result of e-mail transmission.

The content image001.jpg of type has been blocked.

Message

---

**From:** gtsiolis@nj.rr.com [gtsiolis@nj.rr.com]  
**Sent:** 7/18/2018 12:22:15 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]; Fotouhi, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=febaf0d56aab43f8a9174b18218c1182-Fotouhi, Da]; 'Baynes, Sheila (ENRD)' [Sheila.Baynes@usdoj.gov]  
**CC:** 'DeLaquil, Mark' [mdelaquil@bakerlaw.com]; 'Rita Maguire' [rmaguire@mpwaterlaw.com]  
**Subject:** Florence Copper's Memorandum of Position on the Petition for Judicial Review of the 1997 Aquifer Exemption  
**Attachments:** ATTACHMENT 1 - Petition for Judicial Review of 1997 Aquifer Exemption.pdf; ATTACHMENT 2 - Florence Copper's Memorandum on the Petition.pdf; ATTACHMENT 3 - Petition for Judicial Review of 2017 UIC Permit.pdf

Folks,

As a follow-up to our June 20 meeting regarding the petition for judicial review of the 1997 aquifer exemption which is currently before the Ninth Circuit Court of Appeals ([Attachment 1](#)), attached please find Florence Copper's memorandum of its position on the regulatory merits of the petition ([Attachment 2](#)).

The memorandum explains the legal basis of Florence Copper's position that EPA's rules necessitate that an aquifer exemption established under 40 C.F.R. §§ 146.4(a)-(b)(1) and 144.7(b)-(c)—i.e., a minerals-based aquifer exemption—cannot be diminished or revoked while (i) there are activities ongoing that a UIC permit issued based on the exemption authorizes within the boundaries of the exemption or (ii) activities in material reliance on the exemption are reasonably expected to occur within the boundaries of the exemption.

Florence Copper respectfully requests that EPA apprise Florence Copper of EPA's position on the regulatory merits of the petition, and whether EPA will take a position that is substantially similar to Florence Copper's position. We request that EPA do so within the next 2-3 weeks, as merits briefing concerning the other petition for judicial review that is before the Ninth Circuit ([Attachment 3](#)) has been scheduled (the petitioners' opening brief is due August 13) and it is conceivable that the court will consolidate its review of the two petitions.

We look forward to your response.

If you have any questions, please do not hesitate to let us know.

Thank you and best regards,

George A. Tsiolis  
Attorney at Law  
602-319-4021  
201-408-4256  
[www.gtsiolis.com](http://www.gtsiolis.com)

Counsel for Florence Copper, Inc.



**This email is intended only for the use of the party to which it is addressed and may contain information that is privileged, confidential, or protected by law. If you are not the intended recipient or have received this email in error, please delete it from your computer and contact 602-319-4021. Thank you.**

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

TOWN OF FLORENCE, a political  
subdivision of the State of Arizona;  
SWVP-GTIS MR, LLC, a Delaware  
Limited Liability Company,

Petitioners,

vs.

UNITED STATES  
ENVIRONMENTAL PROTECTION  
AGENCY, SCOTT PRUITT,  
Administrator, United States  
Environmental Protection Agency,  
ALEXIS STRAUSS, Acting Regional  
Administrator, United States  
Environmental Protection Agency  
Region 9,

Respondents.

Docket No. \_\_\_\_\_

**PETITION FOR REVIEW**

Pursuant to 42 U.S.C. § 300j-7(a) and Rule 15 of the Federal Rules of Appellate Procedure, Petitioners, the Town of Florence and SWVP-GTIS MR, LLC (collectively “Petitioners”) hereby petition the Court for review of an Underground Injection Control Aquifer Exemption (the “Aquifer Exemption”) issued on May 1, 1997 by EPA Region 9 for EPA Permit No. AZ396000001, a copy of which is attached as Exhibit 1, based upon grounds arising after the expiration of the 45-day period. (Section 300j-7.)

DATED: November 22, 2017

s/ Jessica L. Beckwith

---

Ronnie P. Hawks  
James L. Csontos  
Jessica L. Beckwith  
JENNINGS, HAUG &  
CUNNINGHAM, L.L.P.  
Attorneys for Petitioner SWVP-GTIS  
MR, LLC

s/ Barbara U. Rodriguez-Pashkowski

---

Barbara U. Rodriguez-Pashkowski  
GUST ROSENFELD, P.L.C.  
Attorneys for the Petitioner Town of  
Florence

## CERTIFICATE OF SERVICE

On November 22, 2017, pursuant to Rules 3(d) and 15(c)(1) of the Federal Rules of Appellate Procedure, a copy of the foregoing was mailed by First Class Mail, postage prepaid to the following persons who were admitted to participate in the agency proceedings:

Bradley J. Glass  
D. Lee Decker  
Gallagher & Kennedy PA  
2575 E. Camelback Road  
Suite 1100  
Phoenix, AZ 85016  
Counsel for Florence Copper, Inc.

Rita Maguire  
Maguire, Pearce & Storey, PLLC  
2999 N. 44<sup>th</sup> Street, Suite 650  
Phoenix, AZ 85018  
Counsel for Florence Copper, Inc.

George A. Tsiolis  
351 Lydecker Street  
Englewood, NJ 07631  
Counsel for Florence Copper, Inc.

John L. Anderson  
2631 N. Presidential Drive  
Florence, AZ 85132

Linus Everling  
Thomas L. Murphy  
Gila River Indian Community  
525 W. Gu u Ki  
P. O. Box 97  
Sacaton, AZ 85147

Merrill C. Godfrey  
Ian A. Shavitz  
Michael-Corey Hinton  
Akin Gump Strauss Hauer & Feld, LLP  
1333 New Hampshire Avenue  
N.W. Washington, D.C. 20036-1564  
Counsel for Gila River Indian  
Community

Pursuant to Rule 15(c) of the Federal Rules of Appellate Procedure, the Circuit Clerk will cause, on November 22, 2017 a copy of the Petition for Review to be served on each of the following:

Alexa Engelman  
Office of Regional Counsel  
U.S. EPA Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

Dustin Minor  
Office of Regional Counsel  
U.S. EPA Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

Alexis Strauss  
Acting Regional Administrator  
U.S. EPA Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

Scott Pruitt  
U.S. Environmental Protection Agency  
Office of the Administrator  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Mail Code 1101A  
Washington, D.C. 20460

s/ Jessica L. Beckwith

---

Ronnie P. Hawks  
James L. Csontos  
Jessica L. Beckwith  
JENNINGS, HAUG &  
CUNNINGHAM, L.L.P.  
Attorneys for Petitioner SWVP-GTIS  
MR, LLC

# EXHIBIT 1



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105-3901

• ORIG PERMIT  
COPY Aquifer  
Permit

UNDERGROUND INJECTION CONTROL AQUIFER EXEMPTION

FOR

EPA PERMIT #AZ396000001

In compliance with provisions of the Safe Drinking Water Act, as amended, (42 USC 300f-300j-9, commonly known as the SDWA) and attendant regulations incorporated by the U.S. Environmental Protection Agency under Title 40 of the Code of Federal Regulations (CFR), the zone located:

- (1) in the subsurface interval of approximately 400 feet to 1600 feet below ground surface (bgs); and
- (2) below the upper aquifer exemption boundary which is 200 feet above the oxide zone, or the base of the Middle Fine-Grained Unit (MFGU), whichever is further below ground surface; and
- (3) above the lower aquifer exemption boundary which is the base of the reactive interval amenable to copper leach solutions, encompassing the oxide zone, which contains an economical amount of copper, and copper in the sulfide zone that is leachable; and
- (4) laterally within 500 feet of the mine zone boundary delineated in Appendix A of EPA Permit #AZ396000001, and within the line connecting the following coordinate system points:

From a point (point 1) in the southwest of the northwest of Section 28, Range 9 East, Township 4 North of the GS & R meridian at Arizona Coordinate system Northing 748028.6 and easting 646937.7

To a point (point 2) in the southeast of the northwest of Section 28, Range 9 East, Township 4 North of the GS & R meridian at Arizona Coordinate system Northing 748042.1 and easting 648619.5

To a point (point 3) in the southeast of the northwest of Section 28, Range 9 East, Township 4 North of the GS & R meridian at Arizona

*Printed on Recycled Paper*

Coordinate system Northing 747656.9 and easting 648617.4

To a point (point 4) in the southeast of the northeast of Section 28,  
Range 9 East, Township 4 North of the GS & R meridian at Arizona  
Coordinate system Northing 747675.3 and easting 650811.6

To a point (point 5) in the southeast of the northeast of Section 28,  
Range 9 East, Township 4 North of the GS & R meridian at Arizona  
Coordinate system Northing 747216.3 easting 650662.8

To a point (point 6) in the southeast of the northeast of Section 28,  
Range 9 East, Township 4 North of the GS & R meridian at Arizona  
Coordinate system Northing 747230.7 and easting 651548.8

To a point (point 7) in the southeast of the southeast of Section 28,  
Range 9 East, Township 4 North of the GS & R meridian at Arizona  
Coordinate system Northing 745379.4 and easting 651309.7

To a point (point 8) in the southeast of the southeast of Section 28,  
Range 9 East, Township 4 North of the GS & R meridian at Arizona  
Coordinate system Northing 745369.4 and easting 651019.1

To a point (point 9) in the northeast of the northeast of Section 33,  
Range 9 East, Township 4 North of the GS & R meridian at Arizona  
Coordinate system Northing 743926.7 and easting 650758.8

To a point (point 10) in the northwest of the northeast of Section 33,  
Range 9 East, Township 4 North of the GS & R meridian at Arizona  
Coordinate system Northing 743922.9 and easting 649898.8

To a point (point 11) in the northwest of the northeast of Section 33,  
Range 9 East, Township 4 North of the GS & R meridian at Arizona  
Coordinate system Northing 743543.9 and easting 649897.6

To a point (point 12) in the northwest of the northwest of Section 33,  
Range 9 East, Township 4 North of the GS & R meridian at Arizona  
Coordinate system Northing 743520.7 and easting 647281.7

To a point (point 13) in the southwest of the southwest of Section 28,  
Range 9 East, Township 4 North of the GS & R meridian at Arizona  
Coordinate system Northing 744512.8 and easting 649939.6

Florence Project  
Aquifer Exemption  
Page 2 of 3



To a point (point 14) in the southwest of the southwest of Section 28, Range 9 East, Township 4 North of the GS & R meridian at Arizona Coordinate system Northing 745392.3 and easting 646862.4

To a point (point 15) in the southwest of the southwest of Section 28, Range 9 East, Township 4 North of the GS & R meridian at Arizona Coordinate system Northing 745391.8 and easting 646552.4

To a point (point 16) in the southwest of the northwest of Section 28, Range 9 East, Township 4 North of the GS & R meridian at Arizona Coordinate system Northing 747466.7 and easting 646824.3

To a point (point 17) in the southwest of the northwest of Section 28, Range 9 East, Township 4 North of the GS & R meridian at Arizona Coordinate system Northing 747468.8 and easting 646938.8

is exempted as an underground source of drinking water (USDW).

This aquifer exemption is granted in conjunction with the Class III Underground Injection Control permit issued to BHP Copper, for the injection of an acidic solution for the purpose of copper production at the Florence In-Situ Project, Pinal County, Arizona.

This aquifer exemption has no expiration date.

Signed this 1<sup>st</sup> day of May, 1997.



Alexis Strauss, Acting Director  
Water Division, EPA Region 9

**Date:** July 18, 2018

**To:** Byron R. Brown – Deputy Chief of Staff for Policy, USEPA  
David Fotouhi – Deputy General Counsel, USEPA  
Sheila Baynes – ENRD, USDOJ

**From:** Mark W. DeLaquil – Baker & Hostetler LLP  
Rita P. Maguire – General Counsel, Florence Copper, Inc.  
George A. Tsiolis, Attorney at Law

**Re:** Florence Copper’s Substantive Position on Minerals-Based Aquifer Exemptions

Florence Copper, Inc. (“**FCI**”) believes that the Underground Injection Control (“**UIC**”) program rules necessitate that an aquifer exemption established under 40 C.F.R. §§ 146.4(a)-(b)(1) and 144.7(b)-(c)—i.e., a minerals-based aquifer exemption—cannot be diminished or revoked while (i) there are activities ongoing that a UIC permit issued based on the exemption authorizes within the boundaries of the exemption or (ii) activities in material reliance on the exemption are reasonably expected to occur within the boundaries of the exemption. FCI’s argument in support of this position is as follows:

1. The rules authorizing minerals-based aquifer exemptions should be construed in a way that preserves (a) the balance that Congress intended between the protection of underground sources of drinking water and the need to accommodate underground solution mining and (b) the utility and functionality of the Class II and Class III permit rules.

a. “The principal legislative history [of the Safe Drinking Water Act] explains that the statute was primarily aimed at controlling underground injections of waste; although Congress also intended that injection mining activities be covered, it contemplated regulation, not prohibition, because of the importance of avoiding needless interference with energy production and other commercial uses.” *Western Nebraska Resources Council v. EPA*, 943 F.2d 867, 870 (8th Cir. 1991) (citing H.R. Rep. No. 93-1185, 93rd Cong., 2d Sess., reprinted in 4 1974 U.S. Code, Cong. & Admin. News 6454, 6480-6484). The UIC program rules achieve the balance that Congress intended. In a July 21, 2014 memorandum from EPA’s Office of Ground Water and Drinking Water (“**OGWDW**”) to the Water Division Directors of Regions I-X, at page 3, the Director of OGWDW stated as follows:

EPA’s regulatory approach to aquifer exemptions was promulgated in a 1980 rulemaking. EPA determined that without aquifer exemptions, certain types of energy production, solution mining, or waste disposal would be severely limited. Thus, the regulatory approach that EPA adopted—a broad definition of covered underground waters coupled with a discretionary exemption mechanism—allows the agency to prevent endangerment consistent with the statute while allowing some case-by-case consideration. This approach protects underground sources of drinking water while also allowing underground injection associated with industrial activities including the production of minerals, oil, or geothermal energy. EPA retains the final approval authority over aquifer exemption decisions regardless of state primacy status.

See *also* 45 Fed. Reg. 42472, 42480-81 (June 24, 1980) (discussing concern that limiting minerals-based exemptions to those portions of an aquifer that are currently “[m]ineral, hydrocarbon, or geothermal energy producing” could hamper future development of mining sites “because of the uncertainty of whether or not the mining site could receive an exemption”); 46 Fed. Reg. 48243 § II.B (October 1, 1981) (“The Agency is also proposing to modify the first exemption criterion which could have been construed as prohibiting mineral exploitation of previously unproduced areas . . . EPA is proposing a modification to allow for exemption of aquifers if they are expected to yield commercially-producible minerals or hydrocarbons.”); 47 Fed. Reg. 4992, 4998 (February 3, 1982) (revising exemption criterion at 40 C.F.R. § 146.04(b)(1), later renumbered to § 146.4(b)(1), to add basis of exemption if the portion of the aquifer “can be demonstrated by a permit applicant as part of a permit application for a Class II or Class III operation to contain minerals or hydrocarbons that considering their quantity and location are expected to be commercially producible”).

b. The utility and functionality of the Class II and Class III permit rules depend on the continuation of each aquifer exemption established under 40 C.F.R. §§ 146.4(a)-(b)(1) and 144.7(b)-(c) for the duration of all activities that the permit issued based on the exemption authorizes within the boundaries of the exemption and all activities that are otherwise reasonably expected to occur in reliance on the exemption. This is because: (i) underground solution mining cannot legally occur within an underground source of drinking water (“USDW”); (ii) the majority of aquifers in the U.S. (all aquifers that contain fewer than 10,000 ppm total dissolved solids), including those that contain commercially producible minerals, are legally USDW unless they are exempted; (iii) a Class II or Class III UIC permit effectively ceases to have legal force as written if the exemption that was a material basis of its issuance is diminished, because the permit’s conditions to protect USDW are based on the lateral and vertical limits of the exemption; and (iv) underground solution miners would be reluctant to invest significant resources in reliance on a Class II or Class III permit or the UIC program rules if aquifer exemptions, though required for such permits’ issuance, are considered to be diminishable.

2. While the rules explicitly provide for the expansion of aquifer exemptions, *see, e.g.*, 40 C.F.R. § 146.4(d), the rules provide no administrative mechanism for the diminishment of an aquifer exemption subsequent to its establishment and a permittee’s expenditures in reliance on the exemption. Nor is there any precedent for such a diminishment of an exemption. Given (a) the Class II and Class III permittees currently operating in reliance on over 3,000 minerals-based exemptions throughout the U.S., (b) the substantial disruption to their existing investments if such precedent is set, (c) the adverse effect on the industry’s willingness to invest further in underground solution mining if such precedent is set, (d) the legislative and regulatory history of the UIC program which favors a balance between protecting USDW and accommodating underground solution mining, and (e) the need to preserve the utility and functionality of the Class II and Class III permit rules, the UIC program rules should never be interpreted in a way that allows for an aquifer exemption established under 40 C.F.R. §§ 146.4(a)-(b)(1) and 144.7(b)-(c) to be diminished or revoked while (i) there are activities ongoing that a permit issued based on the exemption authorizes within the boundaries of the exemption or (ii) activities in material reliance on the exemption are reasonably expected to occur within the boundaries of the exemption. This position would not preclude the revocation of a minerals-based aquifer exemption after the minerals within the lateral and vertical limits of the exemption have been mined to the point that there remain no commercially producible minerals within the limits of the exemption.

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

TOWN OF FLORENCE, a political  
subdivision of the State of Arizona;  
SWVP-GTIS MR, LLC, a Delaware  
Limited Liability Company,

Petitioners,

vs.

UNITED STATES  
ENVIRONMENTAL PROTECTION  
AGENCY, SCOTT PRUITT,  
administrator, United States  
Environmental Protection Agency,  
ALEXIS STRAUSS, Acting Regional  
Administrator, United States  
Environmental Protection Agency  
Region 9,

Respondents.

Docket No. \_\_\_\_\_

**PETITION FOR REVIEW**

Pursuant to 42 U.S.C. § 300j-7(a), 5 U.S.C. § 704, and Rule 15 of the Federal Rules of Appellate Procedure, Petitioners, the Town of Florence and SWVP-GTIS MR, LLC (collectively “Petitioners”) hereby petition the Court for review of the U.S. Environmental Protection Agency’s final agency action regarding a Class III Underground Injection Control (“UIC”) Permit, No. R9UIC-AZ3-FY11-1 (“Permit”), originally issued by EPA Region 9 to Florence Copper Inc. on December 20, 2016 for an In-Situ Copper Production Test Facility (“PTF”), and appealed by the Petitioners. On September 22, 2017, the Environmental Appeals Board rejected Petitioners’ petition for review of the Permit. By letter dated September 29, 2017, with an issuance date of October 13, 2017, Region 9 issued its Notice of Final Permit Decision, a copy of which is attached as Exhibit 1.

DATED: November 22, 2017

s/ Jessica L. Beckwith

---

Ronnie P. Hawks  
James L. Csontos  
Jessica L. Beckwith  
JENNINGS, HAUG &  
CUNNINGHAM, L.L.P.  
Attorneys for Petitioner SWVP-GTIS  
MR, LLC

s/ Barbara U. Rodriguez-Pashkowski

---

Barbara U. Rodriguez-Pashkowski  
GUST ROSENFELD, P.L.C.  
Attorneys for the Petitioner Town of  
Florence

## CERTIFICATE OF SERVICE

On November 22, 2017, pursuant to Rules 3(d) and 15(c)(1) of the Federal Rules of Appellate Procedure, a copy of the foregoing was mailed by First Class Mail, postage prepaid to the following persons who were admitted to participate in the agency proceedings:

Bradley J. Glass  
D. Lee Decker  
Gallagher & Kennedy PA  
2575 E. Camelback Road  
Suite 1100  
Phoenix, AZ 85016  
Counsel for Florence Copper, Inc.

Rita Maguire  
Maguire, Pearce & Storey, PLLC  
2999 N. 44<sup>th</sup> Street, Suite 650  
Phoenix, AZ 85018  
Counsel for Florence Copper, Inc.

George A. Tsiolis  
351 Lydecker Street  
Englewood, NJ 07631  
Counsel for Florence Copper, Inc.

John L. Anderson  
2631 N. Presidential Drive  
Florence, AZ 85132

Linus Everling  
Thomas L. Murphy  
Gila River Indian Community  
525 W. Gu u Ki  
P. O. Box 97  
Sacaton, AZ 85147

Merrill C. Godfrey  
Ian A. Shavitz  
Michael-Corey Hinton  
Akin Gump Strauss Hauer & Feld, LLP  
1333 New Hampshire Avenue  
N.W. Washington, D.C. 20036-1564  
Counsel for Gila River Indian  
Community

Pursuant to Rule 15(c) of the Federal Rules of Appellate Procedure, the Circuit Clerk will cause, on November 22, 2017 a copy of the Petition for Review to be served on each of the following:

Alexa Engelman  
Office of Regional Counsel  
U.S. EPA Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

Dustin Minor  
Office of Regional Counsel  
U.S. EPA Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

Alexis Strauss  
Acting Regional Administrator  
U.S. EPA Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

Scott Pruitt  
U.S. Environmental Protection Agency  
Office of the Administrator  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Mail Code 1101A  
Washington, D.C. 20460

s/ Jessica L. Beckwith

---

Ronnie P. Hawks  
James L. Csontos  
Jessica L. Beckwith  
JENNINGS, HAUG &  
CUNNINGHAM, L.L.P.  
Attorneys for Petitioner SWVP-GTIS  
MR, LLC

# EXHIBIT 1





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105-3901

OFFICE OF THE  
REGIONAL ADMINISTRATOR

**NOTICE OF FINAL PERMIT DECISION**  
**Final Permit Decision for Class III In-Situ Production of Copper**  
**Permit No. R9UIC-AZ3-FY11-1**  
**For the Florence Copper Production Test Facility**

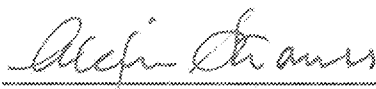
**Issuance Date: October 13, 2017**

In accordance with the requirements of the Code of Federal Regulations (C.F.R.), Title 40 § 124.19(l), the United States Environmental Protection Agency, Region 9 (EPA) is issuing the final Class III Underground Injection Control (UIC) Permit, No. R9UIC-AZ3-FY11-1, to Florence Copper, Inc. for an In-Situ Copper Production Test Facility (PTF). The final UIC Permit and a copy of this notice is available on EPA's web page at <https://www.epa.gov/uic/uic-permit-materials-florence-copper-inc>.

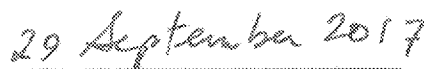
This Permit was originally issued on December 20, 2016, and was subsequently appealed to the Environmental Appeals Board (EAB) for review under 40 C.F.R. § 124.19. The Permit was stayed pending review by the EAB. After review of briefs filed in the appeal and oral argument, the EAB issued an order denying the petitions for review of the Permit on September 22, 2017.

The issuance date of the final UIC Permit is two weeks after the date this notice is signed, per 40 C.F.R. § 23.7. This issuance date operates as the final agency action for purposes of judicial review under 42 U.S.C. § 300j-7 and 5 U.S.C. § 704. Pursuant to 40 C.F.R. § 144.39, EPA is concurrently revoking the existing Class III Permit no. AZ396000001.

Signed,

  
\_\_\_\_\_

Alexis Strauss  
Acting Regional Administrator

  
\_\_\_\_\_

Date

Message

---

**From:** Cook, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=394F5DEDE6184BC083CF9390E49A192C-COOK, STEVE]  
**Sent:** 3/20/2018 9:04:37 PM  
**To:** Ghanta, Venu G [Venu.Ghanta@duke-energy.com]  
**CC:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** Re: Discussion on CCR proposed amendments

Venu - should be doable. I have started the process to identify the right folks. Do you have some suggested times next week?

Sent from my iPhone

On Mar 20, 2018, at 12:59 PM, Ghanta, Venu G <[Venu.Ghanta@duke-energy.com](mailto:Venu.Ghanta@duke-energy.com)> wrote:

Hi Steven-

Hope you are well.

I wanted to see if we could set up a call with your staff to get a better understanding of some of the provisions in the recently proposed amendments to the CCR program.

The issues of most interest to us are:

- Definition of non-groundwater releases
- Corrective action procedures for non-groundwater releases that can be remediated within 180 days
- Use of CCR to close impoundments undergoing forced closure
- Addition of boron to App IV
- Alternate closure provision for non-CCR wastewaters

Let me know what works best on your end.

Thanks, Venu



Venu Ghanta  
*Federal Regulatory Affairs Director*  
325 7th Street NW, Suite 300, Washington, DC 20004  
Office: 202-824-8013  
Cell: Personal Phone / Ex. 6



Message

---

**From:** Ghanta, Venu G [Venu.Ghanta@duke-energy.com]  
**Sent:** 3/20/2018 5:59:05 PM  
**To:** Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]  
**CC:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** Discussion on CCR proposed amendments

Hi Steven-

Hope you are well.

I wanted to see if we could set up a call with your staff to get a better understanding of some of the provisions in the recently proposed amendments to the CCR program.

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- Use of CCR to close impoundments undergoing forced closure
- Addition of boron to App IV
- Alternate closure provision for non-CCR wastewaters

Let me know what works best on your end.

Thanks, Venu



Venu Ghanta  
*Federal Regulatory Affairs Director*  
325 7th Street NW, Suite 300, Washington, DC 20004  
Office: 202-824-8013

Cell: Personal Phone / Ex. 6

Message

---

**From:** Munoz, Darrin R. [Darrin.Munoz@FaegreBD.com]  
**Sent:** 8/25/2017 8:35:27 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** RE: Carbon Neutrality

Thanks Bryon! Yes that's correct. Do you have a contact or email over there who could help?

Darrin R. Munoz

*Director*

darrin.munoz@FaegreBD.com Download vCard  
D: +1 202 312 7468

**Faegre Baker Daniels LLP**

1050 K Street NW | Suite 400 | Washington, DC 20001, USA

---

**From:** Brown, Byron [mailto:brown.byron@epa.gov]  
**Sent:** Friday, August 25, 2017 4:31 PM  
**To:** Munoz, Darrin R.  
**Subject:** RE: Carbon Neutrality

I assume you are referring to carbon neutrality of biomass. I am not familiar with the details of this project. Have you inquired with the Office of Air and Radiation?

---

**From:** Munoz, Darrin R. [mailto:Darrin.Munoz@FaegreBD.com]  
**Sent:** Thursday, August 24, 2017 8:17 AM  
**To:** Brown, Byron <brown.byron@epa.gov>  
**Subject:** FW: Carbon Neutrality

Hello Bryon,

I just wanted to follow up on this. Thank you very much.

Darrin R. Munoz

*Director*

darrin.munoz@FaegreBD.com Download vCard  
D: +1 202 312 7468

**Faegre Baker Daniels LLP**

1050 K Street NW | Suite 400 | Washington, DC 20001, USA

---

**From:** Munoz, Darrin R.  
**Sent:** Thursday, August 17, 2017 10:23 AM  
**To:** 'brown.byron@epa.gov'  
**Subject:** Carbon Neutrality

Hello Byron,

Not sure if you're the correct person to contact on this, but it was my understanding EPA is currently undertaking efforts in putting out a policy statement on carbon neutrality. Do you know where that is in the process? Thank you.

Darrin R. Munoz

*Director*

[darrin.munoz@FaegreBD.com](mailto:darrin.munoz@FaegreBD.com) [Download vCard](#)

D: +1 202 312 7468

**Faegre Baker Daniels LLP**

1050 K Street NW | Suite 400 | Washington, DC 20001, USA

Message

---

**From:** Ghanta, Venu G [Venu.Ghanta@duke-energy.com]  
**Sent:** 11/21/2017 11:08:39 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** Re: follow-up call on CWA

11/30 looks best on our end. Thanks.

On Nov 21, 2017, at 11:11 AM, Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)> wrote:

**\*\*\* Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. \*\*\***

Let's try for either Wed. 11/29 at 11 to 11:30 am or Thurs. 11/30 at 1 to 1:30 pm.

---

**From:** Ghanta, Venu G [<mailto:Venu.Ghanta@duke-energy.com>]  
**Sent:** Tuesday, November 21, 2017 8:18 AM  
**To:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>  
**Subject:** follow-up call on CWA

Hi Byron-

Hope you're well. Would you be able to do the call with David Fotouhi on CWA issues during the week of November 27?

Thanks, Venu

Message

---

**From:** Munoz, Darrin R. [Darrin.Munoz@FaegreBD.com]  
**Sent:** 7/11/2017 9:43:42 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** 12PM Meeting Tomorrow

Hello Bryon,

We set up a 12pm meeting with Albert Kelly tomorrow and I know they invited you to the meeting.

I understand you might not be able to make it, but if you have five minutes to stop by and say hello that would be greatly appreciated. Thanks in advance of your time.

Regards,

Darrin R. Munoz

*Director*

darrin.munoz@FaegreBD.com [Download vCard](#)

D: +1 202 312 7468

**Faegre Baker Daniels LLP**

1050 K Street NW | Suite 400 | Washington, DC 20001, USA



Message

---

**From:** DeLaquil, Mark [mdelaquil@bakerlaw.com]  
**Sent:** 6/6/2018 2:09:58 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]; Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]  
**Subject:** RE: SDWA Aquifer Exemption

Dear Byron,

I am following up to see if any of the dates that I proposed would work. If not, please let me know and I will find other availability.

Best regards,

Mark

**Mark DeLaquil**  
Partner

---

**BakerHostetler**

Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
T +1.202.861.1527

mdelaquil@bakerlaw.com  
bakerlaw.com



---

**From:** DeLaquil, Mark  
**Sent:** Thursday, May 31, 2018 4:26 PM  
**To:** Brown, Byron <brown.byron@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>  
**Subject:** RE: SDWA Aquifer Exemption

Dear Byron,

I would prefer in person if that works for your schedule. One or more of the other folks working with Florence Copper may join us and I think it would be more productive that way. Please let me know if there is any day on June 13, 14, 18, 19 or 20 that works for your schedule. If not, I will suggest alternative dates.

Best regards,

Mark

**Mark DeLaquil**  
Partner

---

**BakerHostetler**

Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
T +1.202.861.1527

mdelaquil@bakerlaw.com  
bakerlaw.com



---

**From:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>  
**Sent:** Wednesday, May 30, 2018 4:41 PM  
**To:** DeLaquil, Mark <[mdelaquil@bakerlaw.com](mailto:mdelaquil@bakerlaw.com)>; Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>  
**Subject:** RE: SDWA Aquifer Exemption

Hi Mark – Happy to chat. Let me know if you want to discuss in person or over the phone.

---

**From:** DeLaquil, Mark [<mailto:mdelaquil@bakerlaw.com>]  
**Sent:** Tuesday, May 29, 2018 5:07 PM  
**To:** Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>; Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>  
**Subject:** SDWA Aquifer Exemption

Dear Ryan and Byron,

I hope all is well.

I am reaching out concerning the status of a longstanding aquifer exemption under the SDWA that, Florence Copper, Inc., which I represent, is relying on for its operations.

We would appreciate the opportunity to meet with you or another appropriate EPA official to discuss issues surrounding that aquifer exemption. Florence Copper has received a permit for a production test facility, as the first step in ultimately beginning full scale operations on a mine that is projected to create \$3.4 billion in economic activity for and nearly 800 jobs in the State of Arizona.

One note so that you are fully informed, there is currently pending regulatory litigation related to the aquifer exemption and Florence Copper's permit. DOJ has granted permission for me to reach out directly to EPA on this matter but has requested that I inform it of the meeting, as it may wish to have an attorney attend.

Thanks for your time.

Best regards,

Mark

**Mark DeLaquil**  
Partner

---

Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
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T +1.202.861.1527

mdelaquil@bakerlaw.com  
bakerlaw.com



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Message

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**From:** DeLaquil, Mark [mdelaquil@bakerlaw.com]  
**Sent:** 5/31/2018 8:26:07 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]; Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]  
**Subject:** RE: SDWA Aquifer Exemption  
**Attachments:** ATT00001.txt

Dear Byron,

I would prefer in person if that works for your schedule. One or more of the other folks working with Florence Copper may join us and I think it would be more productive that way. Please let me know if there is any day on June 13, 14, 18, 19 or 20 that works for your schedule. If not, I will suggest alternative dates.

Best regards,

Mark

**Mark DeLaquil**  
Partner

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mdelaquil@bakerlaw.com  
bakerlaw.com



---

**From:** Brown, Byron <brown.byron@epa.gov>  
**Sent:** Wednesday, May 30, 2018 4:41 PM  
**To:** DeLaquil, Mark <mdelaquil@bakerlaw.com>; Jackson, Ryan <jackson.ryan@epa.gov>  
**Subject:** RE: SDWA Aquifer Exemption

Hi Mark – Happy to chat. Let me know if you want to discuss in person or over the phone.

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**From:** DeLaquil, Mark [mailto:mdelaquil@bakerlaw.com]  
**Sent:** Tuesday, May 29, 2018 5:07 PM  
**To:** Jackson, Ryan <jackson.ryan@epa.gov>; Brown, Byron <brown.byron@epa.gov>  
**Subject:** SDWA Aquifer Exemption

Dear Ryan and Byron,

I hope all is well.

I am reaching out concerning the status of a longstanding aquifer exemption under the SDWA that, Florence Copper, Inc., which I represent, is relying on for its operations.

We would appreciate the opportunity to meet with you or another appropriate EPA official to discuss issues surrounding that aquifer exemption. Florence Copper has received a permit for a production test facility, as the first step in ultimately beginning full scale operations on a mine that is projected to create \$3.4 billion in economic activity for and nearly 800 jobs in the State of Arizona.

One note so that you are fully informed, there is currently pending regulatory litigation related to the aquifer exemption and Florence Copper's permit. DOJ has granted permission for me to reach out directly to EPA on this matter but has requested that I inform it of the meeting, as it may wish to have an attorney attend.

Thanks for your time.

Best regards,

Mark

**Mark DeLaquil**  
Partner

---

Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
T +1.202.861.1527

mdelaquil@bakerlaw.com  
bakerlaw.com



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The content image001.jpg of type has been blocked.

Message

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**From:** Wehrum, William L. [wwehrum@hunton.com]  
**Sent:** 11/9/2017 11:54:13 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** RE: Bill Wehrum CONFIRMED by the Senate

Thanks Byron. I appreciate your help getting through the process.

---

**From:** Brown, Byron [mailto:brown.byron@epa.gov]  
**Sent:** Thursday, November 09, 2017 12:03 PM  
**To:** Wehrum, William L.  
**Subject:** FW: Bill Wehrum CONFIRMED by the Senate  
**Importance:** High

Congratulations, Bill. Looking forward to having you rejoin the agency!

Byron R. Brown  
Deputy Chief of Staff for Policy  
Office of the Administrator  
U.S. Environmental Protection Agency

---

**From:** Lyons, Troy  
**Sent:** Thursday, November 9, 2017 12:00 PM  
**To:** Ford, Hayley <ford.hayley@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Bolen, Derrick <bolen.derrick@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Brown, Byron <brown.byron@epa.gov>; Chmielewski, Kevin <chmielewski.kevin@epa.gov>; Cory, Preston (Katherine) <Cory.Preston@epa.gov>; Darwin, Henry <darwin.henry@epa.gov>; Darwin, Veronica <darwin.veronica@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Dourson, Michael <dourson.michael@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Falvo, Nicholas <falvo.nicholas@epa.gov>; Feeley, Drew (Robert) <feeley.Drew@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Gordon, Stephen <gordon.stephen@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Harlow, David <harlow.david@epa.gov>; Hewitt, James <hewitt.james@epa.gov>; Hupp, Millan <hupp.millan@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Kelly, Albert <kelly.albert@epa.gov>; Konkus, John <konkus.john@epa.gov>; Letendre, Daisy <letendre.daisy@epa.gov>; Lovell, Will (William) <lovell.william@epa.gov>; McMurray, Forrest <mcmurray.forrest@epa.gov>; Munoz, Charles <munoz.charles@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Ringel, Aaron <ringel.aaron@epa.gov>; Rodrick, Christian <rodrick.christian@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Wagner, Kenneth <wagner.kenneth@epa.gov>; White, Elizabeth <white.elizabeth@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>  
**Cc:** Wehrum, William L. <wwehrum@hunton.com>  
**Subject:** Bill Wehrum CONFIRMED by the Senate  
**Importance:** High





Message

---

**From:** DeLaquil, Mark [mdelaquil@bakerlaw.com]  
**Sent:** 8/1/2017 4:03:13 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** Automatic reply: follow up question

I am out of the office until Wednesday, August 2. During this time I will have limited email and voicemail access. If you need immediate assistance during normal business hours, please contact Veronica Thompson at vthompson@bakerlaw.com or (202) 861-1512.

---

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Message

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**From:** Munoz, Darrin R. [Darrin.Munoz@FaegreBD.com]  
**Sent:** 8/24/2017 12:16:48 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** FW: Carbon Neutrality

Hello Bryon,

I just wanted to follow up on this. Thank you very much.

Darrin R. Munoz

*Director*

darrin.munoz@FaegreBD.com [Download vCard](#)

D: +1 202 312 7468

**Faegre Baker Daniels LLP**

1050 K Street NW | Suite 400 | Washington, DC 20001, USA

---

**From:** Munoz, Darrin R.  
**Sent:** Thursday, August 17, 2017 10:23 AM  
**To:** 'brown.byron@epa.gov'  
**Subject:** Carbon Neutrality

Hello Byron,

Not sure if you're the correct person to contact on this, but it was my understanding EPA is currently undertaking efforts in putting out a policy statement on carbon neutrality. Do you know where that is in the process? Thank you.

Darrin R. Munoz

*Director*

darrin.munoz@FaegreBD.com [Download vCard](#)

D: +1 202 312 7468

**Faegre Baker Daniels LLP**

1050 K Street NW | Suite 400 | Washington, DC 20001, USA

Message

---

**From:** Ghanta, Venu G [Venu.Ghanta@duke-energy.com]  
**Sent:** 11/21/2017 4:11:01 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group  
(FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** Automatic reply: follow-up call on CWA

I am currently out of the office with limited access to email and voicemail. I will respond to your message shortly.

Message

---

**From:** Jackson, Ryan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=38BC8E18791A47D88A279DB2FEC8BD60-JACKSON, RY]  
**Sent:** 6/19/2017 5:35:26 PM  
**To:** DeLaquil, Mark [mdelaquil@bakerlaw.com]  
**CC:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]; Davis, Patrick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7fca02d1ec544fbbbd6fb2e7674e06b2-Davis, Patr]  
**Subject:** Re: CERCLA Financial Responsibility Proposal

I'm sorry yes any of us can meet with you on this. Good to see you the other day.

---

Ryan Jackson  
Chief of Staff  
U.S. EPA  
(202) 564-6999

On Jun 15, 2017, at 1:07 PM, DeLaquil, Mark <[mdelaquil@bakerlaw.com](mailto:mdelaquil@bakerlaw.com)> wrote:

Dear Ryan,

I hope all is well. I am reaching out concerning EPA's CERCLA financial responsibility proposal. I represent Asarco LLC, which will be filing comments on the proposal. Asarco would also appreciate the opportunity to discuss its concerns with you or another appropriate EPA official.

Duane Yantorno, Asarco's Corporate Manager for State and Federal Regulatory Affairs, will be in Washington from Arizona in late July so I am hoping to schedule the meeting for either July 25, the morning of July 26, or July 28.

Please let me know if any of those dates work schedule-wise. If not, I can propose alternative dates. Also, if there is any other information I can provide to assist, please let me know.

One last note so that you are fully informed, in February I raised the possibility of a meeting with Kevin Minoli. We tabled the issue at that time due to the extension of the comment period.

Best regards,

Mark

**Mark DeLaquil**  
Partner

---

<image002.jpg>  
Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
T +1.202.861.1527

mdelaquil@bakerlaw.com  
bakerlaw.com  
<image004.jpg><image006.jpg>

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BakerHostetler







Message

---

**From:** DeLaquil, Mark [mdelaquil@bakerlaw.com]  
**Sent:** 7/24/2017 12:43:47 PM  
**To:** Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]; Davis, Patrick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7fca02d1ec544fbbbd6fb2e7674e06b2-Davis, Patr]  
**CC:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** RE: CERCLA Financial Responsibility Proposal

Dear Becky,

Thank you for the confirmation. We will plan to arrive a few minutes before 3:00 pm and will call from the guard's station.

Best regards,

Mark

**Mark DeLaquil**  
Partner

---

**BakerHostetler**

Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
T +1.202.861.1527

mdelaquil@bakerlaw.com  
bakerlaw.com



---

**From:** Brooks, Becky [mailto:Brooks.Becky@epa.gov]  
**Sent:** Monday, July 24, 2017 6:28 AM  
**To:** Davis, Patrick; DeLaquil, Mark  
**Cc:** Brown, Byron  
**Subject:** RE: CERCLA Financial Responsibility Proposal

Yes, it is on the calendar for 3:00 tomorrow. Mark, please call 202-566-0200 when you arrive at the guard's station. Our street address is included in the meeting notice, but I'll also provide it here for convenience:

1301 Constitution Ave NW, Room 3146 EPA West

See you tomorrow.

*Becky Brooks*  
*Special Assistant*  
*Office of Land and Emergency Management*  
*U.S. Environmental Protection Agency*  
*ph. 202-566-2762*

---

**From:** Davis, Patrick  
**Sent:** Sunday, July 23, 2017 4:42 PM  
**To:** DeLaquil, Mark <[mdelaquil@bakerlaw.com](mailto:mdelaquil@bakerlaw.com)>  
**Cc:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>; Brooks, Becky <[Brooks.Becky@epa.gov](mailto:Brooks.Becky@epa.gov)>  
**Subject:** Re: CERCLA Financial Responsibility Proposal

Becky,

Please confirm.

Thanks,

Patrick Davis  
Environmental Protection Agency  
Deputy Associate Director, Office of Land and Emergency Management  
202-564-3103 office

Personal Phone / Ex. 6 cell

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Sent from my iPhone

On Jul 21, 2017, at 2:33 PM, DeLaquil, Mark <[mdelaquil@bakerlaw.com](mailto:mdelaquil@bakerlaw.com)> wrote:

Dear Patrick,

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Best regards,

Mark

**Mark DeLaquil**  
Partner

---

<image001.jpg>  
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1050 Connecticut Ave, N.W. | Suite 1100  
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T +1.202.861.1527

[mdelaquil@bakerlaw.com](mailto:mdelaquil@bakerlaw.com)  
[bakerlaw.com](http://bakerlaw.com)  
<image002.jpg><image003.jpg>

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**From:** Davis, Patrick [<mailto:davis.patrick@epa.gov>]  
**Sent:** Tuesday, June 20, 2017 6:42 PM  
**To:** DeLaquil, Mark; Jackson, Ryan  
**Cc:** Brown, Byron  
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How about 3 p.m. on July 25?

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202-564-3103 office  
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**To:** Davis, Patrick <[davis.patrick@epa.gov](mailto:davis.patrick@epa.gov)>; Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>  
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**Subject:** Re: CERCLA Financial Responsibility Proposal

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Ryan Jackson  
Chief of Staff  
U.S. EPA  
(202) 564-6999

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**Sent:** 7/24/2017 10:28:09 AM  
**To:** Davis, Patrick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7fca02d1ec544fbbbd6fb2e7674e06b2-Davis, Patr]; DeLaquil, Mark [mdelaquil@bakerlaw.com]  
**CC:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
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**Cc:** Brown, Byron <brown.byron@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>  
**Subject:** Re: CERCLA Financial Responsibility Proposal

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Please confirm.

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Patrick Davis  
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Deputy Associate Director, Office of Land and Emergency Management  
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202-380-8341 cell

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Sent from my iPhone

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Partner

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<image001.jpg>  
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Mark

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Partner

<image010.jpg>  
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Washington, DC 20036-5304  
T +1.202.861.1527

mdelaquil@bakerlaw.com  
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Deputy Assistant Administrator, Office of Land and Emergency Management  
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Chief of Staff  
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**Sent:** 7/23/2017 8:41:38 PM  
**To:** DeLaquil, Mark [mdelaquil@bakerlaw.com]  
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---

**From:** Jackson, Ryan [<mailto:jackson.ryan@epa.gov>]  
**Sent:** Monday, June 19, 2017 1:35 PM  
**To:** DeLaquil, Mark  
**Cc:** Brown, Byron; Davis, Patrick  
**Subject:** Re: CERCLA Financial Responsibility Proposal

I'm sorry yes any of us can meet with you on this. Good to see you the other day.

---

Ryan Jackson  
Chief of Staff  
U.S. EPA  
(202) 564-6999

On Jun 15, 2017, at 1:07 PM, DeLaquil, Mark <[mdelaquil@bakerlaw.com](mailto:mdelaquil@bakerlaw.com)> wrote:

Dear Ryan,

I hope all is well. I am reaching out concerning EPA's CERCLA financial responsibility proposal. I represent Asarco LLC, which will be filing comments on the proposal. Asarco would also appreciate the opportunity to discuss its concerns with you or another appropriate EPA official.

Duane Yantorno, Asarco's Corporate Manager for State and Federal Regulatory Affairs, will be in Washington from Arizona in late July so I am hoping to schedule the meeting for either July 25, the morning of July 26, or July 28.

Please let me know if any of those dates work schedule-wise. If not, I can propose alternative dates. Also, if there is any other information I can provide to assist, please let me know.

One last note so that you are fully informed, in February I raised the possibility of a meeting with Kevin Minoli. We tabled the issue at that time due to the extension of the comment period.

Best regards,

Mark

**Mark DeLaquil**  
Partner

---

<image002.jpg>  
Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
T +1.202.861.1527

mdelaquil@bakerlaw.com  
bakerlaw.com  
<image004.jpg><image006.jpg>

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BakerHostetler





BakerHostetler





Message

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**From:** Ghanta, Venu G [Venu.Ghanta@duke-energy.com]  
**Sent:** 11/21/2017 1:18:27 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group  
(FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** follow-up call on CWA

Hi Byron-

Hope you're well. Would you be able to do the call with David Fotouhi on CWA issues during the week of November 27?

Thanks, Venu

Message

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**From:** Ghanta, Venu G [Venu.Ghanta@duke-energy.com]  
**Sent:** 11/16/2017 11:22:24 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** Re: CCR

Thanks. I may be stuck in meetings so please try my cell: Personal Phone / Ex. 6

On Nov 16, 2017, at 3:53 PM, Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)> wrote:

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I'll try to call you tomorrow (Friday) morning.

---

**From:** Ghanta, Venu G [<mailto:Venu.Ghanta@duke-energy.com>]  
**Sent:** Wednesday, November 15, 2017 7:13 PM  
**To:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>  
**Subject:** CCR

You have time to discuss this week?



Message

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**From:** Ghanta, Venu G [Venu.Ghanta@duke-energy.com]  
**Sent:** 1/23/2018 7:52:15 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** RE: what time works on February 2?

Oops, I meant February 2!

---

**From:** Ghanta, Venu G  
**Sent:** Tuesday, January 23, 2018 2:52 PM  
**To:** 'Brown, Byron'  
**Subject:** what time works on December 2?

Am thinking that perhaps myself and outside counsel come in person (since we are local), and we have our other experts on the phone.

Message

---

**From:** Ghanta, Venu G [Venu.Ghanta@duke-energy.com]  
**Sent:** 1/23/2018 7:51:47 PM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group  
(FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** what time works on December 2?

Am thinking that perhaps myself and outside counsel come in person (since we are local), and we have our other experts on the phone.

Message

**From:** Brent Fewell [brent.fewell@earthandwatergroup.com]  
**Sent:** 8/20/2017 2:47:49 PM  
**To:** Adam Kieper (akeiper@thenewatlantis.com) [akeiper@thenewatlantis.com]; Adam Kolton (kolton@nwf.org) [kolton@nwf.org]; Adam Krantz (akrantz@nacwa.org) [akrantz@nacwa.org]; Adam White (ajwhite@stanford.edu) [ajwhite@stanford.edu]; Alex A. Beehler [Personal Email / Ex. 6] Alex Echols (echols@conrod.com) [echols@conrod.com]; Alex Hanafi (ahanafi@edf.org) [ahanafi@edf.org]; Andrew R. Wheeler Esq. (andrew.wheeler@FaegreBD.com) [andrew.wheeler@FaegreBD.com]; Angela Logomasini (alogomasini@cei.org) [alogomasini@cei.org]; bbarnes@tnc.org; Becky Norton Dunlop (becky.norton.dunlop@heritage.org) [becky.norton.dunlop@heritage.org]; Benjamin H. Grumbles [Personal Email / Ex. 6] Bill Briggs (bill@billbriggs.net) [bill@billbriggs.net]; Brent M. Haglund PhD (bhaglund@sandcounty.net) [bhaglund@sandcounty.net]; Brian Mannix [Personal Email / Ex. 6] [Personal Email / Ex. 6] Brian McCormack (brian@brianvmccormack.com) [brian@brianvmccormack.com]; Brian Yablonski [Personal Email / Ex. 6] [yablonskib@gmail.com]; Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]; Bruce I. Knight (bknight@stratconserve.com) [bknight@stratconserve.com]; Bryan Hannegan [Personal Email / Ex. 6] Bryan Hannegan (Bryan.Hannegan@nrel.gov) [Bryan.Hannegan@nrel.gov]; bshireman@future500.org; [Personal Email / Ex. 6] Carl Artman [Personal Email / Ex. 6] [cjartman@mac.com]; carljc@stanford.edu; Catharine Ransom (cransom@gloverparkgroup.com) [cransom@gloverparkgroup.com]; Catrina Rorke (croke@rstreet.org) [croke@rstreet.org]; grizzle@grizzleco.com [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=607f0c9ada1547d0b72901f88202889c-grizzle@grizzleco.com]; Chris Wood (cwood@tu.org) [cwood@tu.org]; Christian Berle (cberle@edf.org) [cberle@edf.org]; Christy Plumer (cplumer@tnc.org) [cplumer@tnc.org]; ckearney@tfgnet.com; [Personal Email / Ex. 6] [Personal Email / Ex. 6] Dan Nees (dnees@umd.edu) [dnees@umd.edu]; Daniel Botkin (mailing@danielbbotkin.com) [mailing@danielbbotkin.com]; Daren Bakst (Daren.Bakst@heritage.org) [Daren.Bakst@heritage.org]; Dave White (dave@ecoexch.com) [dave@ecoexch.com]; David B. Struhs (david.struhs@domtar.com) [david.struhs@domtar.com]; David Gagner (Dave.Gagner@nfwf.org) [Dave.Gagner@nfwf.org]; David R. Anderson (Danderson@naturalresourcesresults.com) [Danderson@naturalresourcesresults.com]; David Schoenbrod (dschoenbrod@nyls.edu) [dschoenbrod@nyls.edu]; David Tenny (dtenny@nafoalliance.org) [dtenny@nafoalliance.org]; Doug Domenech [Personal Email / Ex. 6] Doug Siglin (DSiglin@federalcitycouncil.org) [DSiglin@federalcitycouncil.org]; Eli Lehrer (elehrer@rstreet.org) [elehrer@rstreet.org]; Erik J. Meyers (emeyers@conservationfund.org) [emeyers@conservationfund.org]; Forsgren, Lee [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a055d7329d5b470fbaa9920ce1b68a7d-Forsgren, D]; Gerhard Kuska (Gerhard.Kuska@OceanStrategies.net) [Gerhard.Kuska@OceanStrategies.net]; gordon.binder@wwfus.org; Greg Schildwachter (greg@gregschildwachter.com) [greg@gregschildwachter.com]; [Personal Email / Ex. 6] Hal Herring (herring@3rivers.net) [herring@3rivers.net]; hank@suntowater.com; Darwin, Henry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7ae8e9d24eeb4132b25982e358efbd9d-Darwin, Hen]; James Gulliford [Personal Email / Ex. 6] James L Connaughton (jim@jamesconnaughton.com) [jim@jamesconnaughton.com]; James M. Strock (jms@jamesstrock.com) [jms@jamesstrock.com]; James S. Burling Esq. (jsb@pacificlegal.org) [jsb@pacificlegal.org]; James T. Banks (james.banks@hoganlovells.com) [james.banks@hoganlovells.com]; Jan Goldman-Carter (goldmancarterj@nwf.org) [goldmancarterj@nwf.org]; Jessica L. Furey (jessica.furey@whitmanstrategygroup.com) [jessica.furey@whitmanstrategygroup.com]; Jim Gulliford (jim.gulliford@swcs.org); Jim Mosher [Personal Email / Ex. 6] Jim Presswood (jpresswood@esalliance.org) [jpresswood@esalliance.org]; Joe Cascio Esq. (cascio@gwu.edu) [cascio@gwu.edu]; John L. Howard (John\_L\_Howard@DELL.com) [John\_L\_Howard@DELL.com]; John Paul Woodley Jr. (jpwoodley@advantusstrategies.com) [jpwoodley@advantusstrategies.com]; Jonathan H. Adler (jha5@case.edu) [jha5@case.edu]; Kameran Onley (konley@tnc.org) [konley@tnc.org]; Kenneth von Schaumburg - Clark Hill PLC (kvonschaumburg@clarkhill.com) [kvonschaumburg@clarkhill.com]; Khary Cauthen (cauthenk@api.org) [cauthenk@api.org]; Kinnan Golemon (kg@kgstrategies.com) [kg@kgstrategies.com]; Leonard A. Leo Esq. (LLeo@fed-soc.org) [LLeo@fed-soc.org]; Lynn Broadus (Lbroaddus@BroadviewCollaborative.com) [Lbroaddus@BroadviewCollaborative.com]; Lynn Scarlett (lscarlett@TNC.ORG) [lscarlett@TNC.ORG]; lynn.buhl@maryland.gov; Lyons, Troy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=15e4881c95044ab49c6c35a0f5eef67e-Lyons, Troy]; Marcus Peacock [Personal Email / Ex. 6] Marianne Horinko

(mhorinko@thehorinkogroup.org) [mhorinko@thehorinkogroup.org]; Mark van Putten (mvanputten@wegefoundation.org) [mvanputten@wegefoundation.org]; Marlo Lewis Jr. (marlo.lewis@cei.org) [marlo.lewis@cei.org]; Mary\_B.\_Newmayr@ceq.eop.gov; Matthew Z. Leopold (mleopold@cfjblaw.com) [mleopold@cfjblaw.com]; Michael Cromartie (crom@eppc.org) [crom@eppc.org]; Michael Deane (michael@nawc.com) [michael@nawc.com]; Michael J. Catanzaro (Michael.J.Catanzaro@who.eop.gov) [EOP / Ex. 6] Shapiro, Mike [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2c70af880ba747b5a8b6baa45a040125-MShapiro]; Mitchell J. Butler (mitchbutler@naturalresourceresults.com) [mitchbutler@naturalresourceresults.com]; Nancy Stoner (nstoner@piscsfoundation.org) [nstoner@piscsfoundation.org]; powell@clearpath.org; [Personal Email / Ex. 6] Reeder, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=aa56f6b0d507483fba530f3abbf6c94f-JREEDER]; Rick Otis [Personal Email / Ex. 6] rod@amconmag.com; [Personal Email / Ex. 6] [Personal Email / Ex. 6] Roy A. Hoagland Esq. (royhoagland@hopeimpacts.com) [royhoagland@hopeimpacts.com]; rsisson@conservamerica.org; Sara Tucker (sara@naturalresourceresults.com) [sara@naturalresourceresults.com]; [Personal Email / Ex. 6] sean.mcginis@thehorinkogroup.org; Seth A. Davis (sdavis@eliasgroup.com) [sdavis@eliasgroup.com]; Steve Hayward ([Personal Email / Ex. 6] [Personal Email / Ex. 6] Steve Moyer (smoyer@tu.org) [smoyer@tu.org]; Steven Black ([Personal Email / Ex. 6] [Personal Email / Ex. 6] Susan Dudley (sdudley@email.gwu.edu) [sdudley@email.gwu.edu]; [Personal Email / Ex. 6] Thomas J. Gibson - American Iron & Steel Institute (tgibson@steel.org) [tgibson@steel.org]; tmarie@policyinnovation.org; Tom Sadler (tsadler@owaa.org) [tsadler@owaa.org]; tsadler@middlerivergroup.com; Wagner, Kenneth [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=048236ab99bc4d5ea16c139b1b67719c-Wagner, Ken]; William L. Wehrum (wwehrums@hunton.com) [wwehrums@hunton.com]; William Robert Irvin (birvin@americanrivers.org) [birvin@americanrivers.org]

**CC:** Jim Presswood (jpresswood@esalliance.org) [jpresswood@esalliance.org]; Jackie Hardy [hardyj@nwf.org]; Adam Kolton (kolton@nwf.org) [kolton@nwf.org]; Collin O'Mara [Collin@nwf.org]; Ken Maynard [ken.maynard@earthandwatergroup.com]

**Subject:** Stewardship Roundtable - September 14, 2017

You are cordially invited to the next Stewardship Roundtable. We are pleased that Collin O'Mara, CEO and President of the National Wildlife Federation, will join the Roundtable to discuss NWF's top priorities and opportunities for advancing bipartisan conservation efforts during the current Administration.

**When:** September 14, 8:30 a.m. – 9: 45 a.m.

**Where:** NWF, 1200 G St. NW Suite 900

RSVP to Brent Fewell, [brent.fewell@earthandwatergroup.com](mailto:brent.fewell@earthandwatergroup.com)

#### Who Are We?

- ✓ We are a group of conservatives who care about the environment
- ✓ The Roundtable is a collegial forum of friends and colleagues who wish to change the tone and dialogue.

#### What is Our Goal?

- ✓ To promote a conservative ethic and solutions to environmental problems.
- ✓ To connect thoughtful center-left and center-right leaders.
- ✓ To engage in robust, civil dialogue in a confidential forum, identifying common ground and building consensus on policy solutions.
- ✓ To establish and build relationships, respectful of those with differing perspectives and views.

For more information, contact:

Brent Fewell, Founder, [ConserveFewell.org](http://ConserveFewell.org), [brent.fewell@earthandwatergroup.com](mailto:brent.fewell@earthandwatergroup.com), [Personal Phone / Ex. 6]

Jim Presswood, President, [Earth Stewardship Alliance](http://EarthStewardshipAlliance.org), [jpresswood@esalliance.org](mailto:jpresswood@esalliance.org), [Personal Phone / Ex. 6]

Brent Fewell, Esq. | Earth & Water Group  
1455 Pennsylvania Ave., NW, Suite 400, Washington, DC 20004  
(202) 280-6362 (o) | ( Personal Phone / Ex. 6 ) (c) | [www.earthandwatergroup.com](http://www.earthandwatergroup.com)



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Message

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**From:** Ghanta, Venu G [Venu.Ghanta@duke-energy.com]  
**Sent:** 4/19/2018 11:01:26 AM  
**To:** Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group  
(FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]  
**Subject:** What's a good time to talk today?

Message

---

**From:** Brown, Byron [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=9242D85C7DF343D287659F840D730E65-BROWN, BYRO]  
**Sent:** 3/12/2018 9:02:45 PM  
**To:** lindsey.merek@FaegreBD.com  
**Subject:** Infrastructure Event

Hi Lindsey – I am interested in attending this week’s infrastructure event. Please let me know if that is a possibility. Thanks.

Byron R. Brown  
Deputy Chief of Staff for Policy  
Office of the Administrator  
U.S. Environmental Protection Agency

Message

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**From:** Brown, Byron [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=9242D85C7DF343D287659F840D730E65-BROWN, BYRO]  
**Sent:** 1/8/2018 9:36:01 PM  
**To:** Ghanta, Venu G [Venu.Ghanta@duke-energy.com]; Fotouhi, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=feba0d56aab43f8a9174b18218c1182-Fotouhi, Da]  
**Subject:** RE: CCR-CWA discussion

Hi Venu -- Maybe Wednesday at 4 or 4:30? - Byron

-----Original Message-----

From: Ghanta, Venu G [mailto:Venu.Ghanta@duke-energy.com]  
Sent: Monday, January 8, 2018 1:50 PM  
To: Brown, Byron <brown.byron@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>  
Subject: CCR-CWA discussion

Byron and David-

Hope you both have had a good start to the new year.

Can we set up some time to talk about CCR-CWA issues when you both are free?

Thanks, Venu



Message

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**From:** Brown, Byron [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=9242D85C7DF343D287659F840D730E65-BROWN, BYRO]  
**Sent:** 11/30/2017 12:20:13 PM  
**To:** Ghanta, Venu G [Venu.Ghanta@duke-energy.com]  
**Subject:** RE: Thursday

We're going to need to reschedule. David now has a conflict, and I think it is important that he participate.

---

**From:** Ghanta, Venu G [mailto:Venu.Ghanta@duke-energy.com]  
**Sent:** Monday, November 27, 2017 10:10 PM  
**To:** Brown, Byron <brown.byron@epa.gov>  
**Subject:** Thursday

Are we confirmed for a call at 1 pm?

Hope you had a good Thanksgiving.

Message

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**From:** Brown, Byron [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=9242D85C7DF343D287659F840D730E65-BROWN, BYRO]  
**Sent:** 5/30/2018 8:40:36 PM  
**To:** DeLaquil, Mark [mdelaquil@bakerlaw.com]; Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]  
**Subject:** RE: SDWA Aquifer Exemption

Hi Mark – Happy to chat. Let me know if you want to discuss in person or over the phone.

---

**From:** DeLaquil, Mark [mailto:mdelaquil@bakerlaw.com]  
**Sent:** Tuesday, May 29, 2018 5:07 PM  
**To:** Jackson, Ryan <jackson.ryan@epa.gov>; Brown, Byron <brown.byron@epa.gov>  
**Subject:** SDWA Aquifer Exemption

Dear Ryan and Byron,

I hope all is well.

I am reaching out concerning the status of a longstanding aquifer exemption under the SDWA that, Florence Copper, Inc., which I represent, is relying on for its operations.

We would appreciate the opportunity to meet with you or another appropriate EPA official to discuss issues surrounding that aquifer exemption. Florence Copper has received a permit for a production test facility, as the first step in ultimately beginning full scale operations on a mine that is projected to create \$3.4 billion in economic activity for and nearly 800 jobs in the State of Arizona.

One note so that you are fully informed, there is currently pending regulatory litigation related to the aquifer exemption and Florence Copper's permit. DOJ has granted permission for me to reach out directly to EPA on this matter but has requested that I inform it of the meeting, as it may wish to have an attorney attend.

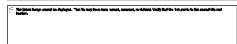
Thanks for your time.

Best regards,

Mark

**Mark DeLaquil**  
Partner

---

  
Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
T +1.202.861.1527

mdelaquil@bakerlaw.com  
bakerlaw.com



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Message

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**From:** Brown, Byron [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=9242D85C7DF343D287659F840D730E65-BROWN, BYRO]  
**Sent:** 11/28/2017 6:28:39 PM  
**To:** Ghanta, Venu G [Venu.Ghanta@duke-energy.com]  
**Subject:** RE: Thursday

Yes, we have it on the calendar.

---

**From:** Ghanta, Venu G [mailto:Venu.Ghanta@duke-energy.com]  
**Sent:** Monday, November 27, 2017 10:10 PM  
**To:** Brown, Byron <brown.byron@epa.gov>  
**Subject:** Thursday

Are we confirmed for a call at 1 pm?

Hope you had a good Thanksgiving.

Message

---

**From:** Brown, Byron [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=9242D85C7DF343D287659F840D730E65-BROWN, BYRO]  
**Sent:** 1/10/2018 8:08:45 PM  
**To:** Ghanta, Venu G [Venu.Ghanta@duke-energy.com]; Fotouhi, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=feba0d56aab43f8a9174b18218c1182-Fotouhi, Da]  
**Subject:** RE: CCR-CWA discussion

We now both have a conflict and will need to reschedule. Not sure if later today will work.

-----Original Message-----

From: Ghanta, Venu G [mailto:Venu.Ghanta@duke-energy.com]  
Sent: Wednesday, January 10, 2018 12:01 PM  
To: Brown, Byron <brown.byron@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>  
Subject: RE: CCR-CWA discussion

Yes. I will send a calendar notice shortly with a call-in number.

-----Original Message-----

From: Brown, Byron [mailto:brown.byron@epa.gov]  
Sent: Wednesday, January 10, 2018 11:53 AM  
To: Ghanta, Venu G; Fotouhi, David  
Subject: RE: CCR-CWA discussion

Venu -- confirming we are available at 4 pm and can probably talk for 30 min.

-----Original Message-----

From: Ghanta, Venu G [mailto:Venu.Ghanta@duke-energy.com]  
Sent: Monday, January 8, 2018 5:46 PM  
To: Brown, Byron <brown.byron@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>  
Subject: RE: CCR-CWA discussion

Great., thanks 4 pm is shaping up as the best option on our end. Does that still work for both of you?  
How long would you have available?

-----Original Message-----

From: Brown, Byron [mailto:brown.byron@epa.gov]  
Sent: Monday, January 08, 2018 4:36 PM  
To: Ghanta, Venu G; Fotouhi, David  
Subject: RE: CCR-CWA discussion

\*\*\* Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. \*\*\*

Hi Venu -- Maybe Wednesday at 4 or 4:30? - Byron

-----Original Message-----

From: Ghanta, Venu G [mailto:Venu.Ghanta@duke-energy.com]  
Sent: Monday, January 8, 2018 1:50 PM  
To: Brown, Byron <brown.byron@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>  
Subject: CCR-CWA discussion

Byron and David-

Hope you both have had a good start to the new year.

Can we set up some time to talk about CCR-CWA issues when you both are free?

Thanks, Venu

Message

---

**From:** Brown, Byron [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=9242D85C7DF343D287659F840D730E65-BROWN, BYRO]  
**Sent:** 1/10/2018 4:53:20 PM  
**To:** Ghanta, Venu G [Venu.Ghanta@duke-energy.com]; Fotouhi, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=febaf0d56aab43f8a9174b18218c1182-Fotouhi, Da]  
**Subject:** RE: CCR-CWA discussion

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-----Original Message-----

From: Ghanta, Venu G [mailto:Venu.Ghanta@duke-energy.com]  
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To: Brown, Byron <brown.byron@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>  
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Subject: CCR-CWA discussion

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**Sent:** 6/14/2018 5:46:24 PM  
**To:** DeLaquil, Mark [mdelaquil@bakerlaw.com]  
**Subject:** RE: SDWA Aquifer Exemption

OK, thanks. Please come to the EPA north building. Entrance is located near the escalators for the Federal Triangle metro stop. When you reach security, tell guards you are here to see me and I'll come down.

---

**From:** DeLaquil, Mark [mailto:mdelaquil@bakerlaw.com]  
**Sent:** Wednesday, June 13, 2018 5:55 PM  
**To:** Brown, Byron <brown.byron@epa.gov>  
**Subject:** RE: SDWA Aquifer Exemption

Dear Byron,

I can confirm June 20 at 11:30 am. I look forward to meeting then.

Best regards,

Mark

**Mark DeLaquil**  
Partner

---

**BakerHostetler**

Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
T +1.202.861.1527

mdelaquil@bakerlaw.com  
bakerlaw.com



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**From:** Brown, Byron <brown.byron@epa.gov>  
**Sent:** Tuesday, June 12, 2018 4:20 PM  
**To:** DeLaquil, Mark <mdelaquil@bakerlaw.com>  
**Subject:** RE: SDWA Aquifer Exemption

Hi Mark – would 11:30 am on Wednesday, June 20 work?

---

**From:** DeLaquil, Mark [mailto:mdelaquil@bakerlaw.com]  
**Sent:** Monday, June 11, 2018 5:44 PM  
**To:** Brown, Byron <brown.byron@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>  
**Subject:** RE: SDWA Aquifer Exemption

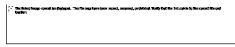
Dear Byron,

In-person is preferable. Thank you for your efforts setting up the meeting.

Best regards,

Mark

**Mark DeLaquil**  
Partner



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1050 Connecticut Ave, N.W. | Suite 1100  
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T +1.202.861.1527

mdelaquil@bakerlaw.com  
bakerlaw.com



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**From:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>  
**Sent:** Monday, June 11, 2018 5:42 PM  
**To:** DeLaquil, Mark <[mdelaquil@bakerlaw.com](mailto:mdelaquil@bakerlaw.com)>; Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>  
**Subject:** RE: SDWA Aquifer Exemption

Hi Mark – I have not forgotten. I am trying to coordinate with one other person, and it will probably be another day before I can get you a date/time but am looking to June 20 for in person otherwise later in the week by phone.

---

**From:** DeLaquil, Mark [<mailto:mdelaquil@bakerlaw.com>]  
**Sent:** Monday, June 11, 2018 5:18 PM  
**To:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>; Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>  
**Subject:** RE: SDWA Aquifer Exemption

Dear Byron,

Just following back up on this. If an in-person meeting is not feasible, we can do a call instead. Please let me know.

Best regards,

Mark

**Mark DeLaquil**  
Partner



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1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
T +1.202.861.1527

mdelaquil@bakerlaw.com  
bakerlaw.com





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**From:** DeLaquil, Mark  
**Sent:** Wednesday, June 06, 2018 10:10 AM  
**To:** 'Brown, Byron' <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>; 'Jackson, Ryan' <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>  
**Subject:** RE: SDWA Aquifer Exemption

Dear Byron,

I am following up to see if any of the dates that I proposed would work. If not, please let me know and I will find other availability.

Best regards,

Mark

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Partner



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[mdelaquil@bakerlaw.com](mailto:mdelaquil@bakerlaw.com)  
[bakerlaw.com](http://bakerlaw.com)



---

**From:** DeLaquil, Mark  
**Sent:** Thursday, May 31, 2018 4:26 PM  
**To:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>; Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>  
**Subject:** RE: SDWA Aquifer Exemption

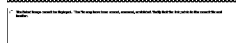
Dear Byron,

I would prefer in person if that works for your schedule. One or more of the other folks working with Florence Copper may join us and I think it would be more productive that way. Please let me know if there is any day on June 13, 14, 18, 19 or 20 that works for your schedule. If not, I will suggest alternative dates.

Best regards,

Mark

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[bakerlaw.com](http://bakerlaw.com)



---

**From:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>  
**Sent:** Wednesday, May 30, 2018 4:41 PM  
**To:** DeLaquil, Mark <[mdelaquil@bakerlaw.com](mailto:mdelaquil@bakerlaw.com)>; Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>  
**Subject:** RE: SDWA Aquifer Exemption

Hi Mark – Happy to chat. Let me know if you want to discuss in person or over the phone.

---

**From:** DeLaquil, Mark [<mailto:mdelaquil@bakerlaw.com>]  
**Sent:** Tuesday, May 29, 2018 5:07 PM  
**To:** Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>; Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>  
**Subject:** SDWA Aquifer Exemption

Dear Ryan and Byron,

I hope all is well.

I am reaching out concerning the status of a longstanding aquifer exemption under the SDWA that, Florence Copper, Inc., which I represent, is relying on for its operations.

We would appreciate the opportunity to meet with you or another appropriate EPA official to discuss issues surrounding that aquifer exemption. Florence Copper has received a permit for a production test facility, as the first step in ultimately beginning full scale operations on a mine that is projected to create \$3.4 billion in economic activity for and nearly 800 jobs in the State of Arizona.

One note so that you are fully informed, there is currently pending regulatory litigation related to the aquifer exemption and Florence Copper's permit. DOJ has granted permission for me to reach out directly to EPA on this matter but has requested that I inform it of the meeting, as it may wish to have an attorney attend.

Thanks for your time.

Best regards,

Mark

**Mark DeLaquil**  
Partner

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by replying to the message and deleting it from your computer.

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Message

---

**From:** Brown, Byron [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=9242D85C7DF343D287659F840D730E65-BROWN, BYRO]  
**Sent:** 6/12/2018 8:20:25 PM  
**To:** DeLaquil, Mark [mdelaquil@bakerlaw.com]  
**Subject:** RE: SDWA Aquifer Exemption

Hi Mark – would 11:30 am on Wednesday, June 20 work?

---

**From:** DeLaquil, Mark [mailto:mdelaquil@bakerlaw.com]  
**Sent:** Monday, June 11, 2018 5:44 PM  
**To:** Brown, Byron <brown.byron@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>  
**Subject:** RE: SDWA Aquifer Exemption

Dear Byron,

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**From:** Brown, Byron <brown.byron@epa.gov>  
**Sent:** Monday, June 11, 2018 5:42 PM  
**To:** DeLaquil, Mark <mdelaquil@bakerlaw.com>; Jackson, Ryan <jackson.ryan@epa.gov>  
**Subject:** RE: SDWA Aquifer Exemption

Hi Mark – I have not forgotten. I am trying to coordinate with one other person, and it will probably be another day before I can get you a date/time but am looking to June 20 for in person otherwise later in the week by phone.

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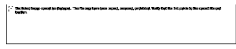
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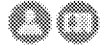
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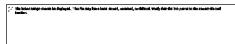
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Message

**From:** Brown, Byron [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=9242D85C7DF343D287659F840D730E65-BROWN, BYRO]  
**Sent:** 9/25/2017 3:07:22 PM  
**To:** Nolan, Robert M [robert.m.nolan@exxonmobil.com]  
**Subject:** RE: ExxonMobil Announcement - Methane Voluntary Program

Hi Robert – just wanted to let you know I am recused from working on oil and gas issues due to

Personal Matters / Ex. 6

Personal Matters / Ex. 6 Thanks.

---

**From:** Nolan, Robert M [mailto:robert.m.nolan@exxonmobil.com]  
**Sent:** Monday, September 25, 2017 10:09 AM  
**To:** Jackson, Ryan <jackson.ryan@epa.gov>; Brown, Byron <brown.byron@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>  
**Subject:** ExxonMobil Announcement - Methane Voluntary Program

FYI attached is a press release announcing our voluntary program to reduce methane emissions.

The global manager of our Unconventional Resource Development team (i.e., onshore oil and gas) will be in DC on October 16-17 for Hill and Executive Branch briefing. If EPA is interested in more details on our methane program, other unconventional resource development issues, or an overview of our U.S. footprint and operations, we'd be happy to come to EPA to provide an overview for you and/or your teams.

Just let me know .... thanks

ExxonMobil Press Release: ExxonMobil Expands Methane Emissions Reduction Program  
<http://www.businesswire.com/news/home/20170925005094/en/ExxonMobil-Expands-Methane-Emissions-Reduction-Program>

## ExxonMobil Expands Methane Emissions Reduction Program

- Subsidiary XTO Energy implementing program to reduce methane emissions
- Program covers production and midstream sites
- Collaboration with ExxonMobil Upstream Research Company focuses on new technologies

September 25, 2017 09:00 AM Eastern Daylight Time

FORT WORTH, Texas—(BUSINESS WIRE)—ExxonMobil today announced an enhanced program to reduce methane emissions from its production and midstream facilities across the United States.

“We are implementing an enhanced leak detection and repair program across our production and midstream sites to continually reduce methane emissions, and are also



evaluating opportunities to upgrade facilities and improve efficiency at both current and future sites”

[Tweet this](#)

The program, which builds on the company’s longstanding commitment to emissions reduction, prioritizes actions at sites operated by subsidiary XTO Energy and includes efforts to develop and deploy new, more efficient technologies to detect and reduce facility emissions.

“We are implementing an enhanced leak detection and repair program across our production and midstream sites to continually reduce methane emissions, and are also evaluating opportunities to upgrade facilities and improve efficiency at both current and future sites,” said XTO president Sara Ortwein. “Our comprehensive initiative is underscored by a technology research and testing effort, and includes personnel training, equipment phase out and facility design improvements.”

The program includes a commitment to phase out high-bleed pneumatic devices over three years, extensive personnel training, research, and facility design improvements for new operations.

XTO recently completed a pilot project in the Midland Basin that tested new low-emission designs that use compressed air instead of natural gas to operate pneumatic equipment that helps regulate conditions such as level, flow, pressure and temperature. The results successfully demonstrated the feasibility of using similar designs for new and existing central tank batteries and satellites, to reduce the potential for methane emissions.

XTO’s efforts also include research conducted with ExxonMobil Upstream Research Company and third-party equipment manufacturers to continue development of more efficient, state-of-the-art equipment to detect, quantify and reduce emissions at production sites. These research efforts build on an extensive portfolio of more than two dozen existing methane research projects and pilots already under way.

Earlier this year, ExxonMobil, National Oceanic and Atmospheric Administration, and others evaluated the use of aircraft-mounted leak detection surveys to guide equipment repair, and continue to assess the use of satellite, aircraft, unmanned aerial vehicles, and mobile and ground-based technologies to refine the company’s methane monitoring.

“Combining our field experience with the research capabilities at ExxonMobil upstream research provides us with unique insights as we look to develop and deploy new, more efficient technologies,” Ortwein said.

As part of the company’s efforts to better understand the magnitude and characteristics of oil and gas industry-related methane emissions, ExxonMobil participated in studies conducted by the University of Texas and Environmental Defense Fund.

ExxonMobil remains active in ongoing methane research, including participation in a methane measurement reconciliation study with the Department of Energy’s National Renewable Energy Laboratory, and in supporting research currently underway at Harvard, the University of Texas Energy Initiative, and Stanford University’s Natural Gas Initiative.

## About ExxonMobil

ExxonMobil, the largest publicly traded international oil and gas company, uses technology and innovation to help meet the world's growing energy needs. ExxonMobil holds an industry-leading inventory of resources, is one of the largest refiners and marketers of petroleum products and its chemical company is one of the largest in the world. For more information, visit [www.exxonmobil.com](http://www.exxonmobil.com) or follow us on Twitter [www.twitter.com/exxonmobil](https://www.twitter.com/exxonmobil).

Cautionary Statement: Statements of future events or conditions in this release are forward-looking statements. Actual future results, including project plans and timing and the impact of operational and technology improvements, could vary depending on the ability to scale pilot projects; the outcome of research efforts and future technology developments; regulatory developments; and other factors discussed in this release and under the heading "Factors Affecting Future Results" on the Investors page of ExxonMobil's website at [exxonmobil.com](http://exxonmobil.com).

## Contacts

ExxonMobil

Media Relations, 972-444-1107

Regard, Robert Nolan  
ExxonMobil Corporation

202-862-0203 (Office)

Personal Phone / Ex. 6 (Cell)

Message

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**From:** Brown, Byron [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=9242D85C7DF343D287659F840D730E65-BROWN, BYRO]  
**Sent:** 3/20/2018 9:42:39 PM  
**To:** Ghanta, Venu G [Venu.Ghanta@duke-energy.com]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]  
**Subject:** RE: Discussion on CCR proposed amendments

I am out of the office next week, but feel free to meet without me.

---

**From:** Ghanta, Venu G [mailto:Venu.Ghanta@duke-energy.com]  
**Sent:** Tuesday, March 20, 2018 5:41 PM  
**To:** Cook, Steven <cook.steven@epa.gov>  
**Cc:** Brown, Byron <brown.byron@epa.gov>  
**Subject:** Re: Discussion on CCR proposed amendments

Thanks. Wednesday between 9 am and 1 pm looks clear, but we also have some availability on Monday and Tuesday.

On Mar 20, 2018, at 5:04 PM, Cook, Steven <[cook.steven@epa.gov](mailto:cook.steven@epa.gov)> wrote:

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Venu - should be doable. I have started the process to identify the right folks. Do you have some suggested times next week?

Sent from my iPhone

On Mar 20, 2018, at 12:59 PM, Ghanta, Venu G <[Venu.Ghanta@duke-energy.com](mailto:Venu.Ghanta@duke-energy.com)> wrote:

Hi Steven-

Hope you are well.

I wanted to see if we could set up a call with your staff to get a better understanding of some of the provisions in the recently proposed amendments to the CCR program.

The issues of most interest to us are:

- Definition of non-groundwater releases
- Corrective action procedures for non-groundwater releases that can be remediated within 180 days
- Use of CCR to close impoundments undergoing forced closure
- Addition of boron to App IV
- Alternate closure provision for non-CCR wastewaters

Let me know what works best on your end.

Thanks, Venu



Venu Ghanta

*Federal Regulatory Affairs Director*

325 7th Street NW, Suite 300, Washington, DC 20004

Office: 202-824-8013

Cell:

Personal Phone / Ex. 6

Message

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**From:** Brown, Byron [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=9242D85C7DF343D287659F840D730E65-BROWN, BYRO]  
**Sent:** 6/11/2018 9:41:57 PM  
**To:** DeLaquil, Mark [mdelaquil@bakerlaw.com]; Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]  
**Subject:** RE: SDWA Aquifer Exemption

Hi Mark – I have not forgotten. I am trying to coordinate with one other person, and it will probably be another day before I can get you a date/time but am looking to June 20 for in person otherwise later in the week by phone.

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**From:** DeLaquil, Mark [mailto:mdelaquil@bakerlaw.com]  
**Sent:** Monday, June 11, 2018 5:18 PM  
**To:** Brown, Byron <brown.byron@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>  
**Subject:** RE: SDWA Aquifer Exemption

Dear Byron,

Just following back up on this. If an in-person meeting is not feasible, we can do a call instead. Please let me know.

Best regards,

Mark

**Mark DeLaquil**  
Partner

---

**BakerHostetler**  
Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
T +1.202.861.1527

mdelaquil@bakerlaw.com  
bakerlaw.com



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**From:** DeLaquil, Mark  
**Sent:** Wednesday, June 06, 2018 10:10 AM  
**To:** 'Brown, Byron' <brown.byron@epa.gov>; 'Jackson, Ryan' <jackson.ryan@epa.gov>  
**Subject:** RE: SDWA Aquifer Exemption

Dear Byron,

I am following up to see if any of the dates that I proposed would work. If not, please let me know and I will find other availability.

Best regards,

Mark

**Mark DeLaquil**  
Partner



Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
T +1.202.861.1527

mdelaquil@bakerlaw.com  
bakerlaw.com



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**From:** DeLaquil, Mark  
**Sent:** Thursday, May 31, 2018 4:26 PM  
**To:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>; Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>  
**Subject:** RE: SDWA Aquifer Exemption

Dear Byron,

I would prefer in person if that works for your schedule. One or more of the other folks working with Florence Copper may join us and I think it would be more productive that way. Please let me know if there is any day on June 13, 14, 18, 19 or 20 that works for your schedule. If not, I will suggest alternative dates.

Best regards,

Mark

**Mark DeLaquil**  
Partner



Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
T +1.202.861.1527

mdelaquil@bakerlaw.com  
bakerlaw.com



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**From:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>  
**Sent:** Wednesday, May 30, 2018 4:41 PM  
**To:** DeLaquil, Mark <[mdelaquil@bakerlaw.com](mailto:mdelaquil@bakerlaw.com)>; Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>  
**Subject:** RE: SDWA Aquifer Exemption

Hi Mark – Happy to chat. Let me know if you want to discuss in person or over the phone.

---

**From:** DeLaquil, Mark [<mailto:mdelaquil@bakerlaw.com>]  
**Sent:** Tuesday, May 29, 2018 5:07 PM  
**To:** Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>; Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>  
**Subject:** SDWA Aquifer Exemption

Dear Ryan and Byron,

I hope all is well.

I am reaching out concerning the status of a longstanding aquifer exemption under the SDWA that, Florence Copper, Inc., which I represent, is relying on for its operations.

We would appreciate the opportunity to meet with you or another appropriate EPA official to discuss issues surrounding that aquifer exemption. Florence Copper has received a permit for a production test facility, as the first step in ultimately beginning full scale operations on a mine that is projected to create \$3.4 billion in economic activity for and nearly 800 jobs in the State of Arizona.

One note so that you are fully informed, there is currently pending regulatory litigation related to the aquifer exemption and Florence Copper's permit. DOJ has granted permission for me to reach out directly to EPA on this matter but has requested that I inform it of the meeting, as it may wish to have an attorney attend.

Thanks for your time.

Best regards,

Mark

**Mark DeLaquil**  
Partner

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Washington Square  
1050 Connecticut Ave, N.W. | Suite 1100  
Washington, DC 20036-5304  
T +1.202.861.1527

mdelaquil@bakerlaw.com  
bakerlaw.com



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Message

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**From:** Brown, Byron [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=9242D85C7DF343D287659F840D730E65-BROWN, BYRO]  
**Sent:** 8/25/2017 8:30:45 PM  
**To:** Munoz, Darrin R. [Darrin.Munoz@FaegreBD.com]  
**Subject:** RE: Carbon Neutrality

I assume you are referring to carbon neutrality of biomass. I am not familiar with the details of this project. Have you inquired with the Office of Air and Radiation?

---

**From:** Munoz, Darrin R. [mailto:Darrin.Munoz@FaegreBD.com]  
**Sent:** Thursday, August 24, 2017 8:17 AM  
**To:** Brown, Byron <brown.byron@epa.gov>  
**Subject:** FW: Carbon Neutrality

Hello Bryon,

I just wanted to follow up on this. Thank you very much.

Darrin R. Munoz

*Director*

darrin.munoz@FaegreBD.com Download vCard

D: +1 202 312 7468

**Faegre Baker Daniels LLP**

1050 K Street NW | Suite 400 | Washington, DC 20001, USA

---

**From:** Munoz, Darrin R.  
**Sent:** Thursday, August 17, 2017 10:23 AM  
**To:** 'brown.byron@epa.gov'  
**Subject:** Carbon Neutrality

Hello Byron,

Not sure if you're the correct person to contact on this, but it was my understanding EPA is currently undertaking efforts in putting out a policy statement on carbon neutrality. Do you know where that is in the process? Thank you.

Darrin R. Munoz

*Director*

darrin.munoz@FaegreBD.com Download vCard

D: +1 202 312 7468

**Faegre Baker Daniels LLP**

1050 K Street NW | Suite 400 | Washington, DC 20001, USA



Message

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**From:** Brown, Byron [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=9242D85C7DF343D287659F840D730E65-BROWN, BYRO]  
**Sent:** 8/1/2017 4:03:08 PM  
**To:** mdelaquil@bakerlaw.com  
**Subject:** follow up question

Hi Mark – sorry I had leave the meeting early last week. I just left you a voicemail as well. You mentioned EPA could model a supplemental notice for CERCLA 108 on a CAA supplemental notice. What example were you thinking of? Thanks.

Byron R. Brown  
Deputy Chief of Staff for Policy  
Office of the Administrator  
U.S. Environmental Protection Agency

Message

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**From:** Brown, Byron [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=9242D85C7DF343D287659F840D730E65-BROWN, BYRO]  
**Sent:** 11/9/2017 5:03:04 PM  
**To:** wwehrum@hunton.com  
**Subject:** FW: Bill Wehrum CONFIRMED by the Senate

**Importance:** High

Congratulations, Bill. Looking forward to having you rejoin the agency!

Byron R. Brown  
Deputy Chief of Staff for Policy  
Office of the Administrator  
U.S. Environmental Protection Agency

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**From:** Lyons, Troy  
**Sent:** Thursday, November 9, 2017 12:00 PM  
**To:** Ford, Hayley <ford.hayley@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Bolen, Derrick <bolen.derrick@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Brown, Byron <brown.byron@epa.gov>; Chmielewski, Kevin <chmielewski.kevin@epa.gov>; Cory, Preston (Katherine) <Cory.Preston@epa.gov>; Darwin, Henry <darwin.henry@epa.gov>; Darwin, Veronica <darwin.veronica@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Dourson, Michael <dourson.michael@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Falvo, Nicholas <falvo.nicholas@epa.gov>; Feeley, Drew (Robert) <Feeley.Drew@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Gordon, Stephen <gordon.stephen@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Harlow, David <harlow.david@epa.gov>; Hewitt, James <hewitt.james@epa.gov>; Hupp, Millan <hupp.millan@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Kelly, Albert <kelly.albert@epa.gov>; Konkus, John <konkus.john@epa.gov>; Letendre, Daisy <letendre.daisy@epa.gov>; Lovell, Will (William) <lovell.william@epa.gov>; McMurray, Forrest <mcmurray.forrest@epa.gov>; Munoz, Charles <munoz.charles@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Ringel, Aaron <ringel.aaron@epa.gov>; Rodrick, Christian <rodrick.christian@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Wagner, Kenneth <wagner.kenneth@epa.gov>; White, Elizabeth <white.elizabeth@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>  
**Cc:** Wehrum, William L. <wwehrum@hunton.com>  
**Subject:** Bill Wehrum CONFIRMED by the Senate  
**Importance:** High

49-47

Message

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**From:** Brown, Byron [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=9242D85C7DF343D287659F840D730E65-BROWN, BYRO]  
**Sent:** 11/21/2017 4:10:55 PM  
**To:** Ghanta, Venu G [Venu.Ghanta@duke-energy.com]  
**Subject:** RE: follow-up call on CWA

Let's try for either Wed. 11/29 at 11 to 11:30 am or Thurs. 11/30 at 1 to 1:30 pm.

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**From:** Ghanta, Venu G [mailto:Venu.Ghanta@duke-energy.com]  
**Sent:** Tuesday, November 21, 2017 8:18 AM  
**To:** Brown, Byron <brown.byron@epa.gov>  
**Subject:** follow-up call on CWA

Hi Byron-

Hope you're well. Would you be able to do the call with David Fotouhi on CWA issues during the week of November 27?

Thanks, Venu

Message

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**From:** Brown, Byron [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=9242D85C7DF343D287659F840D730E65-BROWN, BYRO]  
**Sent:** 11/16/2017 8:53:08 PM  
**To:** Ghanta, Venu G [Venu.Ghanta@duke-energy.com]  
**Subject:** RE: CCR

I'll try to call you tomorrow (Friday) morning.

---

**From:** Ghanta, Venu G [mailto:Venu.Ghanta@duke-energy.com]  
**Sent:** Wednesday, November 15, 2017 7:13 PM  
**To:** Brown, Byron <brown.byron@epa.gov>  
**Subject:** CCR

You have time to discuss this week?

Message

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**From:** Brown, Byron [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=9242D85C7DF343D287659F840D730E65-BROWN, BYRO]  
**Sent:** 4/26/2017 9:46:42 PM  
**To:** Ghanta, Venu G [Venu.Ghanta@duke-energy.com]  
**Subject:** RE: checking in

Hi Venu – I should have some time later next week if you want to meet up. - Byron

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**From:** Ghanta, Venu G [mailto:Venu.Ghanta@duke-energy.com]  
**Sent:** Tuesday, March 14, 2017 5:41 PM  
**To:** Brown, Byron <brown.byron@epa.gov>  
**Subject:** checking in

Hi Byron-

Hope you're settling back in to EPA. Would you have some time, possibly next week, to grab coffee?

Thanks, Venu

Venu Ghanta  
Federal Environmental & Energy Policy Director  
Duke Energy  
325 7th Street NW, Suite 300, Washington, DC 20004  
Office: 202-824-8013  
Cell: Personal Phone / Ex. 6  
[venu.ghanta@duke-energy.com](mailto:venu.ghanta@duke-energy.com)

Message

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**From:** Brown, Byron [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=9242D85C7DF343D287659F840D730E65-BROWN, BYRO]  
**Sent:** 4/5/2017 3:16:41 AM  
**To:** Ghanta, Venu G [Venu.Ghanta@duke-energy.com]  
**Subject:** Re: coffee

Hi Venu - thanks for following up. Sorry I did not follow up earlier. Happy to chat any time. Will try to find time in next couple of weeks.

Sent from my iPhone

On Apr 4, 2017, at 8:34 PM, Ghanta, Venu G <[Venu.Ghanta@duke-energy.com](mailto:Venu.Ghanta@duke-energy.com)> wrote:

Hi Byron-

Just saw Lesley today, which reminded me to get in touch with you.

I hear that you are insanely busy but would love to get coffee if/when things free up.

Hope you are doing well.

-Venu