

• Cleaning up toxic substances and Areas of Concern. Ex. 5 - Deliberative
[Redacted]

• Preventing, removing, and managing invasive species. Ex. 5 - Deliberative
[Redacted]

• Improving nearshore health and reducing nonpoint source pollution. Ex. 5 - Deliberative
[Redacted]

• Protecting and restoring fish and wildlife habitat. Ex. 5 - Deliberative
[Redacted]

• Improving accountability, monitoring, evaluation, communication and partnerships. Ex. 5 - Deliberative
Ex. 5 - Deliberative
D lib ti
[Redacted]

2011 Budget Allocation Ex. 5 - Deliberative
[Redacted]

Ex. 5 - Deliberative
[Redacted]

Ex. 5 - Deliberative
[Redacted]

Background Ex. 5 - Deliberative
[Redacted]

Ex. 5 - Deliberative

Ex. 5 - Deliberative

01268-EPA-267

Seth Oster/DC/USEPA/US

08/21/2009 10:57 AM

To Richard Windsor

cc Bob Sussman, Diane Thompson, Gina McCarthy, Lisa
Heinzerling, Allyn Brooks-LaSure

bcc

Subject Re: BNA: EPA Said to Be Nearing Proposal to Limit
Stationary Sources' Carbon Dioxide Emissions

Ex. 5 - Deliberative

[Redacted]

[Redacted]

[Redacted]

Seth

Seth Oster
Associate Administrator
Office of Public Affairs
Environmental Protection Agency
(202) 564-1918
oster.seth@epa.gov

Richard Windsor

[There is little new here. Given all the b...](#)

08/21/2009 10:03:15 AM

From: Richard Windsor/DC/USEPA/US
To: Gina McCarthy/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA
Cc: Seth Oster/DC/USEPA/US@EPA, Lisa Heinzerling/DC/USEPA/US@EPA, Bob
Sussman/DC/USEPA/US@EPA
Date: 08/21/2009 10:03 AM
Subject: Re: BNA: EPA Said to Be Nearing Proposal to Limit Stationary Sources' Carbon Dioxide Emissions

Ex. 5 - Deliberative

[Redacted]

[Redacted]

[Redacted]

Gina McCarthy

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

From: Gina McCarthy
Sent: 08/21/2009 09:32 AM EDT
To: Richard Windsor; Diane Thompson
Cc: Seth Oster; Lisa Heinzerling; Bob Sussman
Subject: Fw: BNA: EPA Said to Be Nearing Proposal to Limit Stationary Sources' Carbon Dioxide Emissions

FYI

Ex. 5 - Deliberative

---- Forwarded by Gina McCarthy/DC/USEPA/US on 08/21/2009 09:24 AM ----

From: John Millett/DC/USEPA/US
To: Gina McCarthy/DC/USEPA/US@EPA, Don Zinger/DC/USEPA/US@EPA, Beth Craig/DC/USEPA/US@EPA, Jeffrey Clark/RTP/USEPA/US@EPA, rob brenner@EPA, Seth Oster/DC/USEPA/US@EPA, Adora Andy/DC/USEPA/US@EPA
Cc: Andrea Drinkard/DC/USEPA/US@EPA, Erika Wilson/DC/USEPA/US@EPA, Cathy Milbourn/DC/USEPA/US@EPA, Dave Ryan/DC/USEPA/US@EPA
Date: 08/21/2009 08:55 AM
Subject: BNA: EPA Said to Be Nearing Proposal to Limit Stationary Sources' Carbon Dioxide Emissions

http://news.bna.com/delIn/DELNWB/split_display.adp?fedfid=14768018&vname=dennotallissues&fn=14768018&jd=a0b9n9c3u8&split=0

Climate Change

EPA Said to Be Nearing Proposal to Limit Stationary Sources' Carbon Dioxide Emissions

The Environmental Protection Agency is close to approving a proposal to limit carbon dioxide emissions from stationary sources, according to environmental and industry sources. David Bookbinder, chief climate counsel for the Sierra Club, told BNA Aug. 19 that EPA plans to propose in September a rule that would apply limits to sources that emit more than 25,000 tons per year of carbon dioxide.

A 25,000-ton emissions threshold would be designed to prevent the application of strict carbon dioxide emissions limits and permitting requirements on a vast number of currently unregulated small emissions sources.

Richard Alonso, an attorney for Bracewell & Giuliani LLP, told BNA Aug. 20 that EPA could issue a rulemaking or a guidance.

The proposal would govern the application of prevention-of-significant-deterioration provisions of the Clean Air Act to carbon dioxide. Like new source review, PSD requires new and modified major pollution sources to have modern pollution controls. The program is intended to prevent large emissions increases from facilities in areas that meet air quality standards. The proposal would not impose specific emissions limits for facilities. But by applying PSD to

carbon dioxide, it would require companies to have best available control technology to curb emissions of the most prominent greenhouse gas.

EPA did not immediately respond to a request for comment.

Agency Position Reconsidered

Currently, the official EPA position is codified in a memorandum issued Dec. 18, by former EPA Administrator Stephen Johnson. That memo said carbon dioxide is not a regulated pollutant under the Clean Air Act, and that PSD does not apply to it. Under the law, PSD applies only to pollutants regulated under other Clean Air Act programs.

Environmental groups maintain that carbon dioxide is a regulated pollutant and is subject to PSD requirements, but EPA under Johnson disagreed.

EPA Administrator Lisa Jackson informed Bookbinder Feb. 17 that the agency will reconsider the Johnson memo in response to a petition filed by the Sierra Club. Bookbinder said the forthcoming proposal would follow up on that reconsideration ([30 DEN A-5, 2/18/09](#)).

In addition, President Obama in May directed EPA to propose, in concert with the Department of Transportation, limits on emissions of carbon dioxide and other greenhouse gases from cars and light trucks for model years 2012 through 2016. To meet this goal, EPA will have to finalize regulations by April 2010 ([95 DEN A-10, 5/20/09](#)).

Vehicle Emissions Rule to Affect PSD

Once EPA finalizes these vehicle emissions limits, carbon dioxide will become a regulated pollutant, subject to PSD.

Bookbinder said a rule on applying PSD to carbon dioxide must be finalized by then to implement a 25,000-ton emissions threshold and to prevent a lower threshold from taking effect. Under the Clean Air Act, PSD applies to major sources, which are defined as those that emit more than 250 tons per year of a regulated pollutant. For certain specified sources, the threshold is 100 tons per year. Unless EPA takes action, this would mean that PSD would apply to sources with these levels of emissions.

According to the U.S. Chamber of Commerce and other industry groups, this would apply PSD requirements to hundreds of thousands of new sources, including schools, hospitals, and small businesses, not just power plants, refineries, and other large sources. This is because carbon dioxide is emitted in far greater amounts than other air pollutants ([119 DEN A-2, 6/24/09](#)).

The Chamber of Commerce has released figures saying that applying PSD to carbon dioxide would expand the number of facilities subject to PSD from around 30,000 to 1.2 million. A 25,000-ton emissions threshold for PSD would address this problem, but Alonso said EPA cannot just say it will not regulate emissions below 25,000 tons per year, when the Clean Air Act applies the requirements to emissions above 250 or 100 tons per year.

Alonso said EPA would have to get that interpretation past the U.S. Court of Appeals for the District of Columbia Circuit, which in recent rulings has overturned EPA interpretations of the Clean Air Act that it said were not justified by the text of the act.

EPA in 2008 suggested that it could raise the threshold for "significant" emissions under PSD to

25,000 tons per year, but Alonso said this would be a novel interpretation not supported by the Clean Air Act.

A 25,000-ton threshold "is the only sane thing they can do," Bookbinder said.

Bookbinder has said previously that no environmental group would sue to challenge a 25,000 ton emissions threshold for PSD.

But Alonso said other parties could challenge the threshold as a means of stopping projects that they oppose for other reasons. Alonso used a hypothetical example of a labor union using PSD to challenge a construction project using non-union labor.

'They Will be Sued.'

"If someone thinks EPA is not going to get sued over this, they're not living in the environmental world of the last 10 years," Alonso said. "They will be sued."

EPA in 2008 also suggested that it could address the 250-ton threshold by issuing general permits, under which small sources would not have to go through the often-arduous PSD permitting process.

Alonso said stormwater permits under the Clean Water Act are often issued after an entity sends in a postcard saying it is in compliance with generic requirements issued by EPA. Similar requirements could apply to small sources under a general PSD permit, Alonso said, with more stringent requirements applying to sources above 25,000 tons. A general permit could impose "broad-based" requirements, such as energy-efficient appliances, he said. Some have suggested that once EPA applies PSD to greenhouse gases, the program will be so stringent and costly that industry will prefer an emissions cap-and-trade system, such as the system that would be imposed under H.R. 2454, which passed the House June 26 ([122 DEN A-10, 6/29/09](#)).

Alonso said, however, that technology to reduce carbon dioxide emissions significantly, other than to improve energy efficiency, does not exist, so EPA would not be able to impose costly requirements under PSD for at least 10 years. In the short term, he said, industry may prefer PSD to a cap-and-trade system.

By Steven D. Cook

~~~~~  
John Millett  
Office of Air and Radiation Communications  
U.S. Environmental Protection Agency  
5411 Ariel Rios Building North  
Washington, DC 20460  
Phone: 202/564-2903  
Cell: 202/510-1822

01268-EPA-268

**Allyn  
Brooks-LaSure/DC/USEPA/US**

To Richard Windsor

cc

08/21/2009 11:28 PM

bcc

Subject Re: This Week's Media Inquiries

Yup.

MABL.

-----

M. Allyn Brooks-LaSure  
Office of the Administrator  
U.S. Environmental Protection Agency  
Cell: 202-631-0415  
Richard Windsor

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

**From:** Richard Windsor  
**Sent:** 08/21/2009 10:02 PM EDT  
**To:** Allyn Brooks-LaSure  
**Subject:** Re: This Week's Media Inquiries

Wow. Tx.

Allyn Brooks-LaSure

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

**From:** Allyn Brooks-LaSure  
**Sent:** 08/21/2009 07:05 PM EDT  
**To:** "Windsor, Richard" <Windsor.richard@epa.gov>; "Fulton, Scott" <fulton.scott@epa.gov>; "Thompson, Diane" <thompson.diane@epa.gov>; "Mcintosh, David" <mcintosh.david@epa.gov>; Arvin Ganesan; "Sussman, Bob" <sussman.bob@epa.gov>; Lisa Heinzerling  
**Cc:** "Oster, Seth" <oster.seth@epa.gov>  
**Subject:** This Week's Media Inquiries

Below are the media inquiries fielded this week.

MABL.

-----

M. Allyn Brooks-LaSure  
Office of the Administrator  
U.S. Environmental Protection Agency  
Cell: 202-631-0415  
Seconda Tyson

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

**From:** Seconda Tyson  
**Sent:** 08/21/2009 06:56 PM EDT  
**To:** Allyn Brooks-LaSure; Adora Andy; Michael Thiem; Roxanne Smith  
**Subject:** Weekly Wrap - Friday, 8/21/09

### Administration and Resources Management

Black Collegian mag: EPA recruiting during economic downturn. Sent quote from Craig Hooks. Closed.

Government Executive mag: Expanding article on wellness to include continuing-education opportunities. Foner set for 8/24. Open.

Science mag: Article, "Reaping the Benefits of a Government Job," fact checked and returned to writer. Closed.

Wash Post: Sent info about EPA employee, who disappeared six months ago. Closed.

### **Aging Initiative**

Greenwire: Aging guidebook. Closed.

### **Agriculture**

Agritalk Radio: Awaiting Adora's office response on getting Larry Elworth for interview on ag issues. Open.

WSJ: Possible "on background" informational phone interview Aug. 25 on enforcement aspect of animal feeding operation (CAFO) rules. Open.

### **Air**

AP: Following up on a story about mercury in fish. Asked if we regulated mercury from coal fired powered plants. Sent statement that we are working to replace CAMR. Closed.

AP: Provided a subset of the data on off-road mobile-source emissions from the 2002 inventory for 2005 (if it is complete and vetted), showing county-level data on diesel emissions from line-haul locomotives, railway maintenance or yard locomotives and railroad equipment? Sent spreadsheet. Closed.

AP: Provided info on possible exemption of Ash Grove Cement Plant in Oregon from EPA mercury regs. Closed.

AP (LA): Awaiting more info from reporter on PM 2.5 concentrations at monitoring stations throughout the country. Open.

Bloomberg News: Writing on the ethanol "blend wall" decision Administrator Jackson said will happen in November. Am looking for info on the process of the decision and the studies/comments etc. that go into making it. Sent him to regulations.gov to see the docket, which he will read. Open.

BNA: Interview request with Gina McCarthy. Open.

BNA: Is there any effort at EPA aimed at limiting black carbon emissions, specifically as a greenhouse forcing agent (aside from diesel emissions reductions and other PM controls for health-based and visibility reasons)? Are there plans to do so? Open.

BNA: Phase out of HFCs. Sent link to North American Leaders Declaration on Climate Change. Closed.

BNA: What's the timing of the GHG Rule? Open.

BNA: Will carbon dioxide be subject to prevention of significant deterioration (PSD) regs? Open.

BNA, Argus Media: Is EPA going to propose a PSD rule in September along with the vehicle emissions rulemaking? It will be consistent with Lisa Jackson's statements that you want to concentrate on sources above 25,000 tons. Open.

Christian Science Monitor: Wants phone interview on how EPA will perform MPG ratings for cars like Chevy Volt. Open.

Fairplay: Wants interview on ECA areas. Did interview on 8/19. Closed.

Greenwire: Wants EPA tree-planting climate change analysis referred to in USA Today story. Open.

Home and Hearth Magazine: Questions on newer cleaner woodstoves and our change out program. Closed.

Indianapolis Business Journal: Asking whether areas besides California have retrofit requirements. Need to call each region. Closed.

Inside EPA: EPA proposed last week to approve a North Carolina revision to a North Carolina SIP that relies on the remanded Clean Air Interstate Rule. Closed.

Inside EPA: Seeking a comment on Delaware's notice of intent to sue EPA over the agency not responding by deadline. It's under litigation. Can't comment. Closed.

Inside EPA: Sent Gina McCarthy's Recovery Act speech at Port of Baltimore. Closed.

Inside EPA, Kiplinger: Wanted the Volt statement. Sent the statement. Closed.

KSHB-TV (Kansas City): Regulations for phase-out of freon. Responses sent. Closed.

LA Times: Ethanol. Closed.

McClatchy: ECA's. Interview August 20. Closed.

McClatchy Papers: Did phone interview with OTAQ official on proposed air standards for ships. Closed.

Men's Health Magazine: Did phone interview Aug. 17 on mold with indoor air official. Closed.

National Journal: RFS2. Open.

News-Press (Ft. Meyers, Fla.): Does EPA have to approve chlorine dioxide treatment of homes with chinese drywall--referred to CPSC. Closed.

NYT: Wants explanation of the Volt numbers. Closed.

Opis: Bob Dinneen (of RFA) wrote on Twitter these two posts. Can you comment on

whether EPA may be leaning towards approving the E15 waiver just for autos and not for off road vehicles or boats? E15 waiver request has not been finalized, so we cannot comment. Closed.

Oregonian: Ash Grove Cement (and the state of Oregon, as it turns out) believes the Clean Air Act allows the EPA to create a sub-category for kilns like the one in Durkee based on the source of its raw material, in this case, limestone that is especially high in mercury.

Platts: Wants update on when EPA may issue the final decisions related to GHG reporting and the CO2 endangerment finding. Can't give a time. Closed.

Riverside Press Enterprise (Calif.): Sent info on NO2 standard. Closed.

San Francisco Chronicle: Refining crude. Open.

Slate/Washington Post: Wants interview on the history of the acid rain program. Closed.

S and L Energy: EPA has asked a federal appeals court to return for review controversial rule governing soot and smog limits for new power plants and industrial boilers. Sent Greenwire article. Closed.

S&L Energy: Sent statement on GHG reporting rule. Closed.

Telluride Watch (CO): Complaint of Vanadium clean up and liable company. Referred to region and OSHA. Closed.

Washington Times: Endangerment. Do we have a time line? No. Sent statement. Closed.

WSJ: Columnist Carl Bialik wants interview on how we'll do MPG ratings for cars like Chevy Volt. Open.

WSJ: Numbers for Chevy Volt. Gave statement. Closed.

### **Children's Health**

Environmental Health Perspectives: Sent approved quotes for article on greening schools. Closed.

### **Enforcement/Compliance**

60 Minutes: If EPA will not discuss its action with regard to Executive Recycling--i.e., an execution of a search warrant at Executive headquarters in January--does it therefore stand to reason that the company is the subject of an ongoing investigation? Open.

American News Project/Huffington Post: EPA's responsibility on reporting atrazine levels in water. Will send attributable responses. Closed.

BNA: Copy of 7/22 letter from Adam Kushner to industry on air pollution emissions rule. Reporter found it elsewhere. Closed.

BNA: Interview with Cynthia Giles on 8/20 at 3:15 p.m on future of enforcement. Interview successful, no surprises. Closed

Greenwire: EJ inquiry. Working with Regions 3 and 6. Open.

Law360: Comment on EPA vs. City of Portsmouth NH. Referred to Region 1. Closed.

Law360: Comment on GAO report about EPA's enforcement success. Response sent about positive cooperation with GAO. Closed.

Pittsburgh Tribune Review: Update on Earth Ecycle illegal exporting case. Open.

Providence Journal: Interview request with Rhode Island native, Cynthia Giles scheduled for 9/11 at 10 a.m. Open.

S and L Energy: Asking about EPA's participation in the INTERPOL Pollution Crime Working Group. Julia Lastra, Assistant Director of investigations at EPA is the project leader of the group. Andrew Lauterback, senior criminal enforcement counsel at EPA, chairs the INTERPOL Environment Crime Committee. Open.

### **Environmental Information**

BBC Worldwide TV: Planning survival team series dealing with environmental disaster scenarios. Open.

Bloomberg News: Reporter had trouble accessing TRI website. Problem appears to be local to firewall within his office. Closed.

Federal Computer Week: Interview with Rick Martin Monday, Aug. 17 re: tools EPA IT managers use regularly. Closed.

Federal Computer Week: Follow-up questions to Rick Martin regarding tools EPA IT managers use. Closed.

Government Computer News: Requested comment on Microsoft's recent injunction from a federal judge in TX ordering the company to stop selling MS Word. Closed.

Greenwire: Sent info on proposed withdrawal of RCRA Comparable Fuels Exclusion rule from OMB. Closed.

USA Today: Wants phone interview next week on why rules for underground storage tanks at gas stations are important. Open.

www.cleanskies.tv: Vague questions about TRI. Producer is revising questions. Open.

### **General Counsel**

BNA: Question on Sierra Club vs. EPA. Ongoing case, can't discuss details. Closed.

### **Hazardous Wastes**

AP: Interviewed David Lloyd 8/19/09 re: Cleanup on closed auto plants. Closed.

BNA: Information on Underground Storage Tanks Webinar. Closed.

BNA: Interview request 9/10/09 @ 11:15 a.m. re: Mathy Stanislaus. Open.

BNA: Mathy Stanislaus letter to stakeholders; sent a copy. Closed.

BNA: Wants the letter on withdrawing the Comparable Fuels Exclusion Rule from OMB. Closed.

Environmental Health Perspectives: Coal ash residues. Open.

Freelancer (from University of Illinois): Manufactured gas plants. Closed.

Greenwire: Nanotechnology for site remediation. Closed.

Greenwire: Withdrawal of Comparable Fuels Exclusion Rule from OMB. Closed.

Inside EPA: Interviewed John Reeder 8/20/09 re: Federal facilities and Munitions Response guidelines. Closed.

Inside EPA: Requested Superfund conference remarks from J. Woolford & M. Stanislaus. Open.

Marion Times-Standard: Wants to confirm if EPA, TVA and Arrowhead Landfill (AL) will meet 9/16/09. Closed.

New York Daily News: EPA's previous experience with local opposition to Superfund NPL listing. Closed.

New York Times: BASEL Convention. Closed.

Race Technology Magazine: Interviewed John Glenn re: Green race car driving. Closed.

San Francisco Magazine: Exporting recyclable paper and plastic to Asia. Closed.

Stars & Stripes (Germany): Djibouti pollution and burning trash. Closed.

United Nations Environment Program: Interview request 8/25/09 @ 2:30 p.m. re: Emergency management & chemical safety. Open.

## **Pesticides**

Bloomberg News: Colony collapse disorder and EPA's pollinator protection team. Sent A's to Q's. Closed.

CBC Radio (Manitoba): Foner with Kimberly Nesci re: Bed Bug Summit. Closed.

Daily Environment Report: When did this section go on the website: "Strategic Direction for New Pesticide Testing and Assessment Approaches"? It's dated today, 8/19. Closed.

Environmental Health News: Health questions about p-dichlorobenzene. Sent A's to Q's. Closed.

French freelancer: Colony collapse disorder and the pollinator protection team. Open.

Greenwire: Was the peregrine falcon delisted from the Endangered Species Act on August 25, 1999? Ref'd to Fish and Wildlife Service. Closed.

Greenwire, Pittsburgh Post-Gazette: Study: longer testing needed for endosulfan. Sent Q&A. Closed.

KMSP-TV: On-camera 8/20 with Marty Monell re: flea & tick products. Closed.

LA Times: Clarified methyl iodide language and date of registration on the website. Closed.

Midland Daily News (Mich.): Does EPA regulate all over-the-counter meds (for animals) that are deemed pesticides? Sent A's to Q's. Closed.

Midland Daily News (Mich.): Tick and flea products. Sent A's to Q's. Closed.

Pesticide & Toxic Chemical News: Mary Francis Lowe's title? Senior International Specialist. Closed.

Risk Policy Report: Longer test period for endosulfan per Univ. of Pittsburgh report? Sent Q's and A's. Closed.

Risk Policy Report: Update on carbofuran? Nothing to report at this time. Closed.

### **Recovery Act**

American Shipper mag: Diesel ARRA. Closed.

Boston Globe: Interview request August 18 on Buy American provisions. Open.

Hanley Wood Business Media: Project-specific Buy American waivers. Open.

Inside EPA: Water ARRA. Open.

### **Recycling**

Eco Factory: Recycling paper bags vs. plastic bags. Closed.

GQ: Fact-checking aluminum vs. glass recycling. Closed.

Resource Recycling Magazine: Interview request 8/24/09 @ 2:30 p.m. re: Recycling issues and state disaster plans. Open.

### **Research and Development**

60 Minutes: Ongoing interest in phthalates. Hard deadline of Monday, August 24. Open.

Burns & Wilcox Agents Market Source: How cap-and-trade legislation in Congress, if passed, might affect the insurance industry. Closed.

Canadian Broadcast Corporation: Info on EPA's bedbug summit in April 2009. Referred her to EPA's Web page on the subject. Closed.

Clear Skies News, Daily Environmental Report, EnvironmentalLeader.com, Greenwire: Basic questions about TRI. Closed.

Gary McIntosh, Freelance Writer: Referred him to TRI website. Closed.

Japan Water Works: Awaiting OW to respond. Closed.

National Journal: Overview of IRIS. Video interview requested with Peter Preuss. Awaiting response from third floor. Open.

Nature magazine: EPA's strategy on its Human Toxicology program published in March. Closed.

NPR (Portland, Ore.): Had questions about how to access the data. Walked reporter through website. Closed.

PIRG (Public Interest Research Group): When will TRI preliminary data be final? Closed.

Risk Policy Report: Questions about difficulty of performing risk assessments, where biological agents are involved. Closed.

Risk Policy Report: Questions about probabilistic risk assessment white paper. Open.

Risk Policy Report: Maria Hegsted requests copy of document (Planning Guidance for Recover Following Biological Incidents) that she's having difficulty downloading from EPA's public website. Closed.

Risk Policy Report: Maria requested link to another document. Closed.

WBNS-TV: TRI data release date. Closed.

### **Solid Waste and Emergency Response**

Bloomberg News: Foner with Craig Matthiessen and Jim Belke to update on use of hydrogen fluoride and risk management plans. Closed.

Bloomberg News: Provided info re: hydrogen fluoride. Closed.

Christian Science Monitor: Cargo ships Bonny and Anders and toxic PCBs. Ref'd to R-3. Closed.

Corpus Christi Caller-Times: Where to view risk management plans? EPA reading rooms. Closed.

Ft. Myers News Press: Does Sabre Technical Services have approval from EPA for its drywall technique? EPA does not endorse products and methods. Closed.

NBC-2 News (Ft. Myers, Fla.): Local company claims to have EPA approval for a technique to "get rid of" Chinese drywall. EPA does not endorse products and methods. Closed.

## **Toxics**

Chemical & Engineering News: Foner with Toni Krasnic re: current status of PFOA and related chemicals. Closed.

Daily Environment Report: Wants to intvu Steve Owens about his priorities. Open.

Environmental Science & Ecology (The Netherlands): Backgrounder with Toni Krasnic re: PFOS's responsibilities and activities? Closed.

Greenwire: EPA is withdrawing two SNURs under TSCA for carbon nanotubes because of notice of intent to receive adverse comments. Who said they're going to submit adverse comments? Where can she find them? Sent info. Closed.

Inside EPA: Copy of remarks Steven Owens made on 8/17 to a Chinese delegation? They were extemporaneous, so we don't have anything to provide. Closed.

Mpls. Star-Tribune: Is EPA doing another PFOA risk assessment? Sent standard statement. Closed.

Pest & Tox Chem News: Request to intvu Steve Owens. Waiting for questions. Open.

Risk Policy Report: Chemicals meeting with administration officials? Internal and deliberative. Closed.

Risk Policy Report: Where to find the submission of the renewed ICR to OMB for TSCA section 8e? Open.

Toronto Star: Number of Zonolite processing plants in the U.S. and Canada? Closed.

## **Voluntary Programs**

Argus Media: Wants phone interview on first voluntary carbon offset under Climate Leaders program. Closed.

BlackEnterprise.com: Energy Star logo. Closed.

Climate Wire: Did phone interview today, 8/18 on first voluntary carbon offset under Climate Leaders program. Closed.

CNN: Despite my repeated phone calls, never followed up on original request on Green moving. Closed.

Federal News Radio: Did live drive-time interview with OAR official Aug. 20 on EcoCar. Closed.

Freelancer: Fact check on cost of home energy audit. Closed.

Memphis Daily News: Sent Margo Oge quotes on SmartWay. Closed.

New York Times: Backgrounder with Jean Lupinacci August 19 on what Energy Star ratings for buildings mean. Closed.

Platt's Energy Publications: Green Power info. Open.

Point Carbon: Any connection between first voluntary carbon offset under Climate Leaders program and possible future regulation? No. Closed.

Popular Science mag: Interviewed Karen Schneider August 18 on energy efficiency. Closed.

Scientific American: Did Green Chill phone interview today, 8/18. Closed.

SNL energy: Phone interview Aug. 21 on Climate Leaders approving first voluntary carbon offset. Closed.

Transport Topics: Follow-up questions on interview re: biodiesel from grain feedstock. Open.

Transport Topics: Sent info on biodiesel from grain feedstock. Closed.

## **Water**

Anchorage Daily News: Airport deicing proposal. Closed.

Argus Media: Hydraulic fracturing. Sent LPJ testimony. Closed.

Argus Media: Mountaintop mining. Open.

Associated Press (Fla.): Consent decree on proposing numeric water quality standards for waters in Fla. Sent statement. Closed.

Associated Press (IA): Interviewed Mary Smith on airport deicing proposal. Closed.

Associated Press (IA): Interview request August 19 on airport deicing for her enterprise piece that looks at the practice industry-wide. Awaiting Q's. Open.

Associated Press (D.C.): Six airports that currently don't have de-icing pads. Closed.

BNA: Cooling water intakes. Open.

BNA: Status of proposed aircraft drinking water rule. Open.

CBS Evening News: Interview request August 20 for mercury in fish. Producers ended up killing the story. Closed.

Charleston Gazette: Mountaintop mining. Open.

Floridaenvironments.com: Consent decree on proposing numeric water quality standards for waters in Fla. Sent statement. Closed.

Fortune mag: Average household water bill. Ref'd to American Water Works Assoc. Closed.

Globo News (Brazil): Wastewater treatment facilities in the United States. Open.

Greenwire: Follow-up questions on Kensington Mine. Betsaida is handling. Closed.

Inside EPA: Background interview request August 18 on new perchlorate analysis. Declined. Closed.

Inside EPA: Hydraulic fracturing. Closed.

Inside EPA: Tool used in the screening of mountaintop mining permits. Open.

Kansas City Star: E Coli standard in water. Closed.

Law 360: Consent decree on proposing numeric water quality standards for waters in Fla. Sent statement. Closed.

Minneapolis Star Tribune: Six airports that currently don't have de-icing pads. Closed.

Naples News, St. Petersburg Times: Consent decree on proposing numeric water quality standards for waters in Fla. Open.

New York Times: More background with Stave Bradbury on atrazine. Closed.

ProPublica: Interview request August 20 on investigation of groundwater problems in Wyo. Open.

Public Works mag: Sent responses on total coliform rule. Closed.

SNL Daily Gas Report: Sent A's to Q's re: underground injection control. Closed.

Voice of America: Seeking intvu with Chuck Fox, Chesapeake Bay Program. Ref'd to Region 3. Closed.

Wall Street Journal: Most recent environmental impact statement on mountaintop mining. Open.

Wall Street Journal: Sent information from the 2003 environmental impact statement for mountaintop mining. Closed.

WBDJ (Va.): Household appliance version of the "cash for clunkers" program. Ref'd to DOE, which has the lead on this effort. Closed.

01268-EPA-269

**Diane  
Thompson/DC/USEPA/US**  
08/25/2009 06:11 PM

To Richard Windsor  
cc Aaron Dickerson, Eric Wachter, Robert Goulding, Daniel  
Gerasimowicz  
bcc

Subject Fw: Administrator TPs for Discussion with CEQ Regarding  
Spruce #1 Coal Mine in WV

Not sure if this call has been scheduled, but here is the background just in case.

\*\*\*\*\*

Diane E. Thompson  
Chief of Staff  
U. S. Environmental Protection Agency  
202-564-6999

----- Forwarded by Diane Thompson/DC/USEPA/US on 08/25/2009 06:10 PM -----

From: Gregory Peck/DC/USEPA/US  
To: Diane Thompson/DC/USEPA/US@EPA  
Cc: Bob Sussman/DC/USEPA/US@EPA, Peter Silva/DC/USEPA/US@EPA, Suzanne  
Schwartz/DC/USEPA/US@EPA, Mike Shapiro/DC/USEPA/US@EPA, Kevin  
Minoli/DC/USEPA/US@EPA, Lynn Zipf/DC/USEPA/US@EPA  
Date: 08/25/2009 02:58 PM  
Subject: Administrator TPs for Discussion with CEQ Regarding Spruce #1 Coal Mine in WV

Diane:

Ex. 5 - Deliberative  
[Redacted]

[Redacted]

[Redacted]

Please let us know if you have any questions.

Greg

**Spruce No. 1 Mine**

## Logan County, West Virginia

**Issue:** [REDACTED] Ex. 5 - Deliberative [REDACTED]

- The Corps has issued several permits for this project since 1998. Each permit has been challenged in federal district court.

[REDACTED] Ex. 5 - Deliberative [REDACTED]

[REDACTED] Ex. 5 - Deliberative [REDACTED]

- The government's response is due on September 4th.

### Key Background:

- The Spruce #1 mine is the largest surface coal mine ever proposed in the Appalachian Coal Fields. As currently proposed, the mine encompasses approximately 2,278 acres and would result in the discharge of fill material into 10,630 feet (2.01 miles) of ephemeral streams; 32,491 (6.15 miles) of intermittent streams; 825 feet (0.16 miles) of perennial streams; and 0.12 acres of wetland.
- On a cumulative basis, new impacts combined with previous mining activities will cover over 21% of total stream length and over 35% of headwater stream length in the Spruce Fork watershed which is 11% of total stream length and almost 15% of headwater stream length in the Little Coal River watershed. In addition to historic and ongoing mining, there are eleven additional mining projects proposed within this sub-basin, including six other permits which have been issued by the Corps, but on which work has not yet commenced due to ongoing litigation.
- The Little Coal River watershed contains the largest number of impaired stream miles in the Central Appalachian Ecoregion in West Virginia.
- Spruce #1 is a "mountaintop removal" operation - the most environmentally damaging form of surface coal mining.
- The Corps first permit (a nationwide #21 approval) was issued and immediately challenged in 1998. The project has been involved in three separate lawsuits since 1998. This is the

[REDACTED] Ex. 5 - Deliberative [REDACTED]

Ex. 5 - Deliberative

**Talking Points:**

- Ex. 5 - Deliberative

(b) (5) D.P.

---

Gregory E. Peck  
Chief of Staff  
Office of Water  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460  
202-564-5778

01268-EPA-270

**Richard Windsor/DC/USEPA/US**  
08/25/2009 06:17 PM

To Seth Oster  
cc  
bcc

Subject Re: Chamber of Commerce Challenge to EPA

Yup. Love it.  
Seth Oster

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

**From:** Seth Oster  
**Sent:** 08/25/2009 06:12 PM EDT  
**To:** Richard Windsor; Diane Thompson; Lisa Heinzerling; Gina McCarthy  
**Cc:** Allyn Brooks-LaSure  
**Subject:** Chamber of Commerce Challenge to EPA

In case you have not seen this .

Seth

NEW YORK TIMES

August 25, 2009

## Chamber Threatens Lawsuit if EPA Rejects Climate Science 'Trial'

By MICHAEL BURNHAM of [ClimateWire](#)

The nation's largest business group is asking U.S. EPA to hold a public debate on climate change science -- or face litigation -- as the agency prepares to regulate greenhouse gas emissions under the Clean Air Act.

In April, EPA said it planned to declare that emissions of carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride from new automobiles and their engines contribute to air pollution that endangers public health and welfare. The proposal, which does not include any regulations, comes in response to the Supreme Court's 2007 *Massachusetts v. EPA* ruling.

The U.S. Chamber of Commerce filed a 21-page petition with EPA today, asking the agency to approve an on-the-record proceeding with an independent trier of fact who would allow EPA and environmental and business groups to engage in a "credible weighing" of the scientific evidence that global warming endangers human health.

EPA has hosted two public hearings and received more than 300,000 public comments on the matter already.

"They don't have the science to support the endangerment finding," Bill Kovacs, the chamber's vice president for environment, regulatory and government affairs, said in an interview. "We can't just take their word for it."

Kovacs envisions the EPA proceeding as a modern-day "Scopes Monkey Trial," where the science of global warming -- rather than evolution versus creationism -- would be debated. The 1925 trial, which pitted prominent defense attorney Clarence Darrow against three-time presidential candidate Williams Jennings Bryan, centered on the prosecution of John Scopes for violating a Tennessee law by teaching evolution in a high school classroom.

Much is at stake in the modern climate change debate. Declaring greenhouse gases as pollutants from automobiles would trigger Clean Air Act regulation of other emission sources, such as power plants and oil refineries, Kovacs said.

"An endangerment finding would make EPA the regulator of the U.S. economy," he warned.

EPA Deputy Press Secretary Brendan Gilfillan rejected the chamber's claims. EPA Administrator Lisa Jackson based her proposed endangerment finding on "the soundest peer-reviewed science available, which overwhelmingly indicates that climate change presents a threat to human health and welfare," he said.

"While she knows the rigorous process would stand up to any frivolous legal challenge, the administrator doesn't think a new Scopes trial is the best way to move America forward on this issue," Gilfillan added.

Litigation is a "certainty," regardless of EPA's next move, Kovacs said.

If EPA denies the chamber's petition for climate science debate, the 3-million-member business group would have 60 days to challenge the decision, Kovacs said. The chamber would have an equal amount of time in which to challenge EPA's final endangerment finding.

EPA is reviewing the public comments and preparing the final rule, Gilfillan said.

"What we're calling for is real transparency," Kovacs said. "They have taken the position that they want integrity in science."

The U.N. Intergovernmental Panel on Climate Change's 2007 assessment pegs the range of expected global average temperature increase during the next century at 2 to 4.5 degrees Celsius, with a best estimate of 3 degrees. The consequences of a warming world include harsher heat waves, deeper floods and faster glacial melting, the scientists warned.

In today's [filing](#) (pdf) with EPA, the chamber charges that "no issue should be more important in deciding whether to make an endangerment finding than the question of whether higher global temperatures will lead to higher death rates in the United States." Indeed, the business group, citing scientific data it has already submitted to EPA, contends that the IPCC's forecast temperature increases will result in lower net mortality rates in the United States.

The American Petroleum Institute and other trade groups have argued similarly in EPA filings.

"Those favoring a positive finding either ignore the data cited by the chamber and other parties who have actually examined the scientific literature in detail, or they try to divert attention from the question of whether higher temperatures will lead to increased mortality in the United States," the chamber filing concludes.

Added Kovacs: "What we're asking for is a trial of the science."

Brenda Ekwurzel, a climate scientist with the Union of Concerned Scientists, characterized the chamber's analysis as "cherry picking" data.

A June 2009 report by 13 federal agencies, titled "Global Climate Change Impacts in the United States," does project a smaller risk of loss of life in the winter -- such as people slipping on ice or freezing to death -- in coming decades. However, warmer weather in other seasons would bring a greater risk of loss of life, Ekwurzel noted, citing the report.

"Unlike health threats caused by a particular toxin or disease pathogen, there are many ways that climate change can lead to potentially harmful health effects," the report noted. "There are direct health impacts from heat waves and severe storms, ailments caused or exacerbated by air pollution and airborne allergens, and many climate-sensitive infectious diseases."

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*For more news on energy and the environment, visit [www.climatewire.net](http://www.climatewire.net) .*

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Associate Administrator  
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Environmental Protection Agency  
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oster.seth@epa.gov

01268-EPA-272

Seth Oster/DC/USEPA/US  
08/27/2009 02:17 PM

To Richard Windsor  
cc "Diane Thompson"  
bcc  
Subject Re: Reuters Story

Got it. Thanks.

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

Richard Windsor (b) (5) D.P. 08/27/2009 02:13:36 PM

From: Richard Windsor/DC/USEPA/US  
To: Seth Oster/DC/USEPA/US@EPA  
Cc: "Diane Thompson" <thompson.diane@epa.gov>  
Date: 08/27/2009 02:13 PM  
Subject: Re: Reuters Story

(b) (5) D.P.  
[Redacted]

Seth Oster

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

**From:** Seth Oster  
**Sent:** 08/27/2009 01:48 PM EDT  
**To:** Richard Windsor  
**Cc:** Diane Thompson  
**Subject:** Reuters Story

See below story. We did not know about this story – or the report it cites – in advance. We’re checking out now where it came from.

# U.S. finds water polluted near gas-drilling sites

Thu Aug 27, 2009 12:56pm EDT

By [Jon Hurdle](#)

PHILADELPHIA (Reuters) - U.S. government scientists have for the first time found chemical contaminants in drinking water wells near natural gas drilling operations, fueling concern that a

gas-extraction technique is endangering the health of people who live close to drilling rigs.

The Environmental Protection Agency found chemicals that researchers say may cause illnesses including cancer, kidney failure, anemia and fertility problems in water from 11 of 39 wells tested around the Wyoming town of Pavillion in March and May this year.

The report issued this month did not reach a conclusion about the cause of contamination but named gas drilling as a potential source.

Gas drilling companies say the gas drilling technique called hydraulic fracturing, or "fracking," is safe, but opponents contend it pollutes groundwater with dangerous substances.

Evidence of a link between gas drilling and water contamination would set back development of a clean-burning fuel promoted by the Obama administration as crucial to the future of U.S. energy production.

Some experts believe the United States holds more than 100 years worth of natural gas reserves. The new findings may raise questions about the process companies such as EnCana Corp, Halliburton Co and others commonly use to pump the gas from deep geological formations. Encana, Canada's biggest energy company, is drilling in Pavillion.

"There may be an indication of groundwater contamination by oil and gas activities," said the 44-page report, which received little public attention when released on August 11. "Many activities in gas well drilling (and) hydraulic fracturing ... involve injecting water and other fluids into the well and have the potential to create cross-contamination of aquifers."

Among the contaminants found in some of the wells was 2-butoyethanol, or 2-BE, a solvent used in natural gas extraction, which researchers say causes the breakdown of red blood cells, leading to blood in the urine and feces, and can damage the kidneys, liver, spleen and bone marrow.

Greg Oberley, an EPA scientist who has been testing the water samples, said the agency did not set out to prove that hydraulic fracturing caused groundwater contamination, but was responding to complaints from local residents that their well water had become discolored or foul-smelling or tasted bad.

The investigation was the EPA's first in response to claims that gas drilling is polluting water supplies, he said. Testing will continue.

LINK TO GAS INDUSTRY?

While the EPA team has not determined how the chemicals got into the water, many are associated with gas drilling, Oberley said in a telephone interview.

"The preponderance of those compounds in the area would be attributable to the oil and gas industry," he said.

In hydraulic fracturing, energy companies inject a mixture of water, sand and chemicals a mile or more underground at high pressure, causing rock to fracture and release natural gas.

Drillers such as EnCana are not required to disclose the chemicals they use because of an exemption to the federal Safe Drinking Water Act, granted to the oil and gas industry in 2005.

In the U.S. Congress, concern about the safety of fracking led to the introduction in June this year of a bill that would require disclosure of fracking chemicals.

Industry representatives say fracking chemicals are heavily diluted and are injected thousands of feet below drinking-water aquifers through steel and concrete shafts that prevent the escape of toxic substances into water supplies.

Randy Teeuwen, a spokesman for EnCana, said the substances found by the EPA had been "tentatively identified." He said many were naturally occurring and some are commonly found in household products and agricultural degreasers.

He said EnCana was working with the agency to identify possible sources of the contamination. "One of those sources could be oil and gas development," Teeuwen said.

Teeuwen said EnCana, which operates 248 wells in the area, stopped using 2-BE in spring 2009 because of concerns about its health effects.

"It's a banned substance as far as EnCana is concerned," Teeuwen said.

John Fenton, a farmer in Pavillion, a rural community of about 150 people, said residents blame gas drilling for a range of illnesses including rare cancers, miscarriages and nervous system disorders.

Families with contaminated water wells have been advised by the U.S. Centers for Disease Control and Prevention not to drink the water, which in some cases was black and oily, with a petroleum-like sheen, and a smell of gas, Fenton said.

"The stress is incredible," Fenton told Reuters. "People have built their lives and businesses here. What's it all worth now?"

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01268-EPA-273

Seth Oster/DC/USEPA/US

To Richard Windsor

08/27/2009 06:18 PM

cc

bcc

Subject Strategic Direction -- some thoughts

Hi. I thought it would be helpful to put down some quick and general thoughts about strategy for the rest of the year - (b) (5) D.P.

[Redacted]

Ex. 5 - Deliberative  
[Redacted]

Ex. 5 - Deliberative  
[Redacted]

Ex. 5 - Deliberative  
[Redacted]

(b) (5) D.P.  
[Redacted]

[Redacted]

ative  
[Redacted]

Ex. 5 - Deliberative  
[Redacted]

(b) (5) D.P.  
[Redacted]

[Redacted]

Ex. 5 - Deliberative

**Week of September 7**

Ex. 5 - Deliberative

**Week of September 14**

Ex. 5 - Deliberative

Ex. 5 - Deliberative

**Week of September 21**

Ex. 5 - Deliberative

Week of September 28 - Ex. 5 - Deliberative

**October**

Ex. 5 - Deliberative

**November**

Ex. 5 - Deliberative

**December**

Ex. 5 - Deliberative

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
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01268-EPA-274

**Seth Oster/DC/USEPA/US**  
08/31/2009 07:24 PM

To Richard Windsor, Diane Thompson, Gina McCarthy, David  
McIntosh

cc

bcc

Subject Jody Freeman

Jody Freeman just called me, **Ex. 5 - Deliberative**

Seth

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

01268-EPA-276

**David  
McIntosh/DC/USEPA/US**  
08/31/2009 08:34 PM

To windsor.richard, oster.seth, mccarthy.gina, heinzerling.lisa,  
thompson.diane, "Allyn Brooks-LaSure"  
cc  
bcc

Subject Re: something we might see/experience

Resending with Diane's correct address. Fortunately, there is no Lisa Thompson at EPA.  
David McIntosh

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

**From:** David McIntosh  
**Sent:** 08/31/2009 08:28 PM EDT  
**To:** windsor.richard@epa.gov; oster.seth@epa.gov; mccarthy.gina@epa.gov;  
heinzerling.lisa@epa.gov; thompson.lisa@epa.gov; Allyn Brooks-LaSure  
**Subject:** something we might see/experience

Today Senators Boxer and Kerry announced that they will delay until the end of September the release of their climate bill (they had planned to release it next Tuesday).

Ex. 5 - Deliberative

[REDACTED]

01268-EPA-277

Seth Oster/DC/USEPA/US  
09/01/2009 08:33 AM

To Richard Windsor  
cc David McIntosh, Diane Thompson, Gina McCarthy  
bcc  
Subject Re: Jody Freeman

(b) (5) D.P. [Redacted]

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

Richard Windsor Spoke to Carol Ex. 5 - Deliberative 09/01/2009 08:18:37 AM

From: Richard Windsor/DC/USEPA/US  
To: Gina McCarthy/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA  
Date: 09/01/2009 08:18 AM  
Subject: Re: Jody Freeman

Spoke to Carol [Redacted] Ex. 5 - Deliberative [Redacted]

Gina McCarthy

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

From: Gina McCarthy  
Sent: 08/31/2009 08:19 PM EDT  
To: Richard Windsor; David McIntosh; Seth Oster; Diane Thompson  
Subject: Re: Jody Freeman

Spoke to Jody [Redacted] Ex. 5 - Deliberative [Redacted]

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

From: Richard Windsor  
Sent: 08/31/2009 07:44 PM EDT  
To: David McIntosh; Seth Oster; Diane Thompson; Gina McCarthy  
Subject: Re: Jody Freeman

Ex. 5 - Deliberative

David McIntosh

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

**From:** David McIntosh  
**Sent:** 08/31/2009 07:28 PM EDT  
**To:** Seth Oster; Richard Windsor; Diane Thompson; Gina McCarthy  
**Subject:** Re: Jody Freeman

Ex. 5 - Deliberative

Seth Oster

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

**From:** Seth Oster  
**Sent:** 08/31/2009 07:24 PM EDT  
**To:** Richard Windsor; Diane Thompson; Gina McCarthy; David McIntosh  
**Subject:** Jody Freeman

Jody Freeman just called me. Ex. 5 - Deliberative

Ex. 5 - Deliberative

Seth

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

01268-EPA-281

**Katharine  
Gage/DC/USEPA/US**  
09/01/2009 05:46 PM

To  
cc  
bcc

Subject Remarks to the Commission to Engage African Americans on  
Climate Change

**Meeting**

Date 09/23/2009  
Time 09:30:00 AM to 10:15:00 AM  
Chair Katharine Gage  
Invitees  
Required  
Optional  
FYI  
Location Fairmont Hotel,  
Culpeper Room on the Second Floor  
2401 M Street NW  
Washington, DC

Logistical Ct: Royce Brooks Ex. 6 -  
Advance Ct: Megan Cryan 2 Ex. 6 -

Staff: Allyn Brooks-LaSure (OPA)

Agenda:

9:30 - 9:50 AM - Administrator's Remarks  
9:50 - 10:15 AM - Q&A Session with Attendees

01268-EPA-286

**Seth Oster/DC/USEPA/US**

09/02/2009 08:04 AM

To windsor.richard

cc "Diane Thompson", David McIntosh, "Lisa Heinzerling", "Allyn Brooks-LaSure", "Bob Sussman", "Gina McCarthy"

bcc

Subject Fw: Greenwire on PSD at OMB: EPA Draft Greenhouse Gas Rule Focuses on Large Emitters

See below. It's a good story. We knew it was coming and chose to let it go without comment -- a good decision.

John Millett

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

**From:** John Millett

**Sent:** 09/02/2009 06:35 AM EDT

**To:** Gina McCarthy; Don Zinger; oster.seth@epa.gov

**Cc:** David Cohen; Andrea Drinkard; "Alison Davis" <davis.alison@epa.gov>

**Subject:** Greenwire on PSD at OMB: EPA Draft Greenhouse Gas Rule Focuses on Large Emitters

EPA Draft Greenhouse Gas Rule Focuses on Large Emitters

Proposed rule would shield small sources of the greenhouse gases contributing to climate change By Robin Bravender

The EPA has drafted new rules aimed at large emitters of greenhouse gases, and sparing small sources.

U.S. EPA has sent a draft rule to the White House that could limit regulations on greenhouse gas emissions to cover only very large industrial sources. The agency yesterday submitted a rule to the White House Office of Management and Budget that experts say will likely limit strict permitting requirements to industrial sources of more than 25,000 tons a year of carbon dioxide equivalent. The rule is aimed at shielding smaller sources of emissions from being subject to any new regulatory regime. The Clean Air Act now requires new and modified industrial sources to install "best available control technologies" when they emit 250 tons or more of a pollutant per year. Although the submission to OMB does not include details of the proposed rule, experts say the threshold is likely to be set at 25,000 tons because that's the stated limit in both EPA's proposed greenhouse gas reporting rule and the climate legislation passed by the House in June. The draft "Prevention of Significant Deterioration/Title V Greenhouse Gas Tailoring Rule" is seen as a critical regulation that would work in conjunction with several other climate-change rules expected from EPA. EPA and the Transportation Department last week sent draft rules to the White House for review that would boost automobile and light truck efficiency standards for model years 2012 to 2016, and impose first-ever federal tailpipe standards for greenhouse gases. Those rules hinge on the finalization of EPA's proposed "endangerment finding," which would establish greenhouse gases as pollutants under the Clean Air Act. Once it begins to regulate greenhouse gases from cars and trucks, EPA will be legally required to regulate all new or modified facilities that emit more than 250 tons per year of carbon dioxide. By moving that threshold to 25,000 tons per year, the permitting rule would cover roughly 13,000 facilities from all sectors of the economy that account for 85 to 90 percent of U.S. emissions, the agency said. "What they're trying to do is protect the innocent bystanders from being impacted by the finalization of the car rule," said Roger Martella, who was EPA general counsel under President George W. Bush. David Bookbinder, chief climate counsel at the Sierra Club, said the rule would also deflect claims from Republican lawmakers and industry groups that the Obama administration is seeking to regulate small emission sources such as doughnut shops, schools and nursing homes. "Putting this rule in place deflates a lot of the political rhetoric about regulating CO2," he said. The Obama EPA is moving forward on greenhouse gas regulations despite the administration's stated preference for legislation over agency regulations. Sens. Barbara Boxer (D-Calif.) and John Kerry (D-Mass.) -- the lead authors of the Senate climate bill -- announced yesterday that they would delay plans to introduce climate

legislation until later this month. Bookbinder predicted EPA's proposed endangerment finding will be finalized soon, followed by the threshold rule and finally the tailpipe standards, which are expected to be finalized by March 2010. "You can't go final with the car rule until you have a final endangerment finding and you don't want to go final with the car rule until you have [the threshold rule] in place," he said. Bookbinder said environmentalists are comfortable with the 25,000 ton threshold, but Martella and others have expressed concerns that EPA may face questions about its legal authority to raise the threshold from the 250 tons stipulated in the Clean Air Act.

John Millett

EPA Office of Air and Radiation Communications

Desk: 202/564-2903

Cell: 202/510-1822

01268-EPA-287

**Seth Oster/DC/USEPA/US**

09/02/2009 10:43 AM

To Richard Windsor

cc Diane Thompson, Katharine Gage

bcc

Subject Announcing Keynote for Calif Climate Summit

Hi. We got the green light from you yesterday that we needed to lock down your opening keynote at Schwarzenegger's Climate Summit in LA on Sept 30.

Ex. 5 - Deliberative



Seth

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

01268-EPA-288

Seth Oster/DC/USEPA/US

To Richard Windsor

09/02/2009 11:56 AM

cc

bcc

Subject Re: Announcing Keynote for Calif Cliamte Summit

Thanks.

Tried you earlier on cell to talk Calif -

Ex. 5 - Deliberative

You're swamped and on the road. So just let me know when you want to speak.

Seth

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

Richard Windsor

Ex. 5 - Deliberative

Original Messag...

09/02/2009 11:49:34 AM

From: Richard Windsor/DC/USEPA/US  
To: Seth Oster/DC/USEPA/US@EPA  
Date: 09/02/2009 11:49 AM  
Subject: Re: Announcing Keynote for Calif Cliamte Summit

Ex. 5 - Deliberative

Seth Oster

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

**From:** Seth Oster  
**Sent:** 09/02/2009 10:43 AM EDT  
**To:** Richard Windsor  
**Cc:** Diane Thompson; Katharine Gage  
**Subject:** Announcing Keynote for Calif Cliamte Summit

Hi. We got the green light from you yesterday that we needed to lock down your opening keynote at Schwarzenegger's Climate Summit in LA on Sept 30.

Ex. 5 - Deliberative

Seth

Seth Oster  
Associate Administrator

Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

01268-EPA-289

Seth Oster/DC/USEPA/US

To Richard Windsor, lisajackson

09/02/2009 06:58 PM

cc

bcc

Subject Fw: Two Climate Related Reports

Hi.

Ex. 5 - Deliberative

[Redacted]

Thoughts? Approve going forward?

Seth

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

----- Forwarded by Seth Oster/DC/USEPA/US on 09/02/2009 06:56 PM -----

From: Seth Oster/DC/USEPA/US  
To: Lisa Heinzerling/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA, Mathy Stanislaus/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA  
Cc: Allyn Brooks-LaSure/DC/USEPA/US@EPA  
Date: 09/02/2009 06:25 PM  
Subject: Two Climate Related Reports

All,

There are two climate-related reports that are awaiting release -- one from Air (we've discussed this one previously) and another from OSWER. The short summaries of each are below.

[Redacted] Ex. 5 - Deliberative

[Redacted] Ex. 5 - Deliberative

Please respond with thoughts on this as soon as possible.

Thanks.

Seth

(b) (5) D.P.

(b) (5) D.P. [Redacted]

[Redacted]

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
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oster.seth@epa.gov

01268-EPA-290

Arvin Ganesan/DC/USEPA/US

To David McIntosh, "windsor richard"

09/02/2009 09:46 PM

cc "ganesan arvin", "goulding robert", "thompson diane"  
bcc

Subject Re: What I recommend that you say to Ex. 5 - Deliberative

Ex. 5 - Deliberative

Sent from my Blackberry Wireless Device  
David McIntosh

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

**From:** David McIntosh

**Sent:** 09/02/2009 09:24 PM EDT

**To:** windsor.richard@epa.gov

**Cc:** ganesan.arvin@epa.gov; goulding.robert@epa.gov; thompson.diane@epa.gov

**Subject:** Re: What I recommend that you say to Ex. 5 - Deliberative

Ex. 5 - Deliberative

David McIntosh Here is what I recommend that you say... 09/02/2009 08:40:37 PM

From: David McIntosh/DC/USEPA/US

To: windsor.richard@epa.gov

Cc: thompson.diane@epa.gov, ganesan.arvin@epa.gov, goulding.robert@epa.gov

Date: 09/02/2009 08:40 PM

Subject: What I recommend that you say to Ex. 5 - Deliberative

Here is what I recommend that you say to Ex. 5 - Deliberative

Ex. 5 - Deliberative

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

(b) (5) D.P.



01268-EPA-291

Scott Fulton/DC/USEPA/US

To "Richard Windsor"

09/03/2009 02:15 PM

cc

bcc

Subject Fw: conversation on agency involvement in State decisionmaking

Ex. 5 - Deliberative

Maurice LeFranc

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

**From:** Maurice LeFranc

**Sent:** 09/03/2009 10:43 AM EDT

**To:** Scott Fulton

**Cc:** Gina McCarthy; Beth Craig

**Subject:** conversation on agency involvement in State decisionmaking

Scott:

Ex. 5 - Deliberative

Ex. 5 - Deliberative

Do you have time to chat about this? I will see you at the Japan meeting this afternoon - maybe on the margins if you have time. I am available all day today and tomorrow..

Thanks.  
Maurice

---

Maurice N. LeFranc, Jr.  
Senior Advisor on International Climate Change

U.S. Environmental Protection Agency /Office of Air and Radiation  
Ariel Rios Building / MC 6101-A  
1200 Pennsylvania Avenue  
Washington, DC 20460

Phone: (202) 564-1813  
Fax: (202) 564-7739

01268-EPA-292

Seth Oster/DC/USEPA/US

09/03/2009 02:25 PM

To Richard Windsor

cc

bcc

Subject Gov Announcing your California Keynote

This is going out shortly from the Governor's office in the form of a press advisory. **Ex. 5 - Deliberative**



Seth

President to Send Top Environment Officials to Governors' Global Climate Summit

Governor Arnold Schwarzenegger today announced that Lisa P. Jackson, Administrator of the U.S. Environmental Protection Agency, will be providing the keynote address at the opening ceremony, and Nancy Sutley, Chair of the White House Council on Environmental Quality, will provide a perspective from Washington at the Governors' Global Climate Summit 2 in Los Angeles later this month.

The summit is co-hosted by Governor Schwarzenegger, Governor Jim Doyle of Wisconsin, Governor Jennifer Granholm of Michigan, Governor David Paterson of New York and Governor M. Jodi Rell of Connecticut, in partnership with the United Nations Development Programme and the United Nations Environment Programme.

Featured discussions and/or announcements at the Summit include:

- Reaching a new global deal in Copenhagen
- Essential role of progressive states and provinces
- Urban area contributions and solutions to climate change
- Forestry solutions and recommendations to negotiators in Copenhagen
- Global strategies to address the inevitable impacts of climate change
- Climate leadership in driving technological innovation and economic growth

In addition to two top Obama Administration Officials, others confirmed include: executive director of UNICEF Ann M. Veneman, one of Forbes 100 Most Powerful Women; UN Assistant Secretary-General Olav Kjørven; journalists Thomas Friedman and Judy Woodruff; former UK Prime Minister Tony Blair; and more are being added every day.

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

01268-EPA-294

Scott Fulton/DC/USEPA/US  
09/04/2009 07:31 AM

To Windsor.Richard  
cc  
bcc

Subject Fw: Coal Ash Communication Documents

Hi Lisa

Ex. 5 - Deliberative

[Redacted]

Scott

Bob Sussman

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

**From:** Bob Sussman  
**Sent:** 09/02/2009 07:34 PM EDT  
**To:** Richard Windsor; Scott Fulton; Diane Thompson; Seth Oster  
**Subject:** Fw: Coal Ash Communication Documents

lisa

Ex. 5 - Deliberative

[Redacted]

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

----- Forwarded by Bob Sussman/DC/USEPA/US on 09/02/2009 07:27 PM -----

From: Bob Sussman/DC/USEPA/US  
To: George Hull/DC/USEPA/US@EPA  
Cc: Barry Breen/DC/USEPA/US@EPA, Betsaida Alcantara/DC/USEPA/US@EPA, Marsha Minter/DC/USEPA/US@EPA, Mathy Stanislaus/DC/USEPA/US@EPA, Matt Straus/DC/USEPA/US@EPA, Randy Deitz/DC/USEPA/US@EPA  
Date: 09/02/2009 07:19 PM  
Subject: Re: Coal Ash Communication Documents

Ex. 5 - Deliberative

[Redacted]

Ex. 5 - Deliberative

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

George Hull

Ex. 5 - Deliberative

09/02/2009 03:29:06 PM

From: George Hull/DC/USEPA/US  
To: Betsaida Alcantara/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA  
Cc: Barry Breen/DC/USEPA/US@EPA, Mathy Stanislaus/DC/USEPA/US@EPA, Marsha Minter/DC/USEPA/US@EPA, Randy Deitz/DC/USEPA/US@EPA, Matt Straus/DC/USEPA/US@EPA  
Date: 09/02/2009 03:29 PM  
Subject: Coal Ash Communication Documents

Ex. 5 - Deliberative

[attachment "CCR Survey Web Page 9-2-09.doc" deleted by Bob Sussman/DC/USEPA/US] [attachment "CCRpressrelease 9-2-09.doc" deleted by Bob Sussman/DC/USEPA/US] [attachment "CCRQandA9.02.09.doc" deleted by Bob Sussman/DC/USEPA/US]

George Hull  
Office of Solid Waste and Emergency Response  
U.S. EPA  
Tel. 202-566-2604

01268-EPA-295

Seth Oster/DC/USEPA/US  
09/04/2009 03:03 PM

To Richard Windsor  
cc  
bcc

Subject Re: Air Issues Rollout -- PSD, Autos and Ozone

Hi. [Redacted] Ex. 5 - Deliberative

[Redacted]

[Redacted]

Seth

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

Richard Windsor (b) (5) D.P. 09/04/2009 06:43:34 AM

From: Richard Windsor/DC/USEPA/US  
To: Seth Oster/DC/USEPA/US@EPA  
Cc: Gina McCarthy/DC/USEPA/US@EPA, Lisa Heinzerling/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA  
Date: 09/04/2009 06:43 AM  
Subject: Re: Air Issues Rollout -- PSD, Autos and Ozone

(b) (5) D.P. Thanks so much for your hard work on this!

[Redacted] Ex. 5 - Deliberative

[Redacted]

[Redacted]

Ex. 5 - Deliberative

Tx, Lj

Seth Oster

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

**From:** Seth Oster

**Sent:** 09/03/2009 06:26 PM EDT

**To:** Richard Windsor

**Cc:** Gina McCarthy; Lisa Heinzerling; Diane Thompson; David McIntosh; Allyn Brooks-LaSure

**Subject:** Air Issues Rollout -- PSD, Autos and Ozone

Hi Administrator.

We need to make a few key decisions Ex. 5 - Deliberative

[Redacted]

[Redacted]

[Redacted]

(b) (5) D.P.

- Ex. 5 - Deliberative  
[Redacted]

(b) (5) D.P.

- Ex. 5 - Deliberative  
[Redacted]

(b) (5) D.P.

- Ex. 5 - Deliberative  
[Redacted]
- █ [Redacted]
- █ [Redacted]

[attachment "op.ed10.doc" deleted by Richard Windsor/DC/USEPA/US]

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

01268-EPA-297

Adora Andy/DC/USEPA/US

To Richard Windsor

09/08/2009 10:16 AM

cc

bcc

Subject Re: FYI: As Congress Returns, Climate Bill to Be Slowed by Health-Care Debate

Ex. 6 - Privacy

Richard Windsor

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

**From:** Richard Windsor**Sent:** 09/08/2009 09:08 AM EDT**To:** Adora Andy**Subject:** Re: FYI: As Congress Returns, Climate Bill to Be Slowed by Health-Care Debate

Welcome back! (b) (5) D.P.

Adora Andy

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

**From:** Adora Andy**Sent:** 09/08/2009 08:55 AM EDT**To:** Richard Windsor**Cc:** Seth Oster**Subject:** FYI: As Congress Returns, Climate Bill to Be Slowed by Health-Care Debate

WWW.NASDAQ.COM

## As Congress Returns, Climate Bill To Be Slowed by Health-Care Debate

By Siobhan Hughes, Of DOW JONES NEWSWIRES

WASHINGTON -(Dow Jones)- A health-care debate threatens to keep energy and climate legislation on the back burner when the U.S. Congress returns from recess Tuesday and enters the final push of 2009.

U.S. President Barack Obama is scheduled to plead his case on health care in a joint address to Congress this week, as U.S. Senate Majority Leader Harry Reid, D-Nev., delays action on climate and energy legislation.

The Senate's top Democrat now says that climate legislation will be considered by the end of the year - a deadline that buys time to see whether Democrats will have the political strength to take up climate change after a bruising health-care fight.

"The odds change day-to-day, and some days even hour-to-hour," said David Brown, an executive in the government affairs office of electric utility Exelon Corp. "If they can come up with a healthcare package that passes sooner rather than later, our chances are better."

But if the health care debate drags on, the energy bill could get stalled by the 2010 congressional midterm elections, he added.

The Democratic party is already fractured over climate legislation. Coal, oil, and manufacturing state lawmakers have warned about the costs for their regions. Sen. Byron Dorgan, D-N.D., has said that Congress should drop its plan to hand out allowances granting the right to pollute up to a limit, or cap. Democrats from the manufacturing-heavy Midwest have warned that climate legislation must include tariffs on countries that fail to regulate greenhouse-gas emissions.

Many people believe Obama must become personally involved in order to smooth out opposition. A number of energy bill observers say that Obama has so far failed to engage on the issue in basic ways, giving opponents an opportunity to define a climate bill as a large tax on consumers. Others see signs the Obama administration is trying to signal that it is sensitive to lawmaker concerns.

"The administration is motivated and they're doing what they have to do to try to look responsive to a lot of different stakeholder groups," said Kevin Book, an analyst at ClearView Energy Partners LLC. He puts the odds of passing legislation at 60%, making Book among the most optimistic of forecasters surveyed.

Among the pieces of evidence is a proposal submitted by the Environmental Protection Agency for White House review last week that suggested the agency would try to limit the reach of greenhouse-gas regulations. The message is two-fold: that the EPA is moving forward on a plan to regulate emissions, even in the absence of congressional action, but that it hopes to make limited use of that power.

"We have absolutely no intention of regulating every school, every church," EPA Administrator Lisa Jackson said in a radio interview last week.

The widely watched deadline is for Senate action ahead of December's international climate-change talks in Copenhagen. The Copenhagen meeting is where countries will try to reach a pact on emission-reductions after 2012, when a current treaty expires.

Jackson said she hopes the U.S. will head to the talks with "a strong platform that reflects both houses' opinion."

An easier solution might be to pass a scaled-back energy package - but that could be an affront to the U.S. House of Representatives. That's because House lawmakers cast tough votes earlier this year when the chamber narrowly passed an energy and climate bill.

So far, Reid's rhetoric suggests he remains ambitious. "We must do energy legislation as a package," he said at a clean-energy summit in Las Vegas last month. He said that congressionally mandated energy-efficiency measures had been "minimal," and that the U.S. Congress needs to pass legislation that is comprehensive rather than "scattershot."

Politics in Reid's home state could be an X factor. Christine Tezak, an analyst at Robert W. Baird & Co., last week lowered the odds for a climate law this year to 10%, down from 30%. But she said in a report that if energy-related stimulus funds begin flowing to Nevada, "Sen. Reid might benefit at home from moving climate legislation forward."

-By Siobhan Hughes, Dow Jones Newswires; 202-862-6654; Siobhan.Hughes@dowjones.com

Adora Andy  
Press Secretary  
U.S. Environmental Protection Agency  
Office of Public Affairs  
202-564-2715  
andy.adora@epa.gov

01268-EPA-299

**Seth Oster/DC/USEPA/US**

09/08/2009 01:24 PM

To Richard Windsor, Diane Thompson, Bob Sussman, Peter Silva, Arvin Ganesan, David McIntosh  
cc Adora Andy

bcc

Subject Mountain Mining Announcement -- News Is Out

The news of the upcoming mountain mining announcement has leaked out. Below is a press advisory from Appalachian Voices. We are now receiving many calls.

(b) (5) D.P.



Seth

Press Advisory

## **EPA To Announce Decisions on 86 Mountaintop Removal Mining Valley Fill Permits**

Today the US Environmental Protection Agency will announce preliminary decisions on more than 80 valley fill permits associated with mountaintop removal coal mining. During the announcement, the agency will differentiate between permit applications they have determined deserve extended consideration over environmental concerns, and which permit applications may proceed directly to the Army Corps of Engineers for implementation.

The lists of permits slated for the extended review and "enhanced coordination process" will be made public on the websites of EPA Regions 3, 4, and 5, and will become final with approval of the EPA regional offices within 14 days of this announcement. Any permits allowed to proceed past this preliminary review to the Army Corps will mean more headwater streams buried and more Appalachian mountains literally blasted off the map.

In response, Appalachian Voices has created an "EPA Shortlist" section on [iLoveMountains.org](http://iLoveMountains.org), which includes an interactive map and more information to help citizens and the media track the real-time progress of these permits and identify communities and people at risk should these permits be allowed to move ahead. Preview the map at [www.ilovemountains.org/epa-short-list/](http://www.ilovemountains.org/epa-short-list/)

Early in the Obama Administration, the EPA announced implementation of a stricter review process for mountaintop removal coal mining permits, a move that left coalfield communities hopeful that this would be the beginning of the end for this destructive practice. Today's announcement will reveal if President Obama's EPA is serious about stopping the damage that

mountaintop removal wreaks on the mountains, water and communities of Appalachia.

A press release and photographs and b-roll footage of mountaintop removal coal mining will be available, as well as interviews with impacted residents and experts on the environmental impacts of mountaintop removal mining.

For more information, please contact:

Dr. Matthew Wasson, Director of Programs, Appalachian Voices... 828-262-1500

Stephanie Pistello, National Field Coordinator, Appalachian Voices... 917-664-5511

**Appalachian Voices**

*Bringing People Together To Protect the Land, Air, Water  
and Communities of the Central and Southern Appalachians*

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

01268-EPA-300

Arvin Ganesan/DC/USEPA/US

To Seth Oster

09/08/2009 01:26 PM

cc Adora Andy, Bob Sussman, David McIntosh, Diane  
Thompson, Peter Silva, Richard Windsor  
bcc

Subject Re: Mountain Mining Announcement -- News Is Out

I have called the offices of Rahall, Cardin, Byrd and Rockefeller to let them know that it will take place in the next day or two.

-----  
ARVIN R. GANESAN  
Deputy Associate Administrator  
Congressional Affairs  
Office of the Administrator  
United States Environmental Protection Agency  
Ganesan.Arvin@epa.gov  
(p) 202.564.5200  
(f) 202.501.1519

Seth Oster

The news of the upcoming mountain mi...

09/08/2009 01:24:42 PM

From: Seth Oster/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Bob  
Sussman/DC/USEPA/US@EPA, Peter Silva/DC/USEPA/US@EPA, Arvin  
Ganesan/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA  
Cc: Adora Andy/DC/USEPA/US@EPA  
Date: 09/08/2009 01:24 PM  
Subject: Mountain Mining Announcement -- News Is Out

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(b) (5) D.P.  
[REDACTED]

Seth

Press Advisory

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Dr. Matthew Wasson, Director of Programs, Appalachian Voices... 828-262-1500

Stephanie Pistello, National Field Coordinator, Appalachian Voices... 917-664-5511

### **Appalachian Voices**

*Bringing People Together To Protect the Land, Air, Water  
and Communities of the Central and Southern Appalachians*

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
[oster.seth@epa.gov](mailto:oster.seth@epa.gov)

01268-EPA-301

Seth Oster/DC/USEPA/US  
09/08/2009 01:55 PM

To Richard Windsor  
cc  
bcc

Subject Re: Mountain Mining Announcement -- News Is Out

Ex. 5 - Deliberative

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

Richard Windsor

Ex. 5 - Deliberative

09/08/2009 01:54:32 PM

From: Richard Windsor/DC/USEPA/US  
To: Seth Oster/DC/USEPA/US@EPA  
Date: 09/08/2009 01:54 PM  
Subject: Re: Mountain Mining Announcement -- News Is Out

Ex. 5 - Deliberative

Seth Oster

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

**From:** Seth Oster  
**Sent:** 09/08/2009 01:24 PM EDT  
**To:** Richard Windsor; Diane Thompson; Bob Sussman; Peter Silva; Arvin Ganesan; David McIntosh  
**Cc:** Adora Andy  
**Subject:** Mountain Mining Announcement -- News Is Out

The news of the upcoming mountain mining announcement has leaked out. Below is a press advisory from Appalachian Voices. We are now receiving many calls.

(b) (5) D.P.  
[Redacted]

Seth

Press Advisory

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Dr. Matthew Wasson, Director of Programs, Appalachian Voices... 828-262-1500

Stephanie Pistello, National Field Coordinator, Appalachian Voices... 917-664-5511

### **Appalachian Voices**

*Bringing People Together To Protect the Land, Air, Water  
and Communities of the Central and Southern Appalachians*

Seth Oster  
Associate Administrator

Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

01268-EPA-302

Seth Oster/DC/USEPA/US

09/08/2009 03:58 PM

To Richard Windsor

cc "Lisa Heinzerling", "Gina (Sheila) McCarthy", "David McIntosh", "Diane Thompson"

bcc

Subject Re: Spoke to Browner

Ex. 5 - Deliberative  
[Redacted]

[Redacted]

[Redacted]

Seth

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

Gina McCarthy Got it - all good news. Will talk before d... 09/08/2009 03:47:20 PM

From: Gina McCarthy/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA  
Cc: "Lisa Heinzerling" <heinzerling.lisa@epa.gov>, "Gina (Sheila) McCarthy" <mccarthy.gina@epa.gov>, "David McIntosh" <mcintosh.david@epa.gov>, "Seth Oster" <oster.seth@epa.gov>, "Diane Thompson" <thompson.diane@epa.gov>  
Date: 09/08/2009 03:47 PM  
Subject: Re: Spoke to Browner

Got it - all good news. Will talk before doing anything.

Richard Windsor Ex. 5 - Deliberative 09/08/2009 02:01:55 PM

From: Richard Windsor/DC/USEPA/US  
To: "Diane Thompson" <thompson.diane@epa.gov>, "Seth Oster" <oster.seth@epa.gov>, "Gina (Sheila) McCarthy" <mccarthy.gina@epa.gov>, "Lisa Heinzerling" <heinzerling.lisa@epa.gov>, "David McIntosh" <mcintosh.david@epa.gov>  
Date: 09/08/2009 02:01 PM  
Subject: Spoke to Browner

(b) (5) D.P.

Ex. 5 - Deliberative

[Redacted]

Tx.

Running to mtgs.

01268-EPA-303

Seth Oster/DC/USEPA/US  
09/08/2009 04:07 PM

To Richard Windsor  
cc "Diane Thompson"  
bcc  
Subject Re: Spoke to Browner

Ex. 5 - Deliberative  
[Redacted]

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

Richard Windsor      Ex. 5 - Deliberative      09/08/2009 04:05:01 PM

From: Richard Windsor/DC/USEPA/US  
To: Seth Oster/DC/USEPA/US@EPA  
Cc: "Diane Thompson" <thompson.diane@epa.gov>  
Date: 09/08/2009 04:05 PM  
Subject: Re: Spoke to Browner

Ex. 5 - Deliberative  
[Redacted]

Seth Oster

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

**From:** Seth Oster  
**Sent:** 09/08/2009 03:58 PM EDT  
**To:** Richard Windsor  
**Cc:** "Lisa Heinzerling" <heinzerling.lisa@epa.gov>; "Gina (Sheila) McCarthy" <mccarthy.gina@epa.gov>; "David McIntosh" <mcintosh.david@epa.gov>; "Diane Thompson" <thompson.diane@epa.gov>  
**Subject:** Re: Spoke to Browner

Ex. 5 - Deliberative  
[Redacted]

Ex. 5 - Deliberative  
[Redacted]

[Redacted] Ex. 5 - Deliberative [Redacted]

[Redacted]

Seth

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

Gina McCarthy Got it - all good news. Will talk before d... 09/08/2009 03:47:20 PM

From: Gina McCarthy/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA  
Cc: "Lisa Heinzerling" <heinzerling.lisa@epa.gov>, "Gina (Sheila) McCarthy" <mccarthy.gina@epa.gov>, "David McIntosh" <mcintosh.david@epa.gov>, "Seth Oster" <oster.seth@epa.gov>, "Diane Thompson" <thompson.diane@epa.gov>  
Date: 09/08/2009 03:47 PM  
Subject: Re: Spoke to Browner

Got it - all good news. Will talk before doing anything.

Richard Windsor [Redacted] Ex. 5 - Deliberative [Redacted] 09/08/2009 02:01:55 PM

From: Richard Windsor/DC/USEPA/US  
To: "Diane Thompson" <thompson.diane@epa.gov>, "Seth Oster" <oster.seth@epa.gov>, "Gina (Sheila) McCarthy" <mccarthy.gina@epa.gov>, "Lisa Heinzerling" <heinzerling.lisa@epa.gov>, "David McIntosh" <mcintosh.david@epa.gov>  
Date: 09/08/2009 02:01 PM  
Subject: Spoke to Browner

(b) (5) D.P.

[Redacted] Ex. 5 - Deliberative [Redacted]

[Redacted]

[Redacted] Tx.

Running to mtgs.

01268-EPA-304

**Betsaida  
Alcantara/DC/USEPA/US**  
09/09/2009 03:29 PM

To Richard Windsor  
cc  
bcc

Subject Re: Cap and Trade in Senate Limbo as Obama Makes  
All-Out Push on Health Care

Ex. 5 - Deliberative

breaking news: plane hijacked in mexico - hijackers are demanding to speak to president Calderon (just watching on CNN)

Richard Windsor

Ex. 5 -

09/09/2009 03:17:33 PM

From: Richard Windsor/DC/USEPA/US  
To: Betsaida Alcantara/DC/USEPA/US@EPA  
Date: 09/09/2009 03:17 PM  
Subject: Re: Cap and Trade in Senate Limbo as Obama Makes All-Out Push on Health Care

Ex. 5 - Deliberative

Betsaida Alcantara

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

**From:** Betsaida Alcantara  
**Sent:** 09/09/2009 02:30 PM EDT  
**To:** Richard Windsor

**Subject:** Cap and Trade in Senate Limbo as Obama Makes All-Out Push on Health Care

long article that gives an overview of where we are with climate bill. this was published on nytimes.com through climatewire. mentions you and quotes some of your stuff from Diane Rehm show....

September 8, 2009

## Cap and Trade in Senate Limbo as Obama Makes All-Out Push on Health Care

By DARREN SAMUELSON of [ClimateWire](#)

President Obama's energy and global warming agenda stands at a major crossroads as lawmakers return today from their monthlong summer break amid an all-out push to pass health care legislation.

Senate Democrats originally intended to roll out their version of a cap-and-trade climate bill this week, but they have since delayed that schedule until later this month in part because of the brewing battle over health care.

Gone is the immediacy for action on global warming, and there is even talk that passing a climate bill this year has faded to third place on the administration's agenda behind financial reform legislation that responds to last year's Wall Street meltdown.

Asked last week about prospects for the Senate climate bill, White House spokesman Robert Gibbs changed the subject and instead predicted a "major push" from Obama and Congress to pass a bill that heads off any future financial crisis.

"I think that will be a very important part of the legislative agenda moving forward in the fall in strong hopes that by the end of the year we have new rules of the road going forward so that something like this doesn't happen under the same circumstances again," Gibbs told reporters Aug. 31.

Yet significant questions remain about just how much success can be had on financial reform, let alone the health care bill that gets center stage tomorrow night when Obama delivers a nationally televised speech before a joint session of Congress.

All sides of the global warming debate will be watching Obama close to see if their issue even merits a mention.

"If I were betting, he'll probably slip in a line about climate change," said Jeff Holmstead, a former U.S. EPA air pollution chief for President George W. Bush. "Because there'll be some people who are core constituents who will want to see that. The political calculus is the president will need to show he's still interested."

Democrats have been juggling health care and climate change since Obama took office. Earlier this year, House Speaker Nancy Pelosi (D-Calif.) and White House chief of staff Rahm Emanuel agreed to take on both issues simultaneously, which helped result in a House-passed climate bill just before the July 4 recess.

But many moderate Democrats complained about that strategy, and sources tracking the debate say Obama's political advisers are now in agreement that the climate issue now belongs on the back burner.

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But Manik Roy of the Pew Center on Global Climate Change said that Obama and Congress need to resolve health care before anything else can get traction.

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Senate Democrats have twice this year pushed back their schedule for acting on a climate bill. Boxer had told reporters during the House climate debate that she would introduce a bill before the August recess. But she punted on that goal shortly after the 219-212 House vote.

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"You can introduce a losing bill anytime you want," added Jeremy Symons, vice president of the National Wildlife Federation. "Introducing a winning bill, however, needs to be done at the right time after the right consultations. So the new schedule doesn't change the fact that all signs are pointing to Senate action this fall."

By contrast, EPW Committee ranking member James Inhofe (R-Okla.) predicted the climate bill's demise as Democrats battle amongst themselves over a costly new program.

"The delay is emblematic of the division and disarray in the Democratic party over cap-and-trade and health care legislation, both of which are big government schemes for which the public has expressed overwhelming opposition," Inhofe said.

### Seeking cover for Copenhagen

Absent additional progress on Capitol Hill, Obama will need to turn to other aspects of his environmental agenda as he prepares for the U.N. climate negotiations. Sources tracking the issue say the administration has several obvious choices, starting with the clean energy components included in the \$787 billion economic stimulus package.

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EPA's Jackson said Obama would also prefer action by the Senate on cap-and-trade legislation before Copenhagen. But she also indicated that a law was not necessary.

"What we need to do is also keep our eye on the president's position," Jackson said. "Climate discussions have been part of the agenda on clean energy from the very beginning."

Most environmental groups would prefer a new U.S. cap-and-trade law before Copenhagen. But there is also significant apprehension that a losing vote in the Senate could be a huge blow to the international talks given the stock already placed in the United States returning to the negotiation table after eight years battling President George W. Bush.

"The real issue is showing progress and momentum," Doniger said. So while it is better if Obama has more concrete actions, Doniger explained that "a bad vote probably hurts the most."

He added, "And there's a lot of space in between."

Leave it to Reid

Boxer's Environment and Public Works Committee remains a key battleground as the climate debate advances. But there is now no clear timetable for when she will mark up a bill.

To date, Boxer has revealed a select number of details about what her bill will look like. She has said she is interested in setting a 20 percent limit on greenhouse gases for 2020 -- a more aggressive level than the House bill. And Boxer is also under pressure from environmental groups to keep EPA's authority for regulating power plant emissions -- something the House legislation surrendered.

From the other direction, Boxer before the August break said she would yield to an industry-driven demand for some type of price collar on greenhouse gas allowances.

Still, without legislative text, many different conclusions are being drawn about the direction Boxer wants to take the climate debate.

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Andrew Wheeler, former Republican staff director for the Environment and Public Works Committee, said Boxer will need to make some tough decisions in the weeks and months ahead.

"You can't make it better for both sides," he said. "Somebody has to be told it's not getting better for you."

There are also number of unresolved issues still ahead.

Boxer and Finance Chairman Max Baucus (D-Mont.), for example, remain at loggerheads over who writes the allocation of hundreds of billions of dollars in emission allowances.

Reid is expected to play a key role in resolving the committee dispute, as well as other battles over nuclear power, international trade with developing countries and agriculture.

So with plenty of time still to go, few are showing all of their cards.

"This is at least a three-stage process," said Roy. "There's the EPW process. There's the majority leader's process. And there's what happens on the floor. People are planning with each of these events in mind."

01268-EPA-305

**Betsaida Alcantara/DC/USEPA/US**  
09/09/2009 04:13 PM

To Richard Windsor  
cc  
bcc

Subject Re: Cap and Trade in Senate Limbo as Obama Makes All-Out Push on Health Care

wow, they just freed all the passengers (140) except crew ... no one harmed yet. Seems like its going to get resolved pretty quickly.

Richard Windsor [Yikes](#) ----- Original Message ----- 09/09/2009 04:09:00 PM

From: Richard Windsor/DC/USEPA/US  
To: Betsaida Alcantara/DC/USEPA/US@EPA  
Date: 09/09/2009 04:09 PM  
Subject: Re: Cap and Trade in Senate Limbo as Obama Makes All-Out Push on Health Care

Yikes

Betsaida Alcantara

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

**From:** Betsaida Alcantara  
**Sent:** 09/09/2009 03:29 PM EDT  
**To:** Richard Windsor  
**Subject:** Re: Cap and Trade in Senate Limbo as Obama Makes All-Out Push on Health Care

Ex. 5 - Deliberative

breaking news: plane hijacked in mexico - hijackers are demanding to speak to president Calderon (just watching on CNN)

Richard Windsor [Ex. 5 -](#) 09/09/2009 03:17:33 PM

From: Richard Windsor/DC/USEPA/US  
To: Betsaida Alcantara/DC/USEPA/US@EPA  
Date: 09/09/2009 03:17 PM  
Subject: Re: Cap and Trade in Senate Limbo as Obama Makes All-Out Push on Health Care

Ex. 5 - Deliberative

Betsaida Alcantara

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

**From:** Betsaida Alcantara  
**Sent:** 09/09/2009 02:30 PM EDT  
**To:** Richard Windsor  
**Subject:** Cap and Trade in Senate Limbo as Obama Makes All-Out Push on Health Care

long article that gives an overview of where we are with climate bill. this was published on nytimes.com through climatewire. mentions you and quotes some of your stuff from Diane Rehm show....

September 8, 2009

# Cap and Trade in Senate Limbo as Obama Makes All-Out Push on Health Care

By DARREN SAMUELSON of [ClimateWire](#)

President Obama's energy and global warming agenda stands at a major crossroads as lawmakers return today from their monthlong summer break amid an all-out push to pass health care legislation.

Senate Democrats originally intended to roll out their version of a cap-and-trade climate bill this week, but they have since delayed that schedule until later this month in part because of the brewing battle over health care.

Gone is the immediacy for action on global warming, and there is even talk that passing a climate bill this year has faded to third place on the administration's agenda behind financial reform legislation that responds to last year's Wall Street meltdown.

Asked last week about prospects for the Senate climate bill, White House spokesman Robert Gibbs changed the subject and instead predicted a "major push" from Obama and Congress to pass a bill that heads off any future financial crisis.

"I think that will be a very important part of the legislative agenda moving forward in the fall in strong hopes that by the end of the year we have new rules of the road going forward so that something like this doesn't happen under the same circumstances again," Gibbs told reporters Aug. 31.

Yet significant questions remain about just how much success can be had on financial reform, let alone the health care bill that gets center stage tomorrow night when Obama delivers a nationally televised speech before a joint session of Congress.

All sides of the global warming debate will be watching Obama close to see if their issue even merits a mention.

"If I were betting, he'll probably slip in a line about climate change," said Jeff Holmstead, a former U.S. EPA air pollution chief for President George W. Bush. "Because there'll be some people who are core constituents who will want to see that. The political calculus is the president will need to show he's still interested."

Democrats have been juggling health care and climate change since Obama took office. Earlier this year, House Speaker Nancy Pelosi (D-Calif.) and White House chief of staff Rahm Emanuel agreed to take on both issues simultaneously, which helped result in a House-passed climate bill just before the July 4 recess.

But many moderate Democrats complained about that strategy, and sources tracking the debate say Obama's political advisers are now in agreement that the climate issue now belongs on the back burner.

Several Capitol Hill aides said last week that they were confused about their mission -- especially as they continue to get a push to act by some Obama Cabinet members and White House energy adviser Carol Browner.

"It seems like there's a little bit of a gap somewhere," said one Democratic staffer who is working on the climate bill.

U.S. EPA Administrator Lisa Jackson said last week that she did not have a problem with Congress putting its emphasis this fall on health care.

"Certainly, the Senate rightfully is spending an awful lot of time looking at that issue," Jackson said in an appearance Thursday on NPR's "The Diane Rehm Show." "Clean energy is no less important. But rightfully, they want to finish their work on health care.

"All along, we've understood that for something on the order of clean energy, but also health care, they probably needed to be done in sequence," Jackson added.

Environmentalists insist that Democrats and the White House should keep pushing for a climate bill given scientific warnings about irreversible global warming, as well as mounting international pressure headed into U.N. negotiations this December in Copenhagen.

"Congress is capable of and staffed to do more than two important things at once," said David Doniger, policy director of the Natural Resources Defense Council's climate center.

But Manik Roy of the Pew Center on Global Climate Change said that Obama and Congress need to resolve health care before anything else can get traction.

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And later today, Senate Environment and Public Works Chairwoman Barbara Boxer (D-Calif.) and Foreign Relations Chairman John Kerry (D-Mass.) are scheduled to meet for the first time in person since the recess -- with an eye on mapping out the legislative road ahead.

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01268-EPA-306

Seth Oster/DC/USEPA/US

To Richard Windsor

09/09/2009 06:30 PM

cc

bcc

Subject Fw: FYI: Secretary Salazar's draft remarks for tomorrow's call

Salazar's remarks for tomorrow on the Chesapeake....

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

----- Forwarded by Seth Oster/DC/USEPA/US on 09/09/2009 06:28 PM -----

From: Adora Andy/DC/USEPA/US  
To: Seth Oster/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Chuck Fox/CBP/USEPA/US@EPA, Lawrence Elworth/DC/USEPA/US@EPA  
Cc: Brendan Gilfillan/DC/USEPA/US@EPA  
Date: 09/09/2009 06:23 PM  
Subject: FYI: Secretary Salazar's draft remarks for tomorrow's call

This is close hold and for your information only. Thanks!

**DRAFT DRAFT DRAFT**  
**Remarks of Secretary of the Interior Ken Salazar**  
**Media Call to Discuss Chesapeake Bay Initiative**  
**September 10, 2009**

**(b) (6) Privacy** [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

(b) (6) Privacy [Redacted]

[Redacted]

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[Redacted]

[Redacted]

(b) (6) Privacy [Redacted]  
[Redacted]  
[Redacted]

[Redacted]  
[Redacted]  
[Redacted]

01268-EPA-307

Seth Oster/DC/USEPA/US

To Richard Windsor

09/11/2009 02:49 PM

cc

bcc

Subject Re: Chu on Jackson....

Ex. 5 - Deliberative

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

Richard Windsor

Ex. 5 - Deliberative

Original...

09/11/2009 02:12:46 PM

From: Richard Windsor/DC/USEPA/US  
To: Seth Oster/DC/USEPA/US@EPA  
Date: 09/11/2009 02:12 PM  
Subject: Re: Chu on Jackson....

Ex. 5 - Deliberative

Seth Oster

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

**From:** Seth Oster  
**Sent:** 09/11/2009 01:25 PM EDT  
**To:** Richard Windsor  
**Cc:** Adora Andy; Betsaida Alcantara; Brendan Gilfillan  
**Subject:** Chu on Jackson....

Steven Chu posted the following on his Facebook page about you.

Seth

-----  
-----  
*My colleague, EPA Administrator Lisa Jackson, has recently launched a Facebook page (insert link to facebook.com/lisapjackson) of her own. From climate legislation to the EnergyStar program, Lisa and I work very closely together on a wide variety of issues. Check out her page for great updates on the issues.*

*But of course, when it comes to nerdy Powerpoint slides, this is still the DEFINITIVE Facebook page.*

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

01268-EPA-308

Seth Oster/DC/USEPA/US

To Richard Windsor

09/11/2009 05:22 PM

cc

bcc

Subject Re: Chu on Jackson....

Ex. 5 - Deliberative

[Redacted]

[Redacted]

Seth

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

Richard Windsor Ex. 5 - Deliberative Original... 09/11/2009 02:12:46 PM

From: Richard Windsor/DC/USEPA/US  
To: Seth Oster/DC/USEPA/US@EPA  
Date: 09/11/2009 02:12 PM  
Subject: Re: Chu on Jackson....

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Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

01268-EPA-310

Allyn  
Brooks-LaSure/DC/USEPA/US

To Bob Sussman, Richard Windsor  
cc Peter Silva, Seth Oster, "Andy, Adora"  
bcc

09/14/2009 04:49 PM

Subject Re: Fw: Google Alert - lisa jackson epa

Ex. 5 - Deliberative

MABL.

-----  
M. Allyn Brooks-LaSure  
Office of the Administrator  
U.S. Environmental Protection Agency  
Cell: 202-631-0415  
Bob Sussman

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

**From:** Bob Sussman  
**Sent:** 09/14/2009 03:06 PM EDT  
**To:** Richard Windsor  
**Cc:** Allyn Brooks-LaSure; Peter Silva; Seth Oster  
**Subject:** Re: Fw: Google Alert - lisa jackson epa

Ex. 5 - Deliberative

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

Richard Windsor    **NOTE -**    Ex. 5 - Deliberative    09/14/2009 02:03:51 PM

**From:** Richard Windsor/DC/USEPA/US  
**To:** Seth Oster/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Peter Silva/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA  
**Date:** 09/14/2009 02:03 PM  
**Subject:** Fw: Google Alert - lisa jackson epa

**NOTE -**    Ex. 5 - Deliberative

----- Forwarded by Richard Windsor/DC/USEPA/US on 09/14/2009 02:02 PM -----

**From:** Google Alerts <googlealerts-noreply@google.com>  
**To:** Richard Windsor/DC/USEPA/US@EPA  
**Date:** 09/14/2009 01:45 PM  
**Subject:** Google Alert - lisa jackson epa

### Google News Alert for: **lisa jackson epa**

[Enviro Groups Threaten to Sue EPA Over Coal Plant Discharge Regs](#)

New York Times

"EPA needs to stop kicking the can down the road and set a date for regulation. We are confident that **Lisa Jackson** will do the right thing. ...

[See all stories on this topic](#)

This as-it-happens Google Alert is brought to you by Google.

[Remove](#) this alert.

[Create](#) another alert.

[Manage](#) your alerts.

01268-EPA-313

**Seth Oster/DC/USEPA/US**

09/14/2009 06:45 PM

To Bob Sussman

cc Allyn Brooks-LaSure, Arvin Ganesan, Diane Thompson,  
Mathy Stanislaus, Richard Windsor

bcc

Subject Re: Coal Impoundment Assessments

Ex. 5 - Deliberative

[Redacted]

Seth

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

Bob Sussman

Ex. 5 - Deliberative

09/14/2009 06:29:52 PM

From: Bob Sussman/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA  
Cc: Diane Thompson/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Mathy Stanislaus/DC/USEPA/US@EPA  
Date: 09/14/2009 06:29 PM  
Subject: Coal Impoundment Assessments

Ex. 5 - Deliberative

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

01268-EPA-314

Seth Oster/DC/USEPA/US  
09/14/2009 06:51 PM

To Richard Windsor  
cc  
bcc

Subject Re: Coal Impoundment Assessments

Ex. 5 - Deliberative  
[Redacted]

Seth

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

Richard Windsor

Ex. 5 - Deliberative

09/14/2009 06:47:54 PM

From: Richard Windsor/DC/USEPA/US  
To: Seth Oster/DC/USEPA/US@EPA  
Date: 09/14/2009 06:47 PM  
Subject: Re: Coal Impoundment Assessments

Ex. 5 - Deliberative  
[Redacted]

Seth Oster

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

**From:** Seth Oster  
**Sent:** 09/14/2009 06:45 PM EDT  
**To:** Bob Sussman  
**Cc:** Allyn Brooks-LaSure; Arvin Ganesan; Diane Thompson; Mathy Stanislaus; Richard Windsor  
**Subject:** Re: Coal Impoundment Assessments

Ex. 5 - Deliberative  
[Redacted]

[Redacted]

Seth

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To: Richard Windsor/DC/USEPA/US@EPA  
Cc: Diane Thompson/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Mathy Stanislaus/DC/USEPA/US@EPA  
Date: 09/14/2009 06:29 PM  
Subject: Coal Impoundment Assessments

---

Ex. 5 - Deliberative

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

01268-EPA-315

**Diane Thompson/DC/USEPA/US**  
09/15/2009 08:19 AM

To Seth Oster  
cc Allyn Brooks-LaSure, Arvin Ganesan, Bob Sussman, Mathy Stanislaus, Richard Windsor  
bcc  
Subject Re: Coal Impoundment Assessments

**Ex. 5 - Deliberative** dt

\*\*\*\*\*

Diane E. Thompson  
Chief of Staff  
U. S. Environmental Protection Agency  
202-564-6999

Seth Oster **Ex. 5 - Deliberative** 09/14/2009 06:45:14 PM

From: Seth Oster/DC/USEPA/US  
To: Bob Sussman/DC/USEPA/US@EPA  
Cc: Allyn Brooks-LaSure/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Mathy Stanislaus/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA  
Date: 09/14/2009 06:45 PM  
Subject: Re: Coal Impoundment Assessments

**Ex. 5 - Deliberative**

[Redacted]

Seth

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

Bob Sussman **(b) (5) D.P.** 09/14/2009 06:29:52 PM

From: Bob Sussman/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA  
Cc: Diane Thompson/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Mathy Stanislaus/DC/USEPA/US@EPA  
Date: 09/14/2009 06:29 PM  
Subject: Coal Impoundment Assessments

**(b) (5) D.P.**

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

01268-EPA-316

Adora Andy/DC/USEPA/US

09/15/2009 09:22 AM

To Richard Windsor

cc Seth Oster, Allyn Brooks-LaSure, Bob Perciasepe, "Bob Sussman"

bcc

Subject Re: FYI: GOING OUT @ 10am: Wastewater Discharges release

Ex. 5 - Deliberative  
Richard Windsor

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

**From:** Richard Windsor

**Sent:** 09/15/2009 09:20 AM EDT

**To:** Adora Andy

**Cc:** Seth Oster; Allyn Brooks-LaSure; Bob Perciasepe; "Bob Sussman" <Sussman.bob@epa.gov>

**Subject:** Re: FYI: GOING OUT @ 10am: Wastewater Discharges release

Ex. 5 - Deliberative

Adora Andy

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

**From:** Adora Andy

**Sent:** 09/15/2009 09:15 AM EDT

**To:** Richard Windsor

**Cc:** Seth Oster; Allyn Brooks-LaSure

**Subject:** FYI: GOING OUT @ 10am: Wastewater Discharges release

**FOR IMMEDIATE RELEASE**

September 15, 2009

# EPA Expects to Revise Rules for Wastewater Discharges from Power Plants

*Discharges from power plants can have major adverse effects on water quality and wildlife*

**WASHINGTON** – The U.S. Environmental Protection Agency plans to revise the existing standards for water discharges from coal-fired power plants to reduce pollution and better protect America’s water. Wastewater discharged from coal ash ponds, air pollution control equipment, and other equipment at power plants can contaminate drinking water sources, cause fish and other wildlife to die and create other detrimental environmental effects.

Earlier this year, EPA completed a multi-year study of power plant wastewater discharges and concluded that current regulations, which were issued in 1982, have not kept pace with changes that have occurred in the electric power industry over the last three decades. Air

pollution controls installed to remove pollution from smokestacks have made great strides in cleaning the air people breathe, saving lives and reducing respiratory and other illnesses. However, some of the equipment used to clean air emissions does so by "scrubbing" the boiler exhaust with water, and when the water is not properly managed it sends the pollution to rivers and other waterbodies. Treatment technologies are available to remove these pollutants before they are discharged to waterways, but these systems have been installed at only a fraction of the power plants.

As part of the multi-year study, EPA measured the pollutants present in the wastewater and reviewed treatment technologies, focusing mostly on coal-fired power plants. Many of the toxic pollutants discharged from these power plants come from coal ash ponds and the flue gas desulfurization systems used to scrub sulfur dioxide from air emissions.

Once the new rule for electric power plants is finalized, EPA and states would incorporate the new standards into wastewater discharge permits.

More information about EPA's study is provided in an interim report published in August 2008. A final study will be published later this year.

More information on wastewater discharges from power plants:

###

01268-EPA-320

**Adora Andy/DC/USEPA/US**

09/15/2009 02:22 PM

To Arvin Ganesan

cc Allyn Brooks-LaSure, David McIntosh, Diane Thompson,  
Gina McCarthy, Lisa Heinzerling, Richard Windsor, Scott  
Fulton, Seth Oster

bcc

Subject Re: FYI - new letter on Carlin from Sensenbrenner

I just got a call on it from NYT.

They want to know if we're restructuring NCEE because of Carlin as they say this this letter alleges.

Adora Andy  
 Press Secretary  
 U.S. Environmental Protection Agency  
 Office of Public Affairs  
 202-564-2715  
 andy.adora@epa.gov

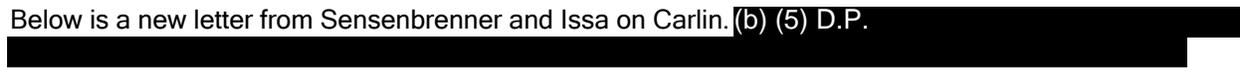
Arvin Ganesan

Below is a new letter from Sensenbren...

09/15/2009 02:18:59 PM

From: Arvin Ganesan/DC/USEPA/US  
 To: Richard Windsor/DC/USEPA/US@EPA  
 Cc: Diane Thompson/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Adora  
 Andy/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, David  
 McIntosh/DC/USEPA/US@EPA, Lisa Heinzerling/DC/USEPA/US@EPA, Scott  
 Fulton/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA  
 Date: 09/15/2009 02:18 PM  
 Subject: FYI - new letter on Carlin from Sensenbrenner

Below is a new letter from Sensenbrenner and Issa on Carlin. (b) (5) D.P.



-----  
 ARVIN R. GANESAN  
 Deputy Associate Administrator  
 Congressional Affairs  
 Office of the Administrator  
 United States Environmental Protection Agency  
 Ganesan.Arvin@epa.gov  
 (p) 202.564.5200  
 (f) 202.501.1519

----- Forwarded by Arvin Ganesan/DC/USEPA/US on 09/15/2009 02:12 PM -----

From: "Freedhoff, Michal" <Michal.Freedhoff@mail.house.gov>  
 To: Arvin Ganesan/DC/USEPA/US@EPA  
 Date: 09/15/2009 02:02 PM  
 Subject: FW: EPA Reorganization Renews Concerns about Suppression of Opposing Views

Michal Ilana Freedhoff, Ph.D.  
 Policy Director  
 Office of Representative Edward J. Markey (D-MA)  
 2108 Rayburn House Office Building

Washington, DC 20515  
202-225-2836

Sign-up to receive e-updates from Rep. Markey at  
<http://markey.house.gov/signup>

---

From: Burnham-Snyder, Eben  
Sent: Tuesday, September 15, 2009 1:58 PM  
To: Bausch, Camilla; Baussan, Danielle; Beauvais, Joel; Brodsky, Aliya; CadenasMolina, Alma; Chenault, Jacqueline; Connell, Ellen; Duncan, Jeff; Freedhoff, Michal; Gray, Morgan; Intern1GW; Intern2GW; Intern3GW; Intern4GW; Intern5GW; Kenny, Shannon; Malvadkar, Partha; Phillips, Jonathan; Reilly, Daniel; Sharp, Jeff; Unruh-Cohen, Ana; Waldron, Gerry  
Subject: FW: EPA Reorganization Renews Concerns about Suppression of Opposing Views

FYI

---

From: Global Warming-GOPNews  
Sent: Tuesday, September 15, 2009 1:57 PM  
To: Global Warming-GOPNews  
Subject: EPA Reorganization Renews Concerns about Suppression of Opposing Views

U.S. House of Representatives

Select Committee on Energy Independence and Global Warming

F. James Sensenbrenner, Jr., Ranking Republican

<http://republicans.globalwarming.house.gov/>

News Advisory

For Immediate Release  
Contact: Terry Lane

September 15, 2009  
(202) 225-0110

EPA Reorganization Renews Concerns about Suppression of Opposing Views

Sensenbrenner, Issa Ask EPA's Jackson for Critical Information

Washington, D.C.- If the Environmental Protection Agency enacts a reported restructuring plan, the agency will weaken its ability to weigh the economic impact of its regulatory proposals and raise more concerns that it is trying to suppress internal opposition to proposed climate rules, Rep. Jim Sensenbrenner, R-Wis., and Rep. Darrell Issa, R-Calif., wrote in a letter to EPA Administrator Lisa Jackson.

Recent news reports show EPA is working to remove all scientists from the agency's National Center for Environmental Economics (NCEE), which provides EPA with economic analysis of proposed rules and regulations. Sensenbrenner and Issa said the news reports confirmed the concerns about reorganizing NCEE they raised with Jackson in a July 17 letter that requested documents and interviews with key EPA staff.

"Separating science from economic analysis will be bad news for taxpayers and for the economy," said Sensenbrenner, Ranking Republican on the House Select Committee on Energy Independence and Global Warming. "Regulation is a balancing act. What is the potential harm and what are the potential costs of action? By removing scientists from its economic office, EPA destroys this balance. Without scientific expertise, the economists cannot credibly analyze costs. The result will be more regulation and more costs to taxpayers without any idea whether these costs are justified."

Sensenbrenner and Issa have said they are alarmed that a report from NCEE economist Dr. Alan Carlin, which raised questions about some of the science EPA was using to bolster its proposed climate regulations, was kept out of EPA's record because it failed to support Administration policy. They said the proposed restructure could be part of an effort to retaliate against Dr. Carlin and others who raise scientific challenges to Administrative policy goals.

"EPA is moving swiftly to consolidate its power over U.S. energy production through regulation of CO2 and other GHGs under the Clean Air Act. The NCEE was an internal stumbling block that raised concerns about an ideologically driven agenda. Now EPA is taking actions to dismantle the office," said Issa, the Ranking Republican on the Oversight and Government Reform Committee. "This proposal reeks of Chicago style politics - eliminating voices that dared to question."

"This action sends a message to Dr. Carlin and scientists at EPA, 'Get behind the Administration's political goals or suffer the consequences,'" Sensenbrenner said.

Internal EPA e-mails show Dr. Carlin's report was excluded from EPA's

record after the NCEE director said that the agency had decided to move forward on its climate regulations and that his report did not help "the legal or policy case for the decision." In the July 17 letter to EPA, Sensenbrenner and Issa said interviews with EPA staff showed that submitting the report may have negatively impacted NCEE and undermined its role in the agency.

EPA has supplied some documents to committee staff, but withheld others. "EPA has proposed the largest regulatory effort in history. Our committees have uncovered irregularities with the process and it is imperative that these issues are fully investigated and resolved before the deliberative process is complete," Sensenbrenner and Issa wrote.

"This isn't about one director excluding the work of one employee," Sensenbrenner said. "This is about a culture within EPA where economic analysis is unwelcome. Several studies show that regulating greenhouse gas emissions will raise energy prices and negatively impact our economy, so it's critical that policy makers have useful scientific and economic analysis. Economic considerations not only help policy makers determine when to act, but also, how best to act when it becomes clear that regulation is necessary. If EPA weakens NCEE, taxpayers will pay a very heavy price."

The letter is attached:

September 14, 2009

The Honorable Lisa Jackson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Dear Administrator Jackson:

On two prior occasions we have expressed concern about questionable activities at the Environmental Protection Agency (EPA) with respect to the proposed endangerment finding to regulate greenhouse gasses (GHGs) under the Clean Air Act (CAA). According to recent media reports, EPA is working to remove all scientists from the National Center for Environmental Economics (NCEE), decoupling the science from the economics and therefore marginalizing the office. As you are aware, NCEE is also at the center of our investigation into EPA's treatment of Dr. Alan Carlin and his work on the proposed endangerment finding.

In a letter dated July 17, 2009, we expressed concern that EPA was proceeding on a predetermined course to propose and finalize an endangerment finding for GHGs and was erecting hurdles to limit opposing viewpoints. We also expressed alarm over treatment of Dr. Alan Carlin, a 37 year career civil servant. Dr. Carlin has a long history of working on climate change policy and was considered a valuable resource by his peers. As a participant in the internal agency review process, he drafted a report critical of the Technical Support Document (TSD), which provides the scientific basis for the endangerment finding. However, Dr. Carlin's supervisor, Dr. Al McGartland, suppressed his report, in part, because Dr. McGartland feared that "submitting it for the record would have negatively impacted NCEE and undermined its role within EPA."

Substantial evidence suggests that EPA has in fact taken retaliatory actions against Dr. Carlin. Dr. Carlin has been prohibited from working on climate change issues and has been reassigned to menial tasks. With the proposed "reorganization" of NCEE, it now appears that Dr. McGartland's concerns for retaliation against NCEE were also well founded.

In the July 17 letter, we requested that EPA produce specific documents that would help us develop a more informed understanding of whether officials at EPA behaved inappropriately. We received delivery of select documents on September 3, 2009. EPA, however, expressly withheld certain responsive documents, citing both privacy concerns of personnel and deliberative process.

We are sensitive to privacy concerns and are willing to make reasonable accommodations. Sensitive information not relevant to our investigation could be redacted. Alternatively, our staff could review certain sensitive documents in camera.

Withholding responsive documents because of EPA's deliberative process is simply unacceptable. EPA has proposed the largest regulatory effort in history. Our committees have uncovered irregularities with that process, and it is imperative that these issues are fully investigated and resolved before the deliberative process is complete. For this reason, Congress has never recognized a deliberative process exemption from the executive branch.

Moreover, recent media reports have renewed our concerns that EPA plans to dismantle NCEE by removing all scientific staff, decoupling the science from the economics and therefore marginalizing the office. As a recent editorial in the Washington Times pointed out, such a move would "undermine the entire reason for its existence namely 'researching environmental health issues to improve risk assessment data used in

economic analyses for [new regulatory] rules.'" "

If NCEE cannot weigh scientific evidence, it will not have a basis for advising the Administrator on the economic impact of proposed regulations. Such a move would impair the Administrator's ability to determine if the cost of a regulation exceeded its benefits. This concern was first articulated in our July 17, 2009 letter.

At a time when American families and businesses are facing unparalleled financial challenges, EPA should not deliberately impair its ability to analyze the economy-wide impact of its regulatory actions. This is especially true in light of the negative impacts that regulation of GHGs under the CAA will have on our economy.

The Obama Administration has repeatedly lauded the need for transparency in government and sound science, but gutting NCEE leaves the unmistakable impression that EPA is silencing the only office that raised serious and legitimate concerns over the proposed endangerment finding. When combined with the marginalization of Dr. Carlin, we have no choice but to remain deeply concerned that EPA is acting to eliminate all internal opposition to its political agenda of regulating GHGs under the CAA. Given these serious concerns, we request again that all responsive documents be produced and the requested briefings provided.

Please contact Kristina Moore, Senior Counsel, House Oversight and Government Reform Committee or Bart Forsyth, Staff Director, House Select Committee on Energy Independence and Global Warming to set up a briefing regarding the reorganization of the NCEE. Please deliver documents requested in our July 17 letter no later than September 24, 2009.

Sincerely,

Darrell Issa  
James Sensenbrenner, Jr.

F.

Ranking Member  
Member

Ranking

Committee on Oversight  
Committee on Energy Independence

Select

and Government Reform  
Warming

and Global

cc: The Honorable Edolphus Towns, Chairman  
The Honorable Ed Markey, Chairman

# # # #

[attachment "winmail.dat" deleted by Adora Andy/DC/USEPA/US] [attachment  
"message\_body.rtf" deleted by Adora Andy/DC/USEPA/US] [attachment  
"image001.png" deleted by Adora Andy/DC/USEPA/US]

01268-EPA-322

Arvin Ganesan/DC/USEPA/US

To Richard Windsor

09/16/2009 10:43 AM

cc Diane Thompson

bcc

Subject Inside EPA on Anastas

(b) (5) D.P.  


## EPA Research Nominee Stalls In Senate Over Formaldehyde Query

Paul Anastas, President Obama's nominee to head EPA's Office of Research & Development (ORD), is stalled in the Senate because a senator is asking the agency to send its long-delayed risk assessment of formaldehyde to the National Academy of Sciences (NAS) for review, sources say.

An NAS review -- which industry officials have been seeking -- could further delay an assessment that EPA officials said recently could be significantly strengthened over earlier versions given new data on the chemical's cancer risks released by the National Cancer Institute (NCI) last May.

Any delay in developing the assessment would also stall an EPA decision to re-regulate air toxics emissions from natural gas turbines, which are expected to see increased use under any climate change rules, and could also play a role in setting air toxics standards for wood processing facilities. The assessment is also one of two policy documents the agency is reviewing to determine their environmental justice impacts, which will help inform upcoming EPA environmental justice guidance.

Sources say Sen. David Vitter (R-LA) has placed the hold on the nominee as he seeks assurances that the assessment would be sent to the NAS for review, sources say. The senator did not respond to questions about the issue Sept. 15 and his office did not return calls by press time. An EPA spokesperson said the agency could not comment on an unconfirmed nominee.

The risks of formaldehyde have long been a concern in the senator's home state, where many residents of New Orleans are still living in trailers -- provided by the Federal Emergency Management Agency (FEMA) following the 2005 hurricanes -- that contain high levels of the chemical.

In May, Vitter placed a hold -- later lifted -- on the confirmation of FEMA head Craig Fugate, citing an inadequate response to questions the senator posed about issues related to Hurricane Katrina.

It is not clear when or how the issue may be resolved but one possible venue may be EPA's

fiscal year 2010 appropriations bill, which the Senate could consider as soon as this week, where lawmakers may seek to provide funds for any review.

Anastas is not the only EPA nominee currently in limbo. In July, Sen. George Voinovich (R-OH) put a hold on Robert Perciasepe's nomination to be the next EPA deputy administrator citing concerns about EPA's analysis of the Waxman-Markey climate legislation. But EPA has so far declined to conduct the additional analysis sought by Voinovich.

Anastas, a former career official at EPA and most recently a professor of green chemistry at Yale, has written and edited ten books on environmental protection, including a widely cited book that sets out 12 principles of green chemistry, *Green Chemistry: Theory and Practice*.

While Anastas's nomination was voted out of the Senate Environment & Public Works Committee in July, Sen. James Inhofe (R-OK), the committee's ranking Republican, [sought assurances](#) that EPA would seek extensive peer review of a draft risk assessment that ramps up EPA estimates of potential cancer risks from arsenic exposure.

EPA's Integrated Risk Information System (IRIS) program launched its effort to revise its formaldehyde assessment in 1997, but the agency delayed its assessment in 2004 in response to concerns from industry officials and Inhofe about the quality of agency data on the potential cancer effects of the chemical. Instead, EPA agreed to seek additional data from NCI before proceeding with its risk assessment.

The NCI journal published May 12 its analysis the additional data on an occupationally-exposed group of some 25,619 retirees from 10 plants that produced formaldehyde. The authors conclude that, "Evaluation of risks over time suggests a possible link between formaldehyde exposure and lymphohematopoietic malignancies, particularly myeloid leukemia . . ."

The NCI data could bolster EPA efforts to set maximum achievable control technology (MACT) air toxics standards for plywood production and natural gas turbines, both of which emit formaldehyde.

Citing industry data, EPA in 2004 exempted natural gas turbines from regulation under the MACT program, saying the releases did not meet the Clean Air Act threshold for regulation. But an EPA source said earlier this year that the NCI data shows that the numbers EPA used for exempting the facilities "was probably 10,000 times too low." Agency sources said a decision to re-regulate these turbines is awaiting publication of the IRIS assessment.

Similarly, the risk assessment could also result in a stricter approach for EPA's MACT rule for plywood facilities, which EPA is revising after it was vacated by the U.S. Court of Appeals for the District of Columbia Circuit for including unlawful risk-based exemptions for the facilities.

EPA is scheduled to proposed a revised plywood MACT in August 2011, according to the most recent unified agenda, a time line that mirrors agency plans to complete the formaldehyde IRIS assessment based on EPA's IRIS Track database.

But the Formaldehyde Council, an industry group, is challenging the NCI data. "The authors of the report acknowledge that there is no known way formaldehyde exposure can cause leukemia," according to the group's May 13 statement, which called for a NAS study of formaldehyde's health effects.

An EPA source said at the time that industry's call for another study is "paralysis by analysis.

"They continue to see causality but not absolute causality," the source said of NCI.

---

ARVIN R. GANESAN  
Deputy Associate Administrator  
Congressional Affairs  
Office of the Administrator  
United States Environmental Protection Agency  
Ganesan.Arvin@epa.gov  
(p) 202.564.5200  
(f) 202.501.1519

01268-EPA-323

**Richard Windsor/DC/USEPA/US**  
09/16/2009 11:35 AM

To Arvin Ganesan  
cc  
bcc  
Subject Re: Inside EPA on Anastas

Ex. 5 - Deliberative

Arvin Ganesan

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

**From:** Arvin Ganesan  
**Sent:** 09/16/2009 10:43 AM EDT  
**To:** Richard Windsor  
**Cc:** Diane Thompson  
**Subject:** Inside EPA on Anastas

(b) (5) D.P.

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---

ARVIN R. GANESAN  
Deputy Associate Administrator  
Congressional Affairs  
Office of the Administrator  
United States Environmental Protection Agency

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(p) 202.564.5200  
(f) 202.501.1519

01268-EPA-324

Arvin Ganesan/DC/USEPA/US To Richard Windsor  
09/16/2009 11:41 AM cc  
bcc  
Subject Re: Inside EPA on Anastas

Ex. 5 - Deliberative  
[Redacted]

Ex. 5 - Deliberative  
[Redacted]

What do you think of this article?

-----  
ARVIN R. GANESAN  
Deputy Associate Administrator  
Congressional Affairs  
Office of the Administrator  
United States Environmental Protection Agency  
Ganesan.Arvin@epa.gov  
(p) 202.564.5200  
(f) 202.501.1519

Richard Windsor Ex. 5 - Deliberative ... 09/16/2009 11:35:59 AM

From: Richard Windsor/DC/USEPA/US  
To: Arvin Ganesan/DC/USEPA/US@EPA  
Date: 09/16/2009 11:35 AM  
Subject: Re: Inside EPA on Anastas

(b) (5) D.P.  
[Redacted]

Arvin Ganesan

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

From: Arvin Ganesan  
Sent: 09/16/2009 10:43 AM EDT  
To: Richard Windsor  
Cc: Diane Thompson  
Subject: Inside EPA on Anastas

(b) (5) D.P.  
[Redacted]

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In May, Vitter placed a hold -- later lifted -- on the confirmation of FEMA head Craig Fugate, citing an inadequate response to questions the senator posed about issues related to Hurricane Katrina.

It is not clear when or how the issue may be resolved but one possible venue may be EPA's fiscal year 2010 appropriations bill, which the Senate could consider as soon as this week, where lawmakers may seek to provide funds for any review.

Anastas is not the only EPA nominee currently in limbo. In July, Sen. George Voinovich (R-OH) put a hold on Robert Perciasepe's nomination to be the next EPA deputy administrator citing concerns about EPA's analysis of the Waxman-Markey climate legislation. But EPA has so far declined to conduct the additional analysis sought by Voinovich.

Anastas, a former career official at EPA and most recently a professor of green chemistry at Yale, has written and edited ten books on environmental protection, including a widely cited book that sets out 12 principles of green chemistry, *Green Chemistry: Theory and Practice*.

While Anastas's nomination was voted out of the Senate Environment & Public Works Committee in July, Sen. James Inhofe (R-OK), the committee's ranking Republican, [sought assurances](#) that EPA would seek extensive peer review of a draft risk assessment that ramps

up EPA estimates of potential cancer risks from arsenic exposure.

EPA's Integrated Risk Information System (IRIS) program launched its effort to revise its formaldehyde assessment in 1997, but the agency delayed its assessment in 2004 in response to concerns from industry officials and Inhofe about the quality of agency data on the potential cancer effects of the chemical. Instead, EPA agreed to seek additional data from NCI before proceeding with its risk assessment.

The NCI journal published May 12 its analysis the additional data on an occupationally-exposed group of some 25,619 retirees from 10 plants that produced formaldehyde. The authors conclude that, "Evaluation of risks over time suggests a possible link between formaldehyde exposure and lymphohematopoietic malignancies, particularly myeloid leukemia . . ."

The NCI data could bolster EPA efforts to set maximum achievable control technology (MACT) air toxics standards for plywood production and natural gas turbines, both of which emit formaldehyde.

Citing industry data, EPA in 2004 exempted natural gas turbines from regulation under the MACT program, saying the releases did not meet the Clean Air Act threshold for regulation. But an EPA source said earlier this year that the NCI data shows that the numbers EPA used for exempting the facilities "was probably 10,000 times too low." Agency sources said a decision to re-regulate these turbines is awaiting publication of the IRIS assessment.

Similarly, the risk assessment could also result in a stricter approach for EPA's MACT rule for plywood facilities, which EPA is revising after it was vacated by the U.S. Court of Appeals for the District of Columbia Circuit for including unlawful risk-based exemptions for the facilities.

EPA is scheduled to proposed a revised plywood MACT in August 2011, according to the most recent unified agenda, a time line that mirrors agency plans to complete the formaldehyde IRIS assessment based on EPA's IRIS Track database.

But the Formaldehyde Council, an industry group, is challenging the NCI data. "The authors of the report acknowledge that there is no known way formaldehyde exposure can cause leukemia," according to the group's May 13 statement, which called for a NAS study of formaldehyde's health effects.

An EPA source said at the time that industry's call for another study is "paralysis by analysis.

"They continue to see causality but not absolute causality," the source said of NCI.

---

ARVIN R. GANESAN  
Deputy Associate Administrator  
Congressional Affairs  
Office of the Administrator

United States Environmental Protection Agency  
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(f) 202.501.1519

01268-EPA-327

Seth Oster/DC/USEPA/US  
09/17/2009 02:52 PM

To Richard Windsor  
cc  
bcc  
Subject Op-ed -- WH Version

Ex. 5 - Deliberative

Ex. 5 - Deliberative

Ex. 5 - Deliberative

Seth

Ex. 5 - Deliberative

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Ex. 5 - Deliberative

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

01268-EPA-332

Seth Oster/DC/USEPA/US

To windsor.richard

09/21/2009 04:53 PM

cc

bcc

Subject Fw: WSJ blog: Steven Chu: Americans Are Like 'Teenage Kids' When It Comes to Energy

Ex. 5 - Deliberative

Betsaida Alcantara

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

**From:** Betsaida Alcantara**Sent:** 09/21/2009 04:42 PM EDT**To:** Seth Oster <oster.seth@epa.gov>; Allyn Brooks-LaSure; Adora Andy; Brendan Gilfillan; Michael Moats**Subject:** WSJ blog: Steven Chu: Americans Are Like 'Teenage Kids' When It Comes to Energy

## Steven Chu: Americans Are Like 'Teenage Kids' When It Comes to Energy

### Ian Talley reports:

When it comes to greenhouse-gas emissions, Energy Secretary Steven Chu sees Americans as unruly teenagers and the Administration as the parent that will have to teach them a few lessons.

Speaking on the sidelines of a smart grid conference in Washington, Dr. Chu said he didn't think average folks had the know-how or will to change their behavior enough to reduce greenhouse-gas emissions.

"The American public...just like your teenage kids, aren't acting in a way that they should act," Dr. Chu said. "The American public has to really understand in their core how important this issue is." (In that case, the Energy Department has a few [renegade teens](#) of its own.)

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

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

Still, Secretary Chu said he didn't think that the public would throw the same political temper

tantrum over climate legislation has happened with the healthcare debate.

Asked if he expected a town-hall style pushback, Dr. Chu said he was optimistic the public would buy the administration's arguments that energy efficiency and caps on greenhouse-gas emissions will spark an economic rebound.

"I don't think so...maybe I'm optimistic, but there's very little debate" that a new green energy economy will bring economic prosperity, Mr. Chu told reporters.

Don't look now, but there's actually quite a lot of debate as to the economic merits of the new green-energy economy. Whether that will spell a healthcare-style revolt against the energy and climate bill stewing in the Senate is another question.

01268-EPA-334

**Seth Oster/DC/USEPA/US**

09/22/2009 10:15 AM

To Richard Windsor

cc David McIntosh, Diane Thompson

bcc

Subject DECISION -- Quote for Distribution this Morning

Ex. 5 - Deliberative

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

01268-EPA-335

Seth Oster/DC/USEPA/US  
09/22/2009 10:53 AM

To Richard Windsor  
cc David McIntosh, Diane Thompson  
bcc  
Subject Re: DECISION -- Quote for Distribution this Morning

Ex. 5 - Deliberative

Richard Windsor

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

**From:** Richard Windsor  
**Sent:** 09/22/2009 10:44 AM EDT  
**To:** Seth Oster  
**Cc:** David McIntosh; Diane Thompson  
**Subject:** Re: DECISION -- Quote for Distribution this Morning

Ex. 5 - Deliberative

Seth Oster

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

**From:** Seth Oster  
**Sent:** 09/22/2009 10:15 AM EDT  
**To:** Richard Windsor  
**Cc:** David McIntosh; Diane Thompson  
**Subject:** DECISION -- Quote for Distribution this Morning

Ex. 5 - Deliberative

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918

oster.seth@epa.gov

01268-EPA-337

**Seth Oster/DC/USEPA/US**

09/23/2009 09:01 AM

To windsor.richard, "Diane Thompson", David McIntosh, Arvin Ganesan, "Allyn Brooks-LaSure", Gina McCarthy

cc

bcc

Subject Story on Browner/Gore Comments

Note the "train leaving the station" line towards the end.:

Climate lawsuits are coming, Gore & Browner warn

Former Vice President Al Gore and current White House climate change czar Carol Browner are warning companies and lawmakers that the courts will step in to regulate greenhouse gases if Congress fails to act.

"All of the discussion has been about the president and the Congress," Gore told journalists at a U.N. press conference Tuesday. "We have a third branch of government: the courts."

He pointed approvingly to a decision issued Monday by the U.S. Court of Appeals for the Second Circuit allowing public-nuisance lawsuits to proceed against companies that produce large amounts of greenhouse gases. (The three-judge panel initially included Judge Sonia Sotomayor, but the two judges resolved the case after she was elevated to the Supreme Court.)

Gore said the trend in the courts was favoring greater regulation. "The Supreme Court ruled over a year ago that CO2 emissions are pollution as covered in the Clean Air Act," he said.

"The U.S. EPA as a result of that court ruling has the [authority] to mandate reductions....Yes, there would be some efforts in the legislative branch to remove that authority but anything in the legislative branch of that sort would be vetoed by the president." "

Even in the absence of legislation, existing law will require significant reduction of CO2. As a practical matter, that puts significant pressure on business lobbies resisting legislation to reassess their position,"

Gore said. Browner called attention to the same appeals court ruling and also argued that the (electric) train was leaving the station, one way or another."

The courts are starting to take control of this issue. If they were to follow this out, they would be setting the standards," Browner told reporters at a separate briefing in New York Tuesday. "Obviously, that's not something that anybody wants....Everything is moving towards getting legislation done because it is the best way to do it.

01268-EPA-338

**Daniel  
Gerasimowicz/DC/USEPA/US**  
09/24/2009 01:09 PM

To  
cc  
bcc

Subject Meeting with Nobel Laureate Wangari Maathai

**Meeting**

Date 10/05/2009  
Time 10:45:00 AM to 11:15:00 AM  
Chair Daniel Gerasimowicz

Invitees  
Required  
Optional  
FYI

Location Bullet Room

Ct: Carolyn Keene (Stuart Eizenstat's Office) (b) (6)

Staff:

Diane Thompson, Bob Perciasepe, Scott Fulton (OA)  
Gina McCarthy (OAR)  
David McIntosh (OCIR)  
Lisa Heinzerling (OPEI)  
Michelle DePass (OIA)

Attendees:

Nobel Laureate Wangari Maathai  
Jim Rogers, CEO Duke Energy  
Kathleen Kennedy Townsend  
Stuart Eizenstat, Former US Chief U.S. Climate Negotiator  
Jeff Horowitz, Founding Partner of Avoided Deforestation Partners

01268-EPA-339

**Seth Oster/DC/USEPA/US**

09/24/2009 01:21 PM

To Richard Windsor

cc

bcc

Subject PSD Next Wednesday

Ex. 5 - Deliberative

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

01268-EPA-340

**Seth Oster/DC/USEPA/US**  
09/24/2009 02:07 PM

To Richard Windsor  
cc  
bcc

Subject Re: PSD Next Wednesday

Ex. 5 - Deliberative  
[Redacted]

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

Richard Windsor

Ex. 5 - Deliberative

09/24/2009 02:01:32 PM

From: Richard Windsor/DC/USEPA/US  
To: Seth Oster/DC/USEPA/US@EPA  
Date: 09/24/2009 02:01 PM  
Subject: Re: PSD Next Wednesday

Ex. 5 - Deliberative

Seth Oster

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

**From:** Seth Oster  
**Sent:** 09/24/2009 01:21 PM EDT  
**To:** Richard Windsor  
**Subject:** PSD Next Wednesday

Ex. 5 - Deliberative  
[Redacted]

[Redacted]

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

01268-EPA-347

**Diane Thompson/DC/USEPA/US**  
09/29/2009 11:06 AM

To Richard Windsor  
cc  
bcc

Subject Re: Hotel Reservations for Copenhagen - Information for EPA Administrator and Staff and other modifications

I will find out  
Richard Windsor

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

**From:** Richard Windsor  
**Sent:** 09/29/2009 11:00 AM EDT  
**To:** Diane Thompson  
**Subject:** Re: Hotel Reservations for Copenhagen - Information for EPA Administrator and Staff and other modifications

[Redacted] Ex. 5 - Deliberative

Diane Thompson

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

**From:** Diane Thompson  
**Sent:** 09/29/2009 10:52 AM EDT  
**To:** Richard Windsor  
**Cc:** Eric Wachter  
**Subject:** Fw: Hotel Reservations for Copenhagen - Information for EPA Administrator and Staff and other modifications

[Redacted] Ex. 5 - Deliberative

\*\*\*\*\*

Diane E. Thompson  
Chief of Staff  
U. S. Environmental Protection Agency  
202-564-6999

----- Forwarded by Diane Thompson/DC/USEPA/US on 09/29/2009 10:48 AM -----

From: Michelle DePass/DC/USEPA/US  
To: Diane Thompson/DC/USEPA/US@EPA  
Date: 09/29/2009 09:39 AM  
Subject: Fw: Hotel Reservations for Copenhagen - Information for EPA Administrator and Staff and other modifications

Diane,  
As a follow-up to your email yesterday:

The staff and political delegation members are below. [Redacted] Ex. 5 - Deliberative

[Redacted]

[Redacted]

In the attachment below - I provided information regarding the Administrator, her staff, and security detail. Listed participants are: Lisa Jackson, Robert Goulding, (b) (6) Privacy [REDACTED] an advance person and press person (both yet to be named).

Ex. 5 - Deliberative [REDACTED]

[REDACTED]  
Michelle,

---

Michelle DePass  
Assistant Administrator

U.S. Environmental Protection Agency  
Office of International Affairs  
Ronald Reagan Building/MC 2610R  
1300 Pennsylvania Ave., NW  
Washington, DC 20004

Phone: 202-564-6600  
Fax: 202-565-2407  
Email: [depass.michelle@epa.gov](mailto:depass.michelle@epa.gov)

Lakita Stewart  
Acting Executive Assistant to Michelle DePass  
Phone: 202-564-6458  
Fax: 202-565-2407  
Email: [stewart.lakita@epa.gov](mailto:stewart.lakita@epa.gov)

----- Forwarded by Michelle DePass/DC/USEPA/US on 09/29/2009 09:20 AM -----

From: Joe Ferrante/DC/USEPA/US  
To: Michelle DePass/DC/USEPA/US@EPA  
Date: 09/28/2009 05:26 PM  
Subject: Fw: Hotel Reservations for Copenhagen - Information for EPA Administrator and Staff and other modifications

---

(b) (5) D.P. [REDACTED]

Best,

Joe

Joe Ferrante  
Senior Advisor, International Negotiations Program  
Office of Global Affairs and Policy  
Office of International Affairs  
U.S. EPA

(202) 564-6558 (Phone)  
(202) 565-2918 (Fax)  
Email: ferrante.joe@epa.gov

----- Forwarded by Joe Ferrante/DC/USEPA/US on 09/28/2009 05:25 PM -----

From: Joe Ferrante/DC/USEPA/US  
To: "Gates, Isabel N (OES-DRL)" <GatesIN@state.gov>  
Cc: Maurice LeFranc/DC/USEPA/US@EPA, Catherine Allen/DC/USEPA/US@EPA, Mike Weckesser/DC/USEPA/US@EPA, Martin Dieu/DC/USEPA/US@EPA, Laura Sauls/DC/USEPA/US@EPA, Walker Smith/DC/USEPA/US@EPA, Shalini Vajjhala/DC/USEPA/US@EPA, Katharine Gage/DC/USEPA/US@EPA, Mike Weckesser/DC/USEPA/US@EPA, Diane Bazzle/DC/USEPA/US@EPA, David Swack/DC/USEPA/US@EPA  
Date: 09/25/2009 02:27 PM  
Subject: Re: Hotel Reservations for Copenhagen - Information for EPA Administrator and Staff and other modifications

Hi Isabel,

Thanks for your help regarding hotel arrangements for the Climate Change Negotiations in Copenhagen.

[Redacted] Ex. 5 - Deliberative [Redacted]

[Redacted]

[Redacted] Ex. 5 - Deliberative [Redacted]

I believe Maurice LeFranc spoke to you (or someone at State) earlier in the week, and conveyed to following to me on 9/23:

-----  
Here is what I found out from State this morning:

The following rooms have been reserved for EPA staff:

Crowne Plaza Hotel

Gina McCarthy           Week 2  
Jackie Krieger           Week 1  
Lisa Heinzerling         Week 2  
Walker Smith            Weeks 1 & 2  
Michelle DePass         Weeks 1 & 2  
Joe Ferrante             Weeks 1 & 2

Scandic Hotel

Leif Hockstad            Weeks 1 & 2-  
Kim Klunich             Weeks 1 & 2  
Scott Bartos             Weeks 1 & 2

-----  
Some of the above names will change (from our existing reservation - in the information conveyed by

Maurice). But we understand that we (still) have these rooms reserved for the indicated time frames. At this point, I can confirm that **Shalini Vajjhala** will be traveling in place of Walker Smith. So Shalini's name should be substituted for Walker's. I also understand that Maurice will need a room for 2 weeks at the Crown Plaza. So, OAR would like him (Maurice) to occupy the room that is currently set aside for Jackie Krieger (week 1) and Lisa Heinzerling (week 2). With this attachment, we are making (separate) arrangements for Lisa Heinzerling for week 2.

Thanks again for your help! After today the **Point of Contact** for EPA will be Laura Sauls (copied on this email).

All the best,

Joe

[attachment "COP15DEC2009lodgingadditions.doc" deleted by Richard Windsor/DC/USEPA/US]

Joe Ferrante  
Senior Advisor, International Negotiations Program  
Office of Global Affairs and Policy  
Office of International Affairs  
U.S. EPA

(202) 564-6558 (Phone)  
(202) 565-2918 (Fax)  
Email: ferrante.joe@epa.gov

01268-EPA-348

**Adora Andy/DC/USEPA/US**

10/01/2009 05:30 PM

To Richard Windsor

cc

bcc

Subject Re: HEADS UP: 60 Min Preview/clip

Ex. 5 - Deliberative

Richard Windsor

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

**From:** Richard Windsor**Sent:** 10/01/2009 05:00 PM EDT**To:** Adora Andy**Subject:** Re: HEADS UP: 60 Min Preview/clip

Ex. 5 - Deliberative

Adora Andy

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

**From:** Adora Andy**Sent:** 10/01/2009 04:12 PM EDT**To:** Allyn Brooks-LaSure; Betsaida Alcantara; Bob Sussman; Brendan Gilfillan; Richard Windsor; Seth Oster**Subject:** Re: HEADS UP: 60 Min Preview/clip

Here's what's on their website next to the video clip I sent earlier:

**How Safe Is Coal Ash?****60 Minutes Investigates a Potentially Harmful Waste Byproduct that Inundated**

(CBS) If coal ash is safe to spread under a golf course or be used in carpets, why are the residents of Kingston, where the material was spilled last December? **60 Minutes correspondent Lesley Stahl** reports from the town, containing coal ash - the byproduct of burning coal for power - inundated homes and yards in a spill 100 times la

Her **60 Minutes** investigation into a substance that contains the toxic metals mercury, arsenic and lead but has ye broadcast this Sunday, Oct. 4, at 7 p.m. ET/PT.

Most of the 130 million tons of waste generated in the U.S. every year by the burning of coal for electricity is co ponds, like the one that burst in Kingston. But nearly half of this waste stream today is recycled and used as a ce agricultural applications, and even in household products like carpeting or kitchen countertops.

This recycling of coal ash has been going on for years. Many uses have been studied and found to be safe and th the EPA does not review many of these uses. Asked why, Lisa Jackson, the new Administrator for the EPA, says regulated material by the federal government."

It is only regulated by the states. Jackson says she does not know if the substance is safe in carpeting or countert agency is currently reviewing whether or not the EPA should regulate the disposal of coal ash as a hazardous wa December we will make a regulatory proposal with respect to this material," she tells Stahl.

But in one site at least, her agency is already treating coal ash like a hazardous waste. The EPA has taken over th

Tenn., coal ash spill, where the waste is being dredged up from the Emory River. On location, there is concern that  
 "In the wrong circumstances coal ash is dangerous. Breathing it, that's dangerous," says Leo Francendese, head of

It's considered dangerous enough that when Stahl left the Kingston site where she spoke to Francendese, both she and  
 coal ash powder residue.

Jim Roewer, a lobbyist for the power industry who specializes in coal ash related issues, says that in the wake of the spill  
 can do better, but on the whole he thinks they are disposing of the coal ash as safely as they can.

He warns that if the EPA labels and regulates coal ash as a hazardous waste, its recycling - which significantly offsets  
 severely impacted in a negative way, and the price of electricity will shoot up. "Environmental protection doesn't

Adora Andy  
 Press Secretary  
 U.S. Environmental Protection Agency  
 Office of Public Affairs  
 202-564-2715  
 andy.adora@epa.gov

Adora Andy      A taste of what's to come Sunday... Lin...      10/01/2009 03:51:38 PM

From: Adora Andy/DC/USEPA/US  
 To: Seth Oster/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Betsaida Alcantara/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA  
 Cc: Brendan Gilfillan/DC/USEPA/US@EPA  
 Date: 10/01/2009 03:51 PM  
 Subject: HEADS UP: 60 Min Preview/clip

A taste of what's to come Sunday... Link below. Brendan made the transcript for those in the field:

<http://www.cbsnews.com/video/watch/?id=5356259n&tag=related;photovideo>

(VOICE OVER VIDEO of coal ash being poured and spread on the ground)  
 Stahl: Coal ash is recycled in dozens of ways. As cement substitute for instance. It's also placed under roads, and in deserted mines. It's added to products from carpets to bowling balls to bathroom sinks. While the industry says the uses have been studied, I asked Lisa Jackson if the EPA knows whether some of the recycled products are safe.

(BACK ON CAMERA)

Stahl: School room carpeting?

LPJ: I don't know. I have no data that says that is safe at this point.

Stahl: Kitchen counters?

LPJ: The same.

Stahl: 50,000 tons of coal ash, the byproduct, have been used in agriculture. Now

what's being done, through EPA, to look at the use of coal ash in agricultural products. Anything? Is there a study?

LPJ: I'm not sure that there's any study out there right now.

Stahl: How did we get to a place where coal ash is in products without anybody knowing?

LPJ: We're here now because coal ash right at this time isn't regulated material by the federal government.

###

Adora Andy  
Press Secretary  
U.S. Environmental Protection Agency  
Office of Public Affairs  
202-564-2715  
andy.adora@epa.gov

01268-EPA-349

Adora Andy/DC/USEPA/US

To Richard Windsor

10/01/2009 05:37 PM

cc

bcc

Subject Re: HEADS UP: 60 Min Preview/clip

Ex. 5 - Deliberative

PS: I'll be watching you on Bill Friday! :) break a leg!  
Richard Windsor

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

**From:** Richard Windsor**Sent:** 10/01/2009 05:00 PM EDT**To:** Adora Andy**Subject:** Re: HEADS UP: 60 Min Preview/clip

Ex. 5 - Deliberative

Adora Andy

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

**From:** Adora Andy**Sent:** 10/01/2009 04:12 PM EDT**To:** Allyn Brooks-LaSure; Betsaida Alcantara; Bob Sussman; Brendan Gilfillan; Richard Windsor; Seth Oster**Subject:** Re: HEADS UP: 60 Min Preview/clip

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This recycling of coal ash has been going on for years. Many uses have been studied and found to be safe and the EPA does not review many of these uses. Asked why, Lisa Jackson, the new Administrator for the EPA, says "regulated material by the federal government."

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Adora Andy  
 Press Secretary  
 U.S. Environmental Protection Agency  
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 202-564-2715  
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|            |                                                                                                                                                                   |                        |
|------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|
| Adora Andy | A taste of what's to come Sunday... Lin...                                                                                                                        | 10/01/2009 03:51:38 PM |
| From:      | Adora Andy/DC/USEPA/US                                                                                                                                            |                        |
| To:        | Seth Oster/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Betsaida Alcantara/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA |                        |
| Cc:        | Brendan Gilfillan/DC/USEPA/US@EPA                                                                                                                                 |                        |
| Date:      | 10/01/2009 03:51 PM                                                                                                                                               |                        |
| Subject:   | HEADS UP: 60 Min Preview/clip                                                                                                                                     |                        |

A taste of what's to come Sunday... Link below. Brendan made the transcript for those in the field:

<http://www.cbsnews.com/video/watch/?id=5356259n&tag=related;photovideo>

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###

Adora Andy  
Press Secretary  
U.S. Environmental Protection Agency  
Office of Public Affairs  
202-564-2715  
andy.adora@epa.gov

01268-EPA-350

Seth Oster/DC/USEPA/US  
10/02/2009 12:54 AM

To windsor.richard  
cc "Diane Thompson"  
bcc  
Subject Fw: ACTION draft mailer from LPJ

Lisa -- (b) (5) D.P.

Please let me know what you think.

I'd like to get this out tomorrow morning.

Thanks.

Seth  
Michael Moats

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

**From:** Michael Moats  
**Sent:** 10/01/2009 04:31 PM EDT  
**To:** Seth Oster; Allyn Brooks-LaSure  
**Subject:** ACTION draft mailer from LPJ

Draft below for review.

Colleagues:

Ex. 5 - Deliberative

[Redacted]

[Redacted]

Ex. 5 - Deliberative

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Sincerely,  
LPJ

-----  
Michael Moats  
Speechwriter  
US EPA | Office of the Administrator  
Office: 202-564-1687

01268-EPA-352

**Diane  
Thompson/DC/USEPA/US**  
10/05/2009 08:16 AM

To Richard Windsor  
cc  
bcc  
Subject Fw: Chairman Gordon request

**Ex. 5 - Deliberative**

\*\*\*\*\*

Diane E. Thompson  
Chief of Staff  
U. S. Environmental Protection Agency  
202-564-6999

----- Forwarded by Diane Thompson/DC/USEPA/US on 10/05/2009 08:14 AM -----

From: "Wise, Jane" <Jane.Wise@mail.house.gov>  
To: Diane Thompson/DC/USEPA/US@EPA  
Date: 10/02/2009 03:59 PM  
Subject: Chairman Gordon request

---

Ms. Thompson,

Our Committee Chairman, Bart Gordon, is interested in pursuing an examination of geoengineering, the sort of large-scale engineering of the earth's climate systems to mitigate climate change. He is seeking Administrator Jackson's direct contribution and advice on this initiative, which will likely result in some coordinated governance at the international level. As the Chairman of the House Committee with jurisdiction, Ms. Gordon's efforts will represent the first meaningful Congressional "benchmark" on the topic.

I know it is unorthodox, but it is important to the Chairman that this communication be informal, personal and directly to the Administrator, in part based on the controversial nature of the topic. Can you please provide us with a direct email contact for Ms. Jackson? If it makes you more comfortable, I can provide you with the Chairman's personal email so her address can remain with him only.

Please let me know if you need any more information from me first, and I appreciate your help.

Thanks,

Janie Wise  
Research Assistant, Energy and Environment  
Committee on Science and Technology  
2321 Rayburn House Office Building  
(202) 225-6375 (202) 225-7567 Direct  
Fax: (202) 225-3895

01268-EPA-353

Arvin Ganesan/DC/USEPA/US

To Richard Windsor

10/05/2009 12:44 PM

cc

bcc

Subject memo for call to rep. Space

Administrator, here's a memo recapping where we are with the mine in Rep. Space's district. You're scheduled to call him at 2 pm. I'll also have a hard copy for you, but here's an electronic version in case you get caught up.

TO: Administrator Jackson  
FROM: Arvin Ganesan  
DATE: October 5, 2009  
SUBJECT: Call to Rep. Zach Space

Ex. 5 - Deliberative

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

-----  
ARVIN R. GANESAN  
Deputy Associate Administrator  
Congressional Affairs

Office of the Administrator  
United States Environmental Protection Agency  
Ganesan.Arvin@epa.gov  
(p) 202.564.5200  
(f) 202.501.1519

01268-EPA-354

Seth Oster/DC/USEPA/US

To Richard Windsor

10/05/2009 05:16 PM

cc

bcc

Subject Fw: WaPo: Apple Leaving Chamber of Commerce Over Climate Change

Ex. 5 - Deliberative

Seth

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

----- Forwarded by Seth Oster/DC/USEPA/US on 10/05/2009 05:14 PM -----

From: Adora Andy/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Lisa Heinzerling/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA  
Cc: Betsaida Alcantara/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Michael Moats/DC/USEPA/US@EPA  
Date: 10/05/2009 05:08 PM  
Subject: WaPo: Apple Leaving Chamber of Commerce Over Climate Change

## Apple Leaving Chamber of Commerce Over Climate Change

By David A. Fahrenthold  
Washington Post Staff Writer  
Monday, October 5, 2009 4:49 PM

Apple Inc. is pulling out of the U.S. Chamber of Commerce because of the chamber's strident criticism of plans to reduce U.S. greenhouse-gas emissions, the computer giant said Monday.

In a letter to the chamber of commerce's president, Apple vice president Catherine Novelli wrote that "Apple supports regulating greenhouse gas emissions, and it is frustrating to find the Chamber at odds with us in this effort." As a result, Novelli said, "we have decided to resign our membership effective immediately."

The Chamber of Commerce, which says it represents more than 3 million businesses, has been

one of the strongest critics of legislation aimed at reducing U.S. emissions.

Last week, the group's president, Thomas J. Donohue, said in a statement that his group supports "strong federal legislation" to protect the climate. But he said legislation passed by the U.S. House of Representatives -- which would use a "cap and trade" system to lower the cost of reducing emissions -- was flawed because it does not require other polluting countries to act, and does too little to spur U.S. investment in green technologies.

A spokesman for the chamber, asked Monday about Apple's decision, referred a reporter to last week's statement.

Apple's decision makes it the fourth company in several weeks to pull out because of the chamber's climate policy, said Pete Altman, a Natural Resources Defense Council activist who has been tracking the dispute. The others have been power utilities Pacific Gas and Electric and PNM Resources, as well as power generator Exelon.

In addition, Nike resigned its position on the chamber's board, but not its membership.

"What we're seeing is the chamber is clearly out of step with more and more companies," said Altman, whose group supports the greenhouse-gas legislation passed earlier this summer by the U.S. House of Representatives. A similar bill was introduced last week in the Senate.

Adora Andy  
Press Secretary  
U.S. Environmental Protection Agency  
Office of Public Affairs  
202-564-2715  
andy.adora@epa.gov

01268-EPA-355

Seth Oster/DC/USEPA/US

10/05/2009 05:28 PM

To: Richard Windsor

cc

bcc

Subject: Re: Fw: WaPo: Apple Leaving Chamber of Commerce Over Climate Change

Ex. 5 - Deliberative

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

Richard Windsor

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

From:...

10/05/2009 05:10:53 PM

From: Richard Windsor/DC/USEPA/US  
To: "Seth Oster" <oster.seth@epa.gov>  
Date: 10/05/2009 05:10 PM  
Subject: Fw: WaPo: Apple Leaving Chamber of Commerce Over Climate Change

Adora Andy

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

**From:** Adora Andy  
**Sent:** 10/05/2009 05:08 PM EDT  
**To:** Richard Windsor; Bob Sussman; Lisa Heinzerling; David McIntosh; Arvin Ganesan; Seth Oster; Allyn Brooks-LaSure  
**Cc:** Betsaida Alcantara; Brendan Gilfillan; Michael Moats  
**Subject:** WaPo: Apple Leaving Chamber of Commerce Over Climate Change

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Adora Andy  
Press Secretary  
U.S. Environmental Protection Agency  
Office of Public Affairs  
202-564-2715  
andy.adora@epa.gov

01268-EPA-357

**Diane  
Thompson/DC/USEPA/US**  
10/06/2009 12:37 PM

To Arvin Ganesan, Richard Windsor  
cc David McIntosh  
bcc  
Subject Re: Geoengineering Info

Ex. 5 - Deliberative

Arvin Ganesan

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

**From:** Arvin Ganesan  
**Sent:** 10/06/2009 11:27 AM EDT  
**To:** Richard Windsor  
**Cc:** Diane Thompson; David McIntosh  
**Subject:** Fw: Geoengineering Info

An email from Bart Gordon, the Chair of the House Science committee. Ex. 5 - Deliberative

-----  
ARVIN R. GANESAN  
Deputy Associate Administrator  
Congressional Affairs  
Office of the Administrator  
United States Environmental Protection Agency  
Ganesan.Arvin@epa.gov  
(p) 202.564.5200  
(f) 202.501.1519

----- Forwarded by Arvin Ganesan/DC/USEPA/US on 10/06/2009 11:26 AM -----

From: (b) (6) Privacy@mail.house.gov>  
To: Arvin Ganesan/DC/USEPA/US@EPA  
Date: 10/06/2009 11:03 AM  
Subject: Geoengineering Info

*Please forward to Lisa—thanks.*

Dear Lisa,

I would like to apprise you of an effort I am undertaking in the House Committee on Science and Technology to examine proposals for moderating climate change through Geoengineering. This concept carries with it enormous risks, and any consideration of geoengineering should be approached with the utmost caution and deliberation. Therefore, as Chairman of the committee of jurisdiction, I feel a responsibility to begin a public dialogue and develop a record on geoengineering. Your guidance and assistance in this effort will be important as we shape our

Committee's work in this area.

Geoengineering should only be considered as a potential tool of last resort in a much wider package of climate change mitigation and adaptation options. With this in mind, I feel we must begin to carefully evaluate the potential costs, benefits and risks of various geoengineering options so that we can know which options warrant further research and, more importantly, which options bear unacceptable risks and should be taken off the table.

I began this effort with a request to GAO to report back on the state of geoengineering efforts and any government-sponsored research in this field, as well potential domestic and international mechanisms for monitoring and regulating geoengineering activities. I am following this with a hearing in the Committee on November 5. This hearing will be the first in a series of hearings and roundtables on geoengineering and will serve as an introduction to the options being considered, along with the potential risks, ethics, and governance issues surrounding their research and deployment.

The November 5 hearing witnesses confirmed so far include Professor John Shepherd of University of Southampton who chaired a September 2009 UK Royal Society report titled *Geoengineering the Climate: Science, Governance and Uncertainty*, and Dr. Ken Caldeira of the Carnegie Institution who also served in the working group for that report as well as on the National Academy of Science panel on America's Climate Choices. The Royal Society has produced what can be considered the definitive authoritative report on the matter.

<http://royalsociety.org/document.asp?tip=0&id=8770>

Again, I assure you that I approach this subject with caution. However, it is time for the experts and policymakers in the U.S. and other responsible nations to have an open dialogue about geoengineering so that we may dictate the policies surrounding its use. Decisions we make will have global ramifications. We

must get ahead of geoengineering before it gets ahead of us or, worse, before we lose all ability to manage the impacts of global climate change. I look forward to further frank discussions on the matter.

Sincerely,

Bart Gordon

01268-EPA-359

**Diane Thompson/DC/USEPA/US**  
10/06/2009 12:52 PM

To Richard Windsor  
cc  
bcc

Subject Re: Geoengineering Info

Will do

Richard Windsor

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

**From:** Richard Windsor  
**Sent:** 10/06/2009 12:46 PM EDT  
**To:** Diane Thompson  
**Subject:** Re: Geoengineering Info

Ex. 5 - Deliberative

Diane Thompson

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

**From:** Diane Thompson  
**Sent:** 10/06/2009 12:44 PM EDT  
**To:** Richard Windsor  
**Cc:** "Arvin Ganesan" <ganesan.arvin@epa.gov>  
**Subject:** Re: Geoengineering Info

Ex. 5 - Deliberative

Richard Windsor

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

**From:** Richard Windsor  
**Sent:** 10/06/2009 12:40 PM EDT  
**To:** Diane Thompson  
**Cc:** "Arvin Ganesan" <ganesan.arvin@epa.gov>  
**Subject:** Re: Geoengineering Info

Ex. 5 - Deliberative

Diane Thompson

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

**From:** Diane Thompson  
**Sent:** 10/06/2009 12:37 PM EDT  
**To:** Arvin Ganesan; Richard Windsor  
**Cc:** David McIntosh  
**Subject:** Re: Geoengineering Info

Ex. 5 - Deliberative

Arvin Ganesan

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

**From:** Arvin Ganesan  
**Sent:** 10/06/2009 11:27 AM EDT  
**To:** Richard Windsor  
**Cc:** Diane Thompson; David McIntosh  
**Subject:** Fw: Geoengineering Info

An email from Bart Gordon, the Chair of the House Science committee.

Ex. 5 - Deliberative

Ex. 5 - Deliberative

-----  
ARVIN R. GANESAN  
Deputy Associate Administrator  
Congressional Affairs  
Office of the Administrator  
United States Environmental Protection Agency  
Ganesan.Arvin@epa.gov  
(p) 202.564.5200  
(f) 202.501.1519  
----- Forwarded by Arvin Ganesan/DC/USEPA/US on 10/06/2009 11:26 AM -----

From: Ex. 6 - Personal @mail.house.gov>  
To: Arvin Ganesan/DC/USEPA/US@EPA  
Date: 10/06/2009 11:03 AM  
Subject: Geoengineering Info

---

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<http://royalsociety.org/document.asp?tip=0&id=8770>

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Sincerely,

Bart Gordon



01268-EPA-360

Scott Fulton/DC/USEPA/US

10/07/2009 12:48 PM

To Richard Windsor, Diane Thompson, Bob Perciasepe, Bob Sussman, Lisa Heinzerling

cc

bcc

Subject Fw: Judge Tatel on Agency rulemaking

Ex. 5 - Attorney/Client

----- Forwarded by Scott Fulton/DC/USEPA/US on 10/07/2009 12:46 PM -----

From: Mary-Kay Lynch/DC/USEPA/US  
 To: Scott Fulton/DC/USEPA/US@EPA, Avi Garbow/DC/USEPA/US@EPA  
 Date: 10/07/2009 12:38 PM  
 Subject: Judge Tatel on Agency rulemaking

[Daily Environment Report: All Issues](#) > [2009](#) > [October](#) > [10/07/2009](#) > [News](#) > Regulatory Policy:

Appeals Court Judge Tatel Urges Regulation Based on Law First, Policy Goals Second

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192 DEN A-16

**[Regulatory Policy](#)**

**Appeals Court Judge Tatel Urges Regulation Based on Law First, Policy Goals Second**

Federal appeals court Judge David S. Tatel, in a rare public speaking engagement, said Oct. 6 that regulatory agencies too often seem to choose policy goals without adequate regard for the law, and he offered examples from several recent decisions overturning Environmental Protection Agency regulations.

Tatel sits on the U.S. Court of Appeals for the District of Columbia Circuit, which hears appeals of EPA regulatory decisions. Nominated to serve on the court in 1994 by President Bill Clinton, he has in recent years participated in the invalidation of some prominent Bush administration environmental regulations. But his remarks carried a cautionary note for the Obama administration as he addressed an Environmental Law Institute symposium.

"It's at times like these, when a new administration is determined to change the environmental policy, that our commitment to the fundamental principles of administrative law is really tested," Tatel told the audience.

"It is basic administrative law that maintains the vital connection between democratic governance and the regulatory state," he said.

In the vast majority of cases, regulatory agencies do a commendable job of addressing complex environmental issues, the judge said.

"That said, in both Republican and Democratic administrations, I have too often seen agencies failing to display the kind of careful and lawyerly attention one would expect from those required to obey federal statutes and to follow principles of administrative law," Tatel said. "In such cases, it looks for all the world like agencies choose their policy first, then later seek to defend its legality."

He then emphatically added: "That gets it entirely backwards."

**Massachusetts v. EPA**

Tatel filed an important dissent from a D.C. Circuit ruling that accepted EPA's decision during the Bush administration that the agency would not regulate greenhouse gases. The importance of that dissent became clear when the Supreme Court, in 2007, overturned the appeals court and told EPA it must make a finding on whether greenhouse gases endanger public health or welfare ( *Massachusetts v. EPA* 549 U.S. 497, 63 ERC 2057 (2007); [63 DEN A-3, 4/3/07](#)).

"No case has done more to accelerate serious policy decision-making on global warming both in the executive and the legislative branches," Leslie Carothers, Environmental Law Institute

president, told the symposium.

The case also served as one of several from the Bush administration that Tatel held up as examples of seeming to put policy ahead of the requirements of the law.

EPA, seeking to avoid regulating carbon emissions, offered a host of policy reasons, including its own uncertainty regarding causes of global warming, Tatel said. But the Clean Air Act requires regulation of emissions if they endanger human health or welfare, and that required an EPA decision on whether greenhouse gases posed such a danger, he said.

"I couldn't tell whether EPA was claiming that its uncertainty prevented it from making an endangerment finding, or whether that uncertainty relieved it of the obligation to regulate even if it had made a finding, or both," Tatel said.

EPA under the Obama administration has now proposed that greenhouse gases do pose a danger, although it has not issued a final decision on the finding.

Among the other cases Tatel cited was a D.C. Circuit decision in 2006 that found EPA erroneously interpreted the Clean Water Act by approving seasonal and annual total maximum daily loads for water pollution, rather than daily limits, as specified in the Clean Water Act (*Friends of the Earth Inc. v. EPA*, 62 ERC 1161 (D.C. Cir. 2006); [80 DEN A-1, 4/26/06](#)).

Tatel also referred to a 2004 case in which Nevada successfully challenged EPA's original, 10,000-year radiation standards for a proposed radioactive waste repository at Yucca Mountain in Nevada. The D.C. Circuit said the agency did not follow recommendations for covering peak radiation doses from the facility, which could occur several hundred thousand years into the future (*Nuclear Energy Institute Inc. v. EPA*, 373 F.3d 1251 (D.C. Cir. 2004); [132 DEN A-1, 7/12/04](#)).

**'And Give Sound Explanations.'**

Tatel stressed the need for agencies to do a clear job of providing reasons for their actions. The principles of administrative law boil down to two rules, he said: "Follow the law, and give sound explanations for what you do."

It is the explanations that allow judges to avoid substituting their own judgment for agency expertise, in keeping with the two-decades-old legal precedent of *Chevron v. NRDC* for giving deference to federal agencies, he said.

"The reason-giving requirement allows courts to determine whether agencies have, in fact, acted on the basis of that expertise," he said.

"This rule applies with particular force when agencies change existing policy, as happens quite often during times of transition," Tatel said. "Obviously, agencies have authority to move from one permissible position to another, but when doing so, they must adequately explain why."

He expressed his hope that EPA would make a policy of involving lawyers early enough in regulatory planning to avoid developing plans that set policy before the law.

By Alan Kovski

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ISSN 1521-9402

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01268-EPA-361

**Katharine  
Gage/DC/USEPA/US**  
10/09/2009 11:15 AM

To  
cc  
bcc

Subject FYI - Climate Change Adaptation Steering Committee

**Meeting**

Date 10/21/2009

Time 05:00:00 PM to 06:00:00 PM

Chair Katharine Gage

Invitees

Required

Optional

FYI

Location CEQ

722 Jackson Place

Ct: Seth Silverman (CEQ) Ex. 6 - Privacy

01268-EPA-362

**Adora Andy/DC/USEPA/US**

To Richard Windsor

10/14/2009 04:35 PM

cc

bcc

Subject Re: Baltimore Sun: Tomorrow's Climate Editorial

Ha... party won't last long... Ian Talley's on the prowl.

Adora Andy  
 Press Secretary  
 U.S. Environmental Protection Agency  
 Office of Public Affairs  
 202-564-2715  
 andy.adora@epa.gov

Richard Windsor

[Go Andy, its your bithday...](#) ----- Ori...

10/14/2009 04:19:43 PM

From: Richard Windsor/DC/USEPA/US  
 To: Adora Andy/DC/USEPA/US@EPA  
 Date: 10/14/2009 04:19 PM  
 Subject: Re: Baltimore Sun: Tomorrow's Climate Editorial

Go Andy, its your bithday...

Adora Andy

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

**From:** Adora Andy  
**Sent:** 10/14/2009 03:45 PM EDT  
**To:** "Richard Windsor" <windsor.richard@epa.gov>; "Seth Oster" <oster.seth@epa.gov>; "Allyn Brooks-LaSure" <brooks-lasure.allyn@epa.gov>; Lisa Heinzerling; David McIntosh; "Bob Sussman" <sussman.bob@epa.gov>; Diane Thompson; Bob Perciasepe  
**Cc:** "Betsaida Alcantara" <alcantara.betsaida@epa.gov>; "Brendan Gilfillan" <gilfillan.brendan@epa.gov>; Michael Moats; "Arvin Ganesan" <ganesan.arvin@epa.gov>  
**Subject:** Baltimore Sun: Tomorrow's Climate Editorial

Baltimore Sun

Tomorrow's editorials: Climate change progress and city pensions

Here are previews of some editorials we're working on. Let us know what you think. The best comments will appear alongside them in the print edition.

--Efforts to pass climate change legislation through Congress in time for the international summit in Copenhagen received an unexpected boost from Republican sources this week. The first, and perhaps most important, was South Carolina Republican Sen. Lindsey Graham's decision to join Massachusetts Democratic Sen. John Kerry in a bipartisan climate bill that includes – gasp! – the cap-and-trade provision so often derided by conservatives. But for those frustrated by the pseudo-science and quackery of climate change opponents who continue to bury their heads in the warming sand, the second was just as satisfying: Turns out the U.S. Environmental Protection Agency under President George W. Bush was just as alarmed by climate change as the rest of the mainstream scientific community. The infamous e-mail from the EPA that the White House refused to even open in 2007 was released this week under a Freedom of Information Act request filed by Greenwire, the environmental news service. As expected, the e-mail shows that the agency, under Republican leadership, expressed the same concerns about the impact of greenhouse gases that the EPA under President Obama does today. The "U.S. and the rest of

the world are experiencing the effects of climate change now," the Bush-era memo concludes. It also warns of rising sea levels, drought, violent weather, outbreaks of disease and greater numbers of heat-related deaths. Any similarities between the language of that dire forecast and the one EPA provided earlier this year is strictly common-sensical. The agency's choice to move forward with an endangerment finding under the Clean Air Act that could soon lead to strict regulations imposed on major carbon producers was, if anything, overdue. The Graham-Kerry bill won't please everyone in the green community. It would open up more off-shore sites to oil and natural gas exploration, for instance, and would promote nuclear and clean coal technologies that have significant environmental drawbacks.

01268-EPA-363

Arvin Ganesan/DC/USEPA/US

To Richard Windsor

10/16/2009 10:28 AM

cc Bob Sussman, Diane Thompson, Seth Oster

bcc

Subject Re: Gazette Story

Ex. 5 - Deliberative

ARVIN R. GANESAN  
Deputy Associate Administrator  
Congressional Affairs  
Office of the Administrator  
United States Environmental Protection Agency  
Ganesan.Arvin@epa.gov  
(p) 202.564.5200  
(f) 202.501.1519

Richard Windsor

Ex. 5 - Deliberative

10/16/2009 10:25:53 AM

From: Richard Windsor/DC/USEPA/US  
To: Bob Sussman/DC/USEPA/US@EPA  
Cc: Arvin Ganesan/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA  
Date: 10/16/2009 10:25 AM  
Subject: Re: Gazette Story

Ex. 5 - Deliberative

Bob Sussman

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

**From:** Bob Sussman  
**Sent:** 10/16/2009 09:53 AM EDT  
**To:** Richard Windsor  
**Cc:** Arvin Ganesan; Diane Thompson; Seth Oster  
**Subject:** Fw: Gazette Story

Ex. 5 - Deliberative

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

----- Forwarded by Bob Sussman/DC/USEPA/US on 10/16/2009 09:48 AM -----

From: Gregory Peck/DC/USEPA/US  
To: Bob Sussman/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA  
Date: 10/16/2009 09:46 AM  
Subject: Gazette Story

## EPA makes deal to protect UMW jobs at Hobet

by Ken Ward Jr.



If you missed it in [today's Gazette](#), the U.S. Environmental Protection Agency has reached an agreement with Patriot Coal's Hobet Mining subsidiary that could protect hundreds of United Mine Workers jobs at the sprawling Hobet 21 mountaintop removal complex along the Boone-Lincoln road in Boone County, West Virginia.

Randy Huffman, secretary of the state Department of Environmental Protection, told the *Charleston Gazette-Mail* that he reached an "agreement in principle" during a meeting Thursday in Charleston with EPA officials from the agency's regional office in Philadelphia.

As my story mentioned, details are sketchy, but Huffman said the agreement appears to be a deal for the state to be being impacted by mining in half.

Huffman described his meeting with EPA as "good and informative" and said:

*I think EPA is starting to get a better handle on what they want. It's not a wall coming down on coal mining.*

[I've written before](#) about the situation at Hobet 21, where Patriot Coal has been seeking a "Hobet 45" extension of one of the largest mountaintop removal complexes in Central Appalachia. The EPA-Patriot deal was revealed at the same time that EPA Administrator Lisa P. Jackson announced the agency's actions on mountaintop removal to West Virginia members of Congress during a hearing in Washington. Among other things, Jackson said EPA is determined to ensure that mine operators do what they can to minimize the impacts of large-scale surface coal mining in Appalachia:

*What we're seeing with the science here is that as these watersheds have more mining, we're seeing more impacts on them, frankly, we see water quality impacts. We believe that over time that's going to be a bigger problem, not a smaller problem. What really has to happen is rolling up the*

*these instances.*

---

Gregory E. Peck  
Chief of Staff  
Office of Water  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

202-564-5778

01268-EPA-366

**Eric Wachter/DC/USEPA/US**

10/21/2009 05:49 PM

To Richard Windsor

cc Aaron Dickerson

bcc

Subject Fw: JPA - Climate Change Practice Leader - Please review

Know anyone?

----- Forwarded by Eric Wachter/DC/USEPA/US on 10/21/2009 05:48 PM -----

**Message Information****Date** 10/21/2009 12:08 PM**From** "Paul Palazzolo" <paul@jpamri.com>**To** LisaP Jackson/DC/USEPA/US@EPA**cc****Subject** JPA - Climate Change Practice Leader - Please review**Message Body**

---

Lisa,

We hope all is well with you these days. We are executing a search for a Climate Change Practice Leader in the Washington D.C. area for a very good client company with locations throughout the U.S. and internationally.

Please take a look at this position, it may be attractive to you or someone you know, and we would appreciate any help you can provide.

*If this position isn't for you, perhaps a friend, colleague or someone your current firm has not been able to help might benefit from the opportunity to discuss the details with us.*

Any recommendations for networking will remain in strict confidence if requested.

Thank you in advance, for your time and attention to the below position.

**Position Title:** Practice Leader - Principal - VP - Climate Change Practice

**Location:** Washington, DC area

**Salary Range:** \$130 - 190K commensurate with experience - bonus package

**Company Description:** Our client is seeking to hire a leader with key responsibilities for developing and growing an important climate change practice. This new position will benefit from our client's in-house expertise, excellent reputation, and strong experience in environmental policy. This includes long term service of working with the U.S. Environmental Protection Agency, other federal clients, and NGOs on the frontier of environmental issues.

Air quality has long been an area where they have serviced these clients and analyzed the physical effects and financial benefits associated with policies. They have helped to reduce greenhouse gas emissions and assess the environmental consequences of using alternative fuels. They have developed a new analytical structure for estimating carbon emissions by sector and state. In order to achieve this we are looking for a business development, technical and management leader to drive this growth.

Our client's scope of services includes working with federal and state environmental and resource management agencies to address complex policy, management, and regulatory challenges. Services include economic analysis, risk assessments, environmental modeling, regulatory and voluntary program support, and information technology.

**Job Description:** The incumbent in this position will:

- Grow, manage and deliver services in the Climate Change Practice.
- Coordinate business development activities with other departments and perform tasks to expand climate change practice.
- Manage staff, operational costs and quality to maintain and enhance profitability.
- Superior Greenhouse Gas technical expertise to design projects and to stay abreast of advances in technology.
- Coordinate contracts, climate policy, new developments of GHG programs and business development plans.
- Serve as the "face" of the practice at national and international conferences.

**Requirements:** Proven business development expertise, with a minimum of 10+ years experience in the Air Quality / Climate Change arena. MA / MBA / PhD with ability to win contracts / grants and superior quality projects. Excellent reputation in the climate change and air quality arenas.

Sincerely,

Paul Palazzolo  
Senior Managing Partner  
Jonathan Paul Associates, Inc. (JPA)  
*One of the nation's leading Environmental Search Firms*

Direct: (Toll Free) 866.712.1810

[paul@jpamri.com](mailto:paul@jpamri.com)

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

<http://www.linkedin.com/in/paulpalazzolo>



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**MRINetwork**  
EXPERTS IN GLOBAL SEARCH

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#### OEX Processing Information

Processed Date:

Processed By

PO Office

Category:

Message Count

01268-EPA-367

Eric Wachter/DC/USEPA/US

To Richard Windsor

10/22/2009 07:41 AM

cc

bcc

Subject Re: JPA - Climate Change Practice Leader - Please review

Ex. 5 - Deliberative

Richard Windsor

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

**From:** Richard Windsor

**Sent:** 10/22/2009 05:16 AM EDT

**To:** Eric Wachter

**Subject:** Re: JPA - Climate Change Practice Leader - Please review

Ex. 5 - Deliberative

Eric Wachter

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

**From:** Eric Wachter

**Sent:** 10/21/2009 05:49 PM EDT

**To:** Richard Windsor

**Cc:** Aaron Dickerson

**Subject:** Fw: JPA - Climate Change Practice Leader - Please review

Know anyone?

----- Forwarded by Eric Wachter/DC/USEPA/US on 10/21/2009 05:48 PM -----

**Message Information**

**Date** 10/21/2009 12:08 PM

**From** "Paul Palazzolo" <paul@jpamri.com>

**To** LisaP Jackson/DC/USEPA/US@EPA

**cc**

**Subject** JPA - Climate Change Practice Leader - Please review

**Message Body**

Lisa,

We hope all is well with you these days. We are executing a search for a Climate Change Practice Leader in the Washington D.C. area for a very good client company with locations throughout the U.S. and internationally.

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*discuss the details with us.*

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Sincerely,

Paul Palazzolo  
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Direct: (Toll Free) 866.712.1810

[παυλ@jpamri.com](mailto:παυλ@jpamri.com)

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

<http://www.linkedin.com/in/paulpalazzolo>

**P**

**Please consider the environment before printing my e-mail**

**MRI Network**

**EXPERTS IN GLOBAL SEARCH**

---

**OEX Processing Information**

**Processed Date:**

**Processed By**

**PO Office**

**Category:**

**Message Count**

01268-EPA-368

David  
McIntosh/DC/USEPA/US  
10/22/2009 09:31 AM

To Richard Windsor  
cc  
bcc

Subject Re: draft opening statement for your review

Great thanks  
Richard Windsor

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

**From:** Richard Windsor  
**Sent:** 10/22/2009 09:31 AM EDT  
**To:** David McIntosh  
**Subject:** Re: draft opening statement for your review

Sorry. Forgot to respond. This draft testimony is fine with me. Lj  
David McIntosh

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

**From:** David McIntosh  
**Sent:** 10/21/2009 08:09 AM EDT  
**To:** Richard Windsor  
**Cc:** Diane Thompson  
**Subject:** draft opening statement for your review

Administrator: Attached and pasted below is the draft of your opening statement for next Tuesday's Senate EPW hearing on the Kerry-Boxer climate/energy bill. The draft has been reviewed by the relevant OAR staff, by OGC, and by Gina, Lisa H, and Seth. If it looks all right to you, I'll put it into OMB review tomorrow, for submission to the EPW Committee on Friday.

[attachment "Draft Oct 27 Administrator Jackson Opening Statement.doc" deleted by Richard Windsor/DC/USEPA/US]

**Statement of Lisa P. Jackson**  
**Administrator, U.S. Environmental Protection Agency**  
**Hearing before the Senate Committee on Environment and Public**  
**Works**  
**October 27, 2009**

Chairman Boxer, Ranking Minority Member Inhofe, and members of the Committee, thank you for inviting me to testify about the Clean Energy Jobs and American Power Act.

I last appeared before this Committee on July 7. Since then, this Administration has, under President Obama's leadership, taken unprecedented steps to decrease America's dependence on oil, put our nation in the lead of the 21<sup>st</sup> Century energy economy, and reduce the greenhouse-gas pollution that threatens our children and grandchildren.

On September 15, for example, Secretary LaHood and I jointly announced coordinated Department of Transportation and Environmental Protection Agency rulemakings to increase the fuel efficiency and reduce the

greenhouse-gas emissions of cars and light-duty trucks sold from 2012 through 2016. The rules will reduce the lifetime oil consumption of those vehicles by 1.8 billion barrels. That will mean eliminating more than a billion barrels of imported oil, assuming the current ratio of domestic production to imports does not improve. At today's oil prices, we are talking about preventing 78 billion dollars from going abroad to buy oil from other countries. In the process, the rules will eliminate nearly a billion metric tons of greenhouse-gas pollution.

Each of my colleagues here can describe other steps that this Administration has already taken to make America's economy stronger by getting it running on clean energy.

Even as the President and the members of his Cabinet move forward under existing authority, we continue urging Congress to pass a new clean-energy law. Only new legislation can bring about the comprehensive and integrated changes that are needed to restore America's economic health and keep the nation secure over the long term.

This Committee held its July 7 hearing shortly after the House of Representatives passed the American Clean Energy and Security Act. So I took the opportunity to echo President Obama's request that the Senate demonstrate the same commitment that we had seen in the House to building a clean-energy foundation for a strong American economy.

The introduction of the Clean Energy Jobs and American Power Act on September 30 shows that the Senate is responding to the President's call to action. I commend you, Madame Chairman, and Senators Kerry and Kirk, for introducing that bill. I applaud the many other Senators, including members of this committee, who contributed meaningfully to the introduced legislation. And I thank Senator Graham for joining with Senator Kerry in a recent statement that reminds us all that giving America control over its own energy destiny can and should be a bi-partisan mission.

Earlier this year, EPA ran the major provisions of the House clean-energy legislation through several economic computer models. When it comes to the specifications that the models can detect, the Clean Energy Jobs and American Power Act is very similar to the House legislation. Nevertheless, EPA has examined the ways in which the Senate bill is different and determined which of the conclusions reached about the House-passed bill can confidently be said to apply to the Senate bill as well.

EPA delivered the result of that inquiry to the Committee last Friday, and the members can review the report in detail. But let me just state three of the projections about the House bill that EPA feels confident also apply to the Clean Energy Jobs and American Power Act.

First, the legislation would transform the American economy from one that is relatively energy inefficient and dependent on highly-polluting energy production to one that is highly energy efficient and powered by advanced, cleaner, and more domestically-sourced energy.

Second, the legislation would bring about that transformation at a cost of less than 50 cents per day per American household in 2020.

Third, the finding that regional cost differences would be small applies to the Senate bill just as it did to the House legislation.

Moreover, even if the cost borne by the average household in a particular state were double the national average, it still would be less than a dollar a day in 2020.

I do not think anyone can honestly say that the head of an American household would not be willing to spend fifty cents a day – or even a dollar a day – to safeguard the wellbeing of his or her children, reduce the amount of money that we send abroad for oil, place American entrepreneurs back in the lead of the global marketplace, and create new American jobs that pay well and cannot be outsourced.

I think Americans want reform that harnesses the country's can-do spirit. I think they want to fuel long-term economic recovery with a wise investment that sparks a clean-energy transformation in our economy and that protects our children and grandchildren.

The Clean Energy Jobs and American Power Act is a significant milestone on the road to that reform. There of course remains road ahead, and there are many Senators on and off this Committee who have tremendous value to add. Thank you for your continuing work, and for inviting me to testify today.

01268-EPA-369

**Eric Wachter/DC/USEPA/US** To Richard Windsor  
10/22/2009 09:35 AM cc Aaron Dickerson  
bcc  
Subject Fw: Hobet 45 Follow Up

----- Forwarded by Eric Wachter/DC/USEPA/US on 10/22/2009 09:35 AM -----

**Message Information**

**Date** 10/21/2009 06:33 PM  
**From** William Early/R3/USEPA/US  
**To** LisaP Jackson/DC/USEPA/US@EPA  
**cc**  
**Subject** Hobet 45 Follow Up

**Message Body**

---

Dear Lisa,

I wanted to follow up on our conversation last week. Ex. 5 - Deliberative

[Redacted]

Thanks.

bill

William C. Early  
Acting Regional Administrator  
Middle Atlantic Region  
U. S. Environmental Protection Agency  
215 814 2626  
215 814 2901 (Fax)  
Early.William@epa.gov

---

**OEX Processing Information**

**Processed Date:**

**Processed By**

**PO Office**

**Category:**

**Message Count**

01268-EPA-372

Chuck Fox/CBP/USEPA/US

10/26/2009 09:09 AM

To Bob Sussman

cc Bob Perciasepe, Mike Shapiro, Peter Silva, Richard Windsor, Tom Wall

bcc

Subject Re: State Comments on CB Report

Ex. 5 - Deliberative

[Redacted content]

Look forward to talking more soon.

J. Charles Fox  
Senior Advisor to the Administrator  
Environmental Protection Agency  
410 Severn Avenue, Ste 109  
410-267-5730  
410-267-5777 (f)

Bob Sussman [Chuck -- what's your take on these com...](#) 10/26/2009 08:31:44 AM

From: Bob Sussman/DC/USEPA/US  
To: Chuck Fox/CBP/USEPA/US@EPA  
Cc: Bob Perciasepe/DC/USEPA/US@EPA, Tom Wall/DC/USEPA/US@EPA, Peter Silva/DC/USEPA/US@EPA, Mike Shapiro/DC/USEPA/US@EPA, Richard

Windsor/DC/USEPA/US@EPA  
Date: 10/26/2009 08:31 AM  
Subject: State Comments on CB Report

Chuck -- what's your take on these comment letters?

Ex. 5 - Deliberative

### *Chesapeake Bay*

#### **Agency Proposals for Obama Bay Order Draw Concerns From Four Bay States, D.C.**

Federal agency ideas for ramping up Chesapeake Bay restoration efforts have elicited mixed reviews from officials in the four bay states to comment on the ideas so far. Environmental Protection Agency Administrator Lisa Jackson proposed Sept. 10 that the six states sharing the Chesapeake Bay watershed bear strict accountability for reaching pollution reduction targets, with consequences for failing to reduce water pollution from point and nonpoint sources ( [174 DEN A-16, 9/11/09](#)).

Jackson and two cabinet secretaries issued seven draft proposals, the first step in creation of a bay restoration plan that must be completed by May 12, 2010, under Sec. 202 of President Obama's Executive Order No. 13,508. The second step—a revised policy and draft strategy—is due Nov. 9.

In letters EPA released Oct. 20, state officials in Delaware, Maryland, Pennsylvania, and Virginia all praised the federal government's new and unprecedented focus on bay restoration. But the officials also expressed concerns, with each official opposing sweeping new federal regulations and urging changes in the Sept. 10 drafts.

The bay watershed stretches across more than 64,000 square miles, encompassing parts of Delaware, Maryland, New York, Pennsylvania, Virginia, and West Virginia, and the entire District of Columbia.

Virginia Gov. Tim Kaine (D) wrote that "while it is possible that additional regulations may be warranted in certain instances, it is crucial that any new or expanded federal oversight *enhance* — not inhibit—state programs that are currently working well."

Any federal regulatory changes must leave room for innovation and flexibility, he said. If federal regulation is deemed necessary, each state should have the option of showing that state-level programs, existing or enhanced, will achieve the desired results, Kaine said.

#### **EPA, States Partnership**

Maryland Department of Natural Resources Secretary John R. Griffin urged EPA to "involve the states as full partners in these next and most important phases of work," a viewpoint expressed in every comment letter.

Each of the letters touts certain state approaches to bay restoration as highly effective.

Katherine F. Bunting-Howarth, director of Delaware's Division of Water Resources, said that unlike the approach proposed by EPA, the state's combination of regulatory and nonregulatory approaches "will prove most successful in Delaware."

The Virginia and Pennsylvania letters tout their respective nutrient trading programs and recommend them as models for any watershed-wide program.

Meanwhile, both the Maryland and Virginia letters suggested that their stormwater control programs are the best available.

#### **EPA Stormwater Proposal Draws Fire**

The EPA draft policy proposal would require states to reduce stormwater runoff from suburbs, urban areas, and for the first time, farms and newly developing communities.

Bunting-Howarth said it would be inappropriate to apply the proposed municipal separate storm sewer system to all high-growth areas regardless of such efforts' technical feasibility and communities' financial resources. "Affordability questions will arise with this and many recommendations in these times," she said.

Pennsylvania's letter, written by three advisers to Department of Environmental Protection Secretary John Hanger, also faults the EPA proposal, suggesting that the harmfulness of stormwater runoff varies with topography and other factors.

A total of 1,189 localities are in the state's portion of the Chesapeake Bay watershed, and "only local municipalities currently have all the powers necessary" for comprehensive stormwater and land use decisions, the letter said, adding later that Pennsylvania lawmakers are unlikely to enact

any measures targeting only the portion of the state in the watershed.

All four letters recommended that federal facilities in the watershed be held to stormwater runoff control rules at least as rigorous as EPA's rules for the states. One of the letters suggested that the states be given authority to enforce the stormwater rules at federal facilities.

Pennsylvania recommended softening a proposal that would put all state wetland and watershed conservation programs under federal Clean Water Act jurisdiction. It stated that "the whole recommendation should be rewritten" to specify that EPA and the state should collaborate on conservation issues and jointly consider whether Clean Water Act coverage is warranted.

Meanwhile, Virginia's Kaine asked EPA to make clear in its next policy draft just what financial penalties would be assessed if a state failed to meet its biennial pollution reduction goals from all sources.

The EPA plan envisions biennial pollution reduction milestones, beginning in 2014. If a state failed to achieve 5 percent of the pollution reduction specified in a two-year period, how much of its EPA funding would be lost? "Ten percent? Twenty percent? Fifty percent?" Kaine asked.

#### **Big Federal Investment Needed**

Pennsylvania's letter pointed out that all parties agree that reducing nutrients and sediment is the top priority for the bay. It said that "all the mechanisms to accomplish this are in place. It comes down to having the necessary resources, manpower, funding, and shareholder cooperation."

Each of the letters called for the federal government to sharply increase its funding of bay restoration activities. "Quite frankly, the resources do not exist, nor will they exist, solely at the state level, to fully restore the Chesapeake Bay and rivers," Kaine said. He urged the federal agencies to make clear in their proposals the need for billions of dollars in federal assistance. "While we support more federal involvement, it must come with increased federal investment," wrote Maryland's Griffin. He said the state wants to avoid a repeat of the No Child Left Behind program, which brought "new federal standards and requirements without commitment of special resources."

#### **District of Columbia Urges More Rules**

The District of Columbia also commented on the draft. However, unlike officials in the four states, Diane M. Davis, Chesapeake Bay coordinator in the District Department of the Environment, generally urged EPA to expand its regulatory focus.

For example, Davis called on EPA to require retrofitting of existing developments to control stormwater runoff. She also recommended that EPA specify how will it work to reduce contaminants, including endocrine disruptors and polycyclic aromatic hydrocarbons from coal-tar pavement sealants.

The Blue Plains wastewater treatment plant in the District, serving the nation's capital and its Maryland and Virginia suburbs, is by far the largest single source of nutrients in the watershed, according to several of the state letters, which urged EPA to focus attention on the facility.

Davis concurred, but she also noted that the oldest sections of the city are served by a combined sewer-stormwater system that sometimes sends untreated sewage into the Potomac and Anacostia rivers. The cost of separating the combined sewer overflow system and upgrading Blue Plains to limits-of-technology wastewater treatment will total many billions of dollars, she said.

Davis faulted the policy drafts for providing little guidance on controlling development to protect forests and farms. The Maryland letter also pointed this out and suggested that the state's Smart Growth program would be a good model for the watershed.

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

01268-EPA-373

Arvin Ganesan/DC/USEPA/US

To Richard Windsor

10/26/2009 11:05 AM

cc David McIntosh, Diane Thompson

bcc

Subject Interim Letter to Inhofe on Czar inquiry

Administrator,

Ex. 5 - Deliberative

Thanks, Arvin

Ex. 5 - Deliberative

-----  
ARVIN R. GANESAN  
Deputy Associate Administrator  
Congressional Affairs  
Office of the Administrator  
United States Environmental Protection Agency  
Ganesan.Arvin@epa.gov  
(p) 202.564.5200  
(f) 202.501.1519

01268-EPA-374

Seth Oster/DC/USEPA/US  
10/26/2009 01:30 PM

To richard.windsor, David McIntosh  
cc  
bcc  
Subject Fw: West Virginia Public Broadcasting: U.S. Chamber  
President: I don't know if climate change is real

[Redacted] Ex. 5 - Deliberative [Redacted]

[Redacted]

[Redacted]

Seth

Brendan Gilfillan

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

**From:** Brendan Gilfillan  
**Sent:** 10/26/2009 11:49 AM EDT  
**To:** Seth Oster <oster.seth@epa.gov>; Allyn Brooks-LaSure; Adora Andy; Betsaida Alcantara; Michael Moats  
**Subject:** West Virginia Public Broadcasting: U.S. Chamber President: I don't know if climate change is real

# U.S. Chamber President: I don't know if climate change is real

WV Public Broadcasting

In an interview with Politico.com, U.S Chamber of Commerce President Tom Donohue refused to say if he believes the science behind global warming.

“Is the science right? Is science not right? I don’t know,” he told the [political Web site](#).

And when asked about what would happen if the EPA regulated carbon emissions, Donohue used a scatological term.

“If we got the EPA one, then we are in deep sh-- as a country,” he said. “You want to see unemployment? You will see some.”

Donohue has shrugged off some high-profile defections from the Chamber recently because of its opposition to regulating greenhouse gases.

In 2004, Donohue accepted an invitation from CEO Don Blankenship to speak at the Massey Energy company picnic in Logan. Blankenship recently has called global warming a [hoax and a Ponzi scheme](#).

01268-EPA-375

Seth Oster/DC/USEPA/US

10/26/2009 06:27 PM

To Richard Windsor

cc Adora Andy, Allyn Brooks-LaSure, Arvin Ganesan, Betsaida Alcantara, Bob Perciasepe, Bob Sussman, Brendan Gilfillan, David McIntosh, Diane Thompson, Michael Moats, Peter Silva, Stephanie Owens

bcc

Subject Re: CHARLESTON GAZETTE: EPA CHIEF CREATES BACKLASH

Ex. 5 - Deliberative

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

|                 |                                         |                        |
|-----------------|-----------------------------------------|------------------------|
| Richard Windsor | No response please. That includes th... | 10/26/2009 06:24:38 PM |
|-----------------|-----------------------------------------|------------------------|

From: Richard Windsor/DC/USEPA/US  
To: Adora Andy/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Peter Silva/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA  
Cc: Betsaida Alcantara/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Michael Moats/DC/USEPA/US@EPA, Stephanie Owens/DC/USEPA/US@EPA  
Date: 10/26/2009 06:24 PM  
Subject: Re: CHARLESTON GAZETTE: EPA CHIEF CREATES BACKLASH

Ex. 5 - Deliberative

Adora Andy

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

**From:** Adora Andy  
**Sent:** 10/26/2009 04:16 PM EDT  
**To:** Richard Windsor; Bob Sussman; Peter Silva; Diane Thompson; Bob Perciasepe; Seth Oster; Allyn Brooks-LaSure; Arvin Ganesan; David McIntosh  
**Cc:** Betsaida Alcantara; Brendan Gilfillan; Michael Moats; Stephanie Owens  
**Subject:** CHARLESTON GAZETTE: EPA CHIEF CREATES BACKLASH

CHARLESTON GAZETTE/OPINION PAGE

October 26, 2009

**Robert Rupp: EPA chief creates backlash**

While not yet a household name, Lisa Jackson, head of the EPA, has ignited a firestorm of controversy in West Virginia.

In Jackson's first few months as director, she has transformed the EPA by overturning approval for a coal power plant and placing a series of West Virginia surface mining permits on hold.

Jackson's actions have not only put the mining industry on notice that the EPA is no longer sitting on the sidelines, but also put the administrator herself in the middle political crossfire not seen since Rich Rodriguez left the state.

The debate over how to mine in the Mountain State has implications that go beyond the geological. The EPA actions have placed the director at odds with a coalition that crosses ideological, occupational and partisan lines.

Ironically Rep. Nick Rahall was slow to join the state chorus of concerns. A member of the House leadership, Rahall initially defended the agency's actions, even though his district includes the counties most impacted by the EPA actions.

Rahall has since clarified his position saying that he now "gets it" in terms of voters' concerns about jobs. But Rahall's inconsistency underscores a problem for all state Democrats. President Obama and the EPA are perceived as being unfavorable to coal.

Embarrassed state Democratic leaders hope that President Obama will "get it" and pull "a Babbitt" - by reining in his agency director in the face of a political firestorm.

This is what President Bill Clinton did when Bruce Babbitt, his Secretary of Interior, proposed tougher regulations and grazing fees on federal lands. Faced with a political revolt of ranchers, Clinton did not endorse his secretary's actions. Babbitt had to compromise on this and other initiatives in his ambitious agenda.

Clinton's actions reflected in part concerns about the re-election of several Democratic senators in the West in 1994 and his own re-election in 1996. Clinton "understood that a strong environmental position - if it cost jobs - would also cost him (in 1996) states such as California and Montana" notes Richard Pious in his textbook on the presidency.

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Clinton's actions reflected in part concerns about the re-election of several Democratic senators in the West in 1994 and his own re-election in 1996. Clinton "understood that a strong environmental position - if it cost jobs - would also cost him (in 1996) states such as California and Montana" notes Richard Pious in his textbook on the presidency.

But unlike President Clinton, Obama seems unlikely to change course.

President Obama in 2009 is a stronger environmentalist than Clinton in 1993. And the coal mining states, which did not support Obama in 2008, are not part of the President's re-election strategy for 2012.

In fact, while EPA actions may alienate West Virginia, they could appeal to a nation. Clean water and surface mining control are attractive issues in nationwide polls.

In West Virginia, the EPA's actions are notable because they play on the ongoing concern about the future of the coal industry. Although the number of miners has dramatically decreased over the past decades, West Virginia still remains a state where the coal miner is on the flag and the coal industry is on the minds of its citizens.

And uncertainty about the industry has increased in the past year. Both of last year's presidential nominees signaled strong reservations about coal. Earlier this year, the House of Representatives passed a cap-and-trade bill that was opposed by all three members of congressional delegation and criticized by both West Virginia senators.

That bill will not pass this year, but its proposal signifies the growing national concern over carbon based energy.

It is not surprising that Gov. Joe Manchin wants a meeting with the president. The EPA's recent actions on coal permits signals a new chapter of uncertainty in a battle that will impact the political as well as the physical landscape of the Mountain State.

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Adora Andy  
Press Secretary  
U.S. Environmental Protection Agency  
Office of Public Affairs  
202-564-2715  
andy.adora@epa.gov

01268-EPA-376

**Diane  
Thompson/DC/USEPA/US**  
10/26/2009 09:43 PM

To Bob Sussman, Richard Windsor, Bob Perciasepe, Arvin  
Ganesan, Seth Oster, Mathy Stanislaus  
cc  
bcc

Subject Re: [REDACTED] Ex. 5 - Deliberative  
[REDACTED]

[REDACTED] Ex. 5 - Deliberative

Bob Sussman

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

**From:** Bob Sussman  
**Sent:** 10/26/2009 07:40 PM EDT  
**To:** Richard Windsor; Bob Perciasepe; Diane Thompson; Arvin Ganesan; Seth  
Oster; Mathy Stanislaus

**Subject:** [REDACTED] Ex. 5 - Deliberative

[REDACTED] Ex. 5 - Deliberative

[REDACTED]

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

01268-EPA-377

Seth Oster/DC/USEPA/US  
10/26/2009 09:59 PM

To Richard Windsor, Bob Sussman, Bob Perciasepe, Diane Thompson, Arvin Ganesan, Mathy Stanislaus  
cc "Allyn Brooks-LaSure"

bcc

Subject Re: [Redacted] Ex. 5 - Deliberative  
[Redacted]

[Redacted] Ex. 5 - Deliberative  
[Redacted]

[Redacted]

[Redacted]

Richard Windsor

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

**From:** Richard Windsor

**Sent:** 10/26/2009 07:57 PM EDT

**To:** Bob Sussman; Bob Perciasepe; Diane Thompson; Arvin Ganesan; Seth Oster; Mathy Stanislaus

**Subject:** Re: [Redacted] Ex. 5 - Deliberative  
[Redacted] Ex. 5 - Deliberative

Bob Sussman

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

**From:** Bob Sussman

**Sent:** 10/26/2009 07:40 PM EDT

**To:** Richard Windsor; Bob Perciasepe; Diane Thompson; Arvin Ganesan; Seth Oster; Mathy Stanislaus

**Subject:** [Redacted] Ex. 5 - Deliberative  
[Redacted] Ex. 5 - Deliberative

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

01268-EPA-378

Seth Oster/DC/USEPA/US  
10/27/2009 01:33 PM

To Richard Windsor, Diane Thompson, David McIntosh  
cc  
bcc

Subject Hearing - RNC Press release and NY Daily News Piece

Ex. 5 - Deliberative

Ex. 5 - Deliberative

Seth

October 27, 2009 9:27 AM

## [The GOP's Issue Problem »](#)

By Michael McAuliff

The Republican Party doesn't just have an image problem, it has an issue problem.

Take the new CNN/ORC poll on the latest major legislative push beginning today, which the GOP opposes: cap-and-trade energy legislation aimed at curbing climate change and boosting efficiency.

The Republican Party opposes the measure as a "national energy tax," but CNN's survey finds 60% of the country favors cap and trade, with the question asked this way:

"Under a proposal called 'cap and trade,' the federal government would limit the amount of greenhouse gases that companies could produce in their factories or power plants. If companies exceeded those limits, they would either pay a fine or pay money to other companies that produced smaller amounts of greenhouse gases. Would you favor or oppose this proposal?"

To win that debate, the GOP has to make the idea less popular (nobody likes taxes, and cap and trade likely will raise revenue), and indeed today they are trying to cast EPA head Lisa Jackson and Department of Energy Secretary Steven Chu "America's energy mommy and daddy," selecting quotes to suggest the Obama administration treats the public like babies while it knows better.

But the public is already on the administration's side, per the CNN poll.

Republicans are in a similar pickle with health care. The public is generally split on health care reform overall, but when surveys get down to specifics, Americans really like parts that the GOP is most opposed to, such as the public option. The lowest rating we've seen the public plan get,

back in August, was 55%.

And wait until immigration reform comes up next year. Everyone wants more secure borders, but Republicans oppose a pathway to citizenship for illegal immigrants as "amnesty." But

# ENERGY MOMMY AND DADDY

## *Obama's Environmental, Energy Chiefs Aim To Punish "Unruly" Americans With National Energy Tax*

---

View This Research Briefing At [GOP.com](http://GOP.com)

AS OBAMA'S E.P.A., ENERGY CHIEFS SELL THEIR NATIONAL ENERGY TAX TODAY,  
WILL THEY SELL THEMSELVES AS AMERICA'S ENERGY MOMMY AND DADDY?

Today, Obama's Energy Secretary, E.P.A. Administrator Pushing Their "Cap-And-Trade" Scheme. "Sen. Barbara Boxer, chairman of the Environment and Public Works Committee, has scheduled the first hearings for the climate change legislation that had been stalled on Capitol Hill. Sec. [Steven Chu](#) (Energy)... will be there Oct. 27, along with Environmental Protection Agency Administrator [Lisa Jackson](#) ..." (Christina Bellantoni, "Next Up: Climate Change," [Talking Points Memo](#) , 10/14/09)

And Chu Says Americans Are "Unruly Teenagers," Obama Administration Must Be Parent When It Comes Carbon Emissions. "When it comes to greenhouse-gas emissions, Energy Secretary Steven Chu sees Americans as unruly teenagers and the Administration as the parent that will have to teach them a few lessons ... 'The American public ... just like your teenage kids, aren't acting in a way that they should act,' Dr. Chu said. 'The American public has to really understand in their core how important this issue is.'" (Ian Talley, "Steven Chu: Americans Are Like 'Teenage Kids' When It Comes To Energy," *The Wall Street Journal's* ["Environmental Capitol"](#) Blog, 9/21/09)

## HOW WOULD CHU, JACKSON PUNISH AMERICANS ON ENERGY?

**Chu Supports Increasing Gas Prices To European Levels To Force Americans To Buy Specific Cars, Move To Different Neighborhoods.** "In a sign of one major internal difference, Mr. Chu has called for gradually ramping up gasoline taxes over 15 years to coax consumers into buying more-efficient cars and living in neighborhoods closer to work... 'Somehow we have to figure out how to boost the price of gasoline to the levels in Europe,' Mr. Chu said ..." (Neil King Jr. and Stephen Power, "Times Tough For Energy Overhaul," [The Wall Street Journal](#) , 12/12/08)

**Jackson Threatening Congress To Move Forward With National Energy Tax Or Have Americans Face Costlier Regulations.** "Ms. Jackson is issuing a political ultimatum to business, as well as to Midwestern and rural Democrats: Support the Kerry-Obama climate tax agenda--or we'll punish your utilities and consumers without your vote. The EPA has now formally made an 'endangerment finding' on CO2, which will impose the command-and-control regulations of the Clean Air Act across the entire economy. Because this law was never written to apply to carbon, the costs will far exceed those of ... cap and trade ..." (Editorial, "The 'Absurd Results' Doctrine," [The Wall Street Journal](#) , 10/4/09)

- **A National Energy Tax Chu Admits Would Punish Americans By Shipping Jobs Overseas.** "Dr. Chu said reaching agreement on legislation to combat climate change would be difficult in the current recession because any scheme to regulate greenhouse gas emissions would probably cause energy prices to rise and drive manufacturing jobs to countries where energy is cheaper. 'The concern about cap-and-trade in today's economic climate,' Dr. Chu said, 'is that a lot of money might flow to developing countries in a way that might not be completely politically sellable.'" (John M. Broder, "Big Science Role Is Seen In Global Warming Cure," [The New York Times](#) , 2/11/09)

## CHU, JACKSON ALREADY HAVE RECORD PUNISHING AMERICAN ENERGY PRODUCTION

**Chu Describes Coal As His "Worst Nightmare."** "Big Coal won't be very happy if Dr. Chu gets confirmed as head of the DOE--he's really, really not a big fan. 'Coal is my worst nightmare,' he said repeatedly in a speech earlier this year outlining his lab's alternative-energy approaches ..." (Keith Johnson, "Steven Chu: 'Coal Is My Worst Nightmare'," [The Wall Street Journal](#) , 12/11/08)

**Jackson Makes Chu's Dream Come True, Shuts Down Coal Mine In West Virginia.** "U.S. Environmental Protection Agency officials today announced the gigantic news that they have formally moved to veto the Clean Water Act permit for the largest mountaintop removal mine in West Virginia history." (Ken Ward Jr., "Huge MTR News: EPA Moves To Veto Spruce Mine Permit," *The Charleston Gazette's* ["Coal Tattoo"](#) Blog, 10/09)

- **West Virginia Gov. Joe Manchin (D-VA) Criticizes Jackson For "Trying To Kill Off Surface Mining Through Regulation."** "Governor Joe Manchin says he was once willing to give the Obama administration's EPA the benefit of the doubt, but now the agency's direction is clear when it comes to coal mining... 'Right now, my belief is

that they're trying to kill off surface mining through regulation what they cannot get done through legislation."  
("Gov. Manchin Feels Differently About EPA Now," [MetroNews Talkline](#), 10/1/09)

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Not authorized by any candidate or candidate's  
committee.

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01268-EPA-379

Adora Andy/DC/USEPA/US  
10/27/2009 02:58 PM

To Richard Windsor, David McIntosh, Seth Oster, Allyn Brooks-LaSure, Bob Sussman, Diane Thompson, Bob Perciasepe, Gina McCarthy  
cc Betsaida Alcantara, Brendan Gilfillan, Michael Moats, Arvin Ganesan  
bcc

Subject DOW JONES: TALLEY'S STORY

This blurb just hit the wire. He says he will "clarify" what LPJ said - based on what I sent from you, David - regarding transportation and GHGs in an update coming soon.

.  
¶ By Ian Talley  
¶ Of DOW JONES NEWSWIRES  
.

¶ WASHINGTON (Dow Jones)--The head of the U.S. Environmental Protection Agency told Senate lawmakers Tuesday that she may want Congress to preserve some authorities under the Clean Air Act to regulate greenhouse gases even if a climate bill is passed.

¶ Some legislators say that in order for a climate bill to get the votes necessary to be approved by the full Senate, a climate bill will have to preempt EPA authority.

¶ But Administrator Lisa Jackson told the Environment and Public Works Committee that the agency may still need powers to regulate emissions such as carbon dioxide beyond what is in climate legislation.

.  
¶ -By Ian Talley, Dow Jones Newswires, 202-862-9285;  
¶ ian.talley@dowjones.com  
.

-0-

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

From: Andy.Adora@epamail.epa.gov [mailto:Andy.Adora@epamail.epa.gov]  
Sent: Tuesday, October 27, 2009 2:35 PM  
To: Talley, Ian  
Subject: Re: That's not what she said

No, she was simply making the obvious point that the New Source Review provisions of the Clean Air Act are designed to avoid hotspots of conventional air pollutants whose inhalation or ingestion directly harms human health, so that is an existing Clean Air Act program that one would want to retain at least for conventional air pollutants even in the presence of a legislated greenhouse-gas cap-and-trade system.

Adora Andy  
Press Secretary  
U.S. Environmental Protection Agency  
Office of Public Affairs  
202-564-2715  
andy.adora@epa.gov

From: "Talley, Ian" <Ian.Talley@dowjones.com>

To: Adora Andy/DC/USEPA/US@EPA

Date: 10/27/2009 01:59 PM

Subject: Re: That's not what she said

Ok thanks...one thing that confuses me was her discussion of new source review. I thought she was talking about still maintaining authority to require best available technology for all hazardous pollutants including GHG if they are declared such.

Ian Talley  
Dow Jones Newswires  
1025 Connecticut Ave. NW, Suite 800  
Washington, DC 20036  
Ph: 202-862-9285  
Mb: 202-631-5794  
Ian.talley@dowjones.com

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

From: Andy.Adora@epamail.epa.gov <Andy.Adora@epamail.epa.gov>  
To: Talley, Ian  
Sent: Tue Oct 27 13:04:05 2009  
Subject: Re: That's not what she said

Two examples: (1) Clean Air Act requirements for non-GHG emissions from sources that are subject to the bill's GHG emissions cap; (2) tailpipe GHG emissions standards for cars, trucks, etc., like the rule proposed earlier this year

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

From: "Talley, Ian" [Ian.Talley@dowjones.com]  
Sent: 10/27/2009 12:54 PM AST  
To: Adora Andy  
Subject: Re: That's not what she said

Thanks. Can you expand on what kind of Clean Air Act authority over greenhouse gases the Administrator was saying she wants to consider maintaining even if a climate bill passed?

Ian Talley  
Dow Jones Newswires  
1025 Connecticut Ave. NW, Suite 800  
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Ph: 202-862-9285  
Mb: 202-631-5794  
Ian.talley@dowjones.com

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

From: Andy.Adora@epamail.epa.gov <Andy.Adora@epamail.epa.gov>  
To: Talley, Ian  
Sent: Tue Oct 27 12:34:18 2009  
Subject: That's not what she said

She said she wants to work with this Committee and the full Senate on the question. She made three points "for consideration." But then before concluding she reiterated that she is definitely open to discussion on the question.

01268-EPA-380

**Adora Andy/DC/USEPA/US**

10/27/2009 07:10 PM

To Allyn Brooks-LaSure, Bob Perciasepe, Bob Sussman, David McIntosh, Diane Thompson, Gina McCarthy, Richard Windsor, Seth Oster

cc Arvin Ganesan, Betsaida Alcantara, Michael Moats, Brendan Gilfillan

bcc

Subject WSJ: UPDATED STORY

(Updates with lawmaker and EPA administrator's comments and clarification)

By Ian Talley  
Of DOW JONES NEWSWIRES

WASHINGTON (Dow Jones)--The head of the U.S. Environmental Protection Agency said Tuesday that she may want Congress to preserve some authority to regulate greenhouse gases even if a climate bill is passed.

Some legislators say that in order for a climate bill to get the votes necessary to pass the Senate, it would have to preempt EPA authority.

But Administrator Lisa Jackson told the Environment and Public Works Committee that the agency still need powers to regulate emissions such as carbon dioxide beyond what the bill would allow. "The cap in this bill is actually not entirely economy wide," Jackson told the committee at a hearing considering the landmark climate bill. She said the bill would address carbon-emission sources that can be addressed through Clean Air Act rules. Jackson also pointed to the Clean Air Act's new source review rules, under which the best available technology is used.

"It allows for, when significant investments are being made or new sources are being built, to reset the playing field, if you will, to say, 'No, listen, no matter what pollution levels are at that point, we need to think about the fact whether we need to be investing in new technology,'" she said.

For example, if a coal-fired power plant was only achieving its emissions-reduction goals by purchasing pollution credits from the market, the EPA would still have the authority to require the plant to use the best available technology for planned major upgrades that would achieve certain low emissions. EPA spokeswoman Adora Andy later said Jackson was only referring to carbon dioxide and other gas air pollutants in regards to maintaining new source review authority. Legislators aren't seeking to preempt EPA Clean Air Act authority over conventional pollutants such as sulfur dioxide, but are only focusing on greenhouse gases.

Adora said one example the administrator would like to maintain its Clean Air Act greenhouse gas emissions is for the transportation sector. The EPA, along with the Department of Transportation, recently proposed new emission rules for light duty vehicles and want to target other mobile sources such as trucks.

Jackson reiterated the administration's position that the most cost-effective way to reduce carbon and transition the U.S. to a clean energy economy is through a cap-and-trade program the one the Senate's considering.

Several Democratic Senators have said they may be unwilling to vote for a bill that would strip EPA's Clean Air Act regulatory authority over carbon dioxide.

Pennsylvania Democrat Arlen Specter said he's willing to work with the EPA on issues that preserve the agency's powers. But he also warned against the uncertainty created for investors in energy infrastructure by giving the EPA too much flexibility to regulate greenhouse gases under the Clean Air Act.

-By Ian Talley, Dow Jones Newswires; 202-862-9285; ian.talley@dowjones.com

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|            |                                    |                        |
|------------|------------------------------------|------------------------|
| Adora Andy | POLITICO IS EPA JUMPING THE GUN... | 10/27/2009 06:40:46 PM |
|------------|------------------------------------|------------------------|

From: Adora Andy/DC/USEPA/US  
 To: Richard Windsor/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA  
 Cc: Arvin Ganesan/DC/USEPA/US@EPA, Betsaida Alcantara/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Michael Moats/DC/USEPA/US@EPA  
 Date: 10/27/2009 06:40 PM  
 Subject: POLITICO: IS EPA JUMPING THE GUN ON CLIMATE BILL?

POLITICO

IS EPA JUMPING THE GUN ON CLIMATE BILL?

LISA LERER

October 27, 2009 6:16pm

The Environmental Protection Agency is taking steps to regulate greenhouse gases, even though the issue remains far from settled in Congress, where a key Senate

committee is debating a major climate change bill.

In hearings before the Senate Environment and Public Works committee Tuesday, several moderate Democrats expressed concerns that the EPA is jumping the gun in mandating new curbs on greenhouse gas emissions across a slew of industries.

"There is a great deal to be gained by certainty so people can make plans," said Pennsylvania Democratic Sen. Arlen Specter. "If the EPA continues to have flexibility we don't know where we are."

The EPA proposed new regulations on greenhouse gas emissions from large industrial sources in a rule published by the Federal Registry late last week.

The so-called "tailoring" rule would force power plants, waste landfills, and other plants emitting over 25,000 tons of greenhouse gases a year to obtain permits demonstrating that they are using the best technology to minimize their emissions.

EPA estimates that 14,000 major polluters would need to get the permits. Small business, farms, restaurants and other small businesses would be exempt from the regulations.

Several Democrats said in Tuesday's hearings that they would like to include language in the legislation that would stop the EPA from implementing a 2007 Supreme Court opinion that would mandate new regulations on greenhouse gas emissions for a slew of industries.

EPA Administrator Lisa Jackson told the committee that the administration would rather cut emissions through legislation than executive rule-making.

"Even as the President and the members of his Cabinet move forward under existing authority, we continue urging Congress to pass a new clean energy law," said Jackson. "Only new legislation can bring about the comprehensive and integrated changes that are needed to restore America's economic health and keep the nation secure over the long term."

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01268-EPA-381

Seth Oster/DC/USEPA/US  
10/28/2009 05:09 PM

To Richard Windsor  
cc Diane Thompson, Bob Sussman, Allyn Brooks-LaSure, Adora  
Andy, Brendan Gilfillan, Arvin Ganesan, Mathy Stanislaus,  
Scott Fulton, Sarah Pallone, Bob Perciasepe  
bcc

Subject West Virginia Impoundment -- Update and Next Steps

Administrator,

Arvin and I just completed an extensive conversation with a group of OSWER staff who are working on this issue, and we also just briefed Mathy on that discussion and the proposed next steps.

Following is a summary of where we stand and our plan for tomorrow, for your review and approval.

Ex. 5 - Deliberative  
[Redacted]

[Redacted]

(b) (5) D.P. [Redacted]

Ex. 5 - Deliberative  
[Redacted]

[Redacted]

Ex. 5 - Deliberative



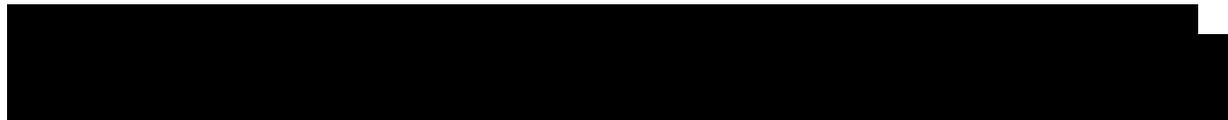
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01268-EPA-388

**Arvin Ganesan/DC/USEPA/US** To Richard Windsor  
10/29/2009 11:56 AM cc  
bcc  
Subject rahall meeting

I don't think I'll be able to grab you before the Rahall meeting, but want to get a couple of things on your radar that aren't in your briefing material that I just gave to Aaron.

Ex. 5 - Deliberative



-----  
ARVIN R. GANESAN  
Deputy Associate Administrator  
Congressional Affairs  
Office of the Administrator  
United States Environmental Protection Agency  
Ganesan.Arvin@epa.gov  
(p) 202.564.5200  
(f) 202.501.1519

01268-EPA-394

Seth Oster/DC/USEPA/US

11/03/2009 08:40 AM

To Richard Windsor

cc

bcc

Subject Gore's Business Side

Interesting read.

**(b) (6) Privacy**

Seth

NEW YORK TIMES

November 3, 2009

# Gore's Dual Role in Spotlight: Advocate and Investor

By [JOHN M. BRODER](#)

WASHINGTON — Former Vice President [Al Gore](#) thought he had spotted a winner last year when a small California firm sought financing for an energy-saving technology from the [venture capital](#) firm where Mr. Gore is a partner.

The company, [Silver Spring Networks](#), produces hardware and software to make the electricity grid more efficient. It came to Mr. Gore's firm, [Kleiner Perkins Caufield & Byers](#), one of Silicon Valley's top venture capital providers, looking for \$75 million to expand its partnerships with utilities seeking to install millions of so-called smart meters in homes and businesses.

Mr. Gore and his partners decided to back the company, and in gratitude Silver Spring retained him and [John Doerr](#), another Kleiner Perkins partner, as unpaid corporate advisers.

The deal appeared to pay off in a big way last week, when the Energy Department announced \$3.4 billion in [smart grid grants](#). Of the total, more than \$560 million went to utilities with which Silver Spring has contracts. Kleiner Perkins and its partners, including Mr. Gore, could recoup their investment many times over in coming years.

Silver Spring Networks is a foot soldier in the global green energy revolution Mr. Gore hopes to lead. Few people have been as vocal about the urgency of [global warming](#) and the need to reinvent the way the world produces and consumes energy. And few have put as much money behind their advocacy as Mr. Gore and are as well positioned to profit from this green transformation, if and when it comes.

Critics, mostly on the political right and among global warming skeptics, say Mr. Gore is poised

to become the world's first "carbon billionaire," profiteering from government policies he supports that would direct billions of dollars to the business ventures he has invested in.

Representative Marsha Blackburn, Republican of Tennessee, asserted at a [hearing this year](#) that Mr. Gore stood to benefit personally from the energy and climate policies he was urging Congress to adopt.

Mr. Gore says that he is simply putting his money where his mouth is.

"Do you think there is something wrong with being active in business in this country?" Mr. Gore said. "I am proud of it. I am proud of it."

In an e-mail message this week, he said his investment activities were consistent with his public advocacy over decades.

"I have advocated policies to promote renewable energy and accelerate reductions in global warming pollution for decades, including all of the time I was in public service," Mr. Gore wrote. "As a private citizen, I have continued to advocate the same policies. Even though the vast majority of my business career has been in areas that do not involve renewable energy or global warming pollution reductions, I absolutely believe in investing in ways that are consistent with my values and beliefs. I encourage others to invest in the same way."

Mr. Gore has invested a significant portion of the tens of millions of dollars he has earned since leaving government in 2001 in a broad array of environmentally friendly energy and technology business ventures, like [carbon trading markets](#), solar cells and [waterless urinals](#).

He has also given away millions more to finance the nonprofit he founded, the [Alliance for Climate Protection](#), and to another group, [the Climate Project](#), which trains people to present the slide show that was the basis of his documentary "[An Inconvenient Truth](#)." Royalties from his new book on climate change, "[Our Choice](#)," printed on 100 percent recycled paper, will go to the alliance, an aide said.

Other public figures, like Speaker [Nancy Pelosi](#) and [Robert F. Kennedy Jr.](#), who have vocally supported government financing of energy-saving technologies, have investments in alternative energy ventures. Some scientists and policy advocates also promote energy policies that personally enrich them.

As a private citizen, Mr. Gore does not have to disclose his income or assets, as he did in his years in Congress and the White House. When he left government in early 2001, he [listed assets](#) of less than \$2 million, including homes in suburban Washington and in Tennessee.

Since then, his net worth has skyrocketed, helped by timely investments in Apple and Google, profits from books and his movie, and scores of speeches for which he can be paid more than \$100,000, although he often speaks at no charge.

He is a founder of [Generation Investment Management](#), based in London and run by David

Blood, a former head of [Goldman Sachs](#) Asset Management (the firm was quickly dubbed Blood and Gore). Mr. Gore earns a partner's salary at Kleiner Perkins. He has substantial personal finances invested at both firms, officials of the companies said.

He also serves as an adviser to high-profile technology companies including [Apple](#) and [Google](#), relationships that have paid him handsome dividends over the last eight years.

Mr. Gore's spokeswoman would not give a figure for his current net worth, but the scale of his wealth is evident in a single investment of \$35 million in [Capricorn Investment Group](#), a [private equity](#) fund started by his friend Jeffrey Skoll, the first president of [eBay](#).

Ion Yadigaroglu, a co-founder of Capricorn, said that Mr. Gore does not sit on the fund's investment committee, but obviously agrees with the partners' strategy of putting long-term money into promising ventures in energy, technology and health care around the globe.

"Aspirationally," said Mr. Yadigaroglu, who holds a doctorate from Stanford in astrophysics, "we're trying to make more money than others doing the same thing and do it in a way that is superior in ethics and impacts."

Mr. Gore has said he invested in partnerships and funds that try to identify and support companies that are advancing cutting-edge green technologies and are paving the way toward a low-carbon economy.

He has a stake in the world's pre-eminent carbon credit trading market and in an array of companies in bio-fuels, sustainable fish farming, [electric vehicles](#) and [solar power](#).

Capricorn holds a major stake in Falcon Waterfree Technologies, the world's leading maker of waterless urinals. Generation has holdings in [Ausra](#), a solar energy company based in California, and [Camco](#), a British firm that develops carbon dioxide emissions reduction projects. Kleiner Perkins has a [green ventures fund](#) with nearly \$1 billion invested in renewable energy and efficiency concerns.

Mr. Gore also has substantial interests in technology, media and biotechnology ventures that have no direct tie to his environmental advocacy, an aide said.

Mr. Gore is not a lobbyist, and he has never asked Congress or the administration for an earmark or policy decision that would directly benefit one of his investments. But he has been a tireless advocate for policies that would move the country away from the use of coal and oil, and he has begun a \$300 million campaign to end the use of fossil fuels in electricity production in 10 years.

But [Marc Morano](#), a climate change skeptic who until recently was a top aide to Senator [James M. Inhofe](#), Republican of Oklahoma, said that what he saw as Mr. Gore's alarmism and occasional exaggerations distorted the debate and also served his personal financial interests.

Mr. Gore has testified numerous times in support of legislation to address climate change and to revamp the nation's energy policies.

He appeared before the House Energy and Commerce Committee in April to support an energy and climate change bill that was intended to reduce global warming emissions through a [cap-and-trade](#) program for major polluting industries.

Mr. Gore, who shared the 2007 Nobel Peace Prize for his climate advocacy, is generally received on Capitol Hill as something of an oracle, at least by Democrats.

But at the hearing in April, he was challenged by Ms. Blackburn, who echoed some of the criticism of Mr. Gore that has swirled in conservative blogs and radio talk shows. She noted that Mr. Gore is a partner at Kleiner Perkins, which has hundreds of millions of dollars invested in firms that could benefit from any legislation that limits carbon dioxide emissions.

“I believe that the transition to a green economy is good for our economy and good for all of us, and I have invested in it,” Mr. Gore said, adding that he had put “every penny” he has made from his investments into the Alliance for Climate Protection.

“And, Congresswoman,” he added, “if you believe that the reason I have been working on this issue for 30 years is because of greed, you don’t know me.”

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

01268-EPA-395

Adora Andy/DC/USEPA/US  
11/03/2009 12:49 PM

To Seth Oster, Allyn Brooks-LaSure, Richard Windsor, Bob  
Sussman, David McIntosh, Arvin Ganesan  
cc Betsaida Alcantara, Brendan Gilfillan, Michael Moats  
bcc

Subject FYI: EPW Process Guidance

Ex. 5 - Deliberative

(b) (5) D.P.

Ex. 5 - Deliberative

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

###

01268-EPA-396

**Daniel  
Gerasimowicz/DC/USEPA/US**  
11/03/2009 01:48 PM

To  
cc  
bcc

Subject Remarks at the Climate Leaders Partners Meeting

**Meeting**

Date 12/02/2009

Time 08:45:00 AM to 09:15:00 AM

Chair Daniel Gerasimowicz

Invitees

Required

Optional

FYI

Location Gaylord National Resort and  
Convention Center  
National Harbor, MD

Ct: Maria Vargas (OAR) Ex.6 -

Advance Ct: Clay Diette (OA) Ex.6 -

01268-EPA-398

**Adora Andy/DC/USEPA/US**  
11/05/2009 10:22 AM

To Arvin Ganesan, Richard Windsor, Seth Oster, Diane Thompson  
cc  
bcc

Subject Re: WV article about meeting cancellation

**Ex. 5 - Deliberative**

Arvin Ganesan

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

**From:** Arvin Ganesan  
**Sent:** 11/05/2009 10:15 AM EST  
**To:** Richard Windsor; Seth Oster; Adora Andy; Diane Thompson  
**Subject:** WV article about meeting cancellation

**Ex. 5 - Deliberative**

-----  
West Virginia's Second District Congresswoman was scheduled to have a face to face meeting with EPA Protection Agency Administrator Lisa Jackson on Thursday.

Those in Jackson's Office, though, canceled the meeting on Thursday morning. No new date set at that point.

"I am going to keep my voice loud and clear in her ear is what I'm going to do," Congresswoman Capito said of what she was planning to tell Jackson. "Set the boundaries and then let us adjust to the boundaries."

Congresswoman Capito's Spokesperson Jonathan Coffin issued the following statement following the meeting cancellation:

"It's incredibly disappointing. This is an issue that impacts families and jobs across our state. We want to have a dialogue and ensure that the Administrator understands that the decision has a real world impact on families in Appalachia. Thus far, we haven't been able to have that dialogue."

"We're in contact with the EPA to reschedule as early as possible."

The meeting was to come as the EPA continues its extended reviews of more than 20 permits for coal projects.

Earlier this year, the EPA also rejected an already issued permit for Arch Coal's Spruce Knob and Sunbeam County, one of the largest such projects in the state. Officials with the U.S. Army Corps of Engineers said it's now being argued in court.

"Timelines are very free flowing. You can't tell where they are," Congresswoman Capito said.

process.

"If you come in and reach back and take back a permit that was permitted under the law and say 'No, you can't do that anymore.' They keep moving the guidelines and it's very f

Congresswoman Capito says more government involvement in the coal industry is *not* th

"Government is supposed to be the protector of the national defense and those who can't the other things. But we're not supposed to be the king of compensation, king of the bar permitting of coal mines," she said.

---

ARVIN R. GANESAN  
Deputy Associate Administrator  
Congressional Affairs  
Office of the Administrator  
United States Environmental Protection Agency  
Ganesan.Arvin@epa.gov  
(p) 202.564.5200  
(f) 202.501.1519

01268-EPA-399

**Scott Fulton/DC/USEPA/US**  
11/05/2009 10:28 AM

To Richard Windsor, Michelle DePass, "Mathy Stanislaus",  
"Scott Fulton"  
cc "Diane Thompson"  
bcc

Subject Re: Fyi

Ex. 5 - Deliberative

Richard Windsor

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

**From:** Richard Windsor  
**Sent:** 11/05/2009 10:26 AM EST  
**To:** Michelle DePass; "Mathy Stanislaus" <stanislaus.mathy@epa.gov>; "Scott Fulton" <fulton.scott@epa.gov>  
**Cc:** "Diane Thompson" <thompson.diane@epa.gov>  
**Subject:** Re: Fyi

Thx. In the hold in the library.

Michelle DePass

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

**From:** Michelle DePass  
**Sent:** 11/05/2009 10:13 AM EST  
**To:** Richard Windsor; "Mathy Stanislaus" <stanislaus.mathy@epa.gov>; "Scott Fulton" <fulton.scott@epa.gov>  
**Subject:** Fyi

The chief of the Quapah (sp) tribe in Miami, Oklahoma raised a question on the large superfund site on their lands. The site is Tar Creek. The President in his response cited Improving env quality on tribal lands and Climate change.

He noted that he wanted to change the ability of the native people, whose economy may be based on interacting with the environment to consult on these issues. He also mentioned Lpj by name and said that he has an excellent Administrator on these issues.

Md

01268-EPA-401

**Scott Fulton/DC/USEPA/US**  
11/05/2009 10:37 AM

To Diane Thompson  
cc "Scott Fulton", Michelle DePass, Richard Windsor, "Mathy Stanislaus", "Diane Thompson"  
bcc  
Subject Re: Fyi

Ex. 5 - Deliberative

---

**From:** Diane Thompson  
**Sent:** 11/05/2009 10:31 AM EST  
**To:** Scott Fulton  
**Cc:** "Scott Fulton" <fulton.scott@epa.gov>; Michelle DePass; Richard Windsor; "Mathy Stanislaus" <stanislaus.mathy@epa.gov>; "Diane Thompson" <thompson.diane@epa.gov>  
**Subject:** Re: Fyi

Ex. 5 - Deliberative

\*\*\*\*\*

Diane E. Thompson  
Chief of Staff  
U. S. Environmental Protection Agency  
202-564-6999

From: Scott Fulton/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA, Michelle DePass/DC/USEPA/US@EPA, "Mathy Stanislaus" <stanislaus.mathy@epa.gov>, "Scott Fulton" <fulton.scott@epa.gov>  
Cc: "Diane Thompson" <thompson.diane@epa.gov>  
Date: 11/05/2009 10:28 AM  
Subje Re: Fyi  
ct:

Ex. 5 - Deliberative

----- Original Message -----  
**From:** Richard Windsor

**Sent:** 11/05/2009 10:26 AM EST  
**To:** Michelle DePass; "Mathy Stanislaus" <stanislaus.mathy@epa.gov>; "Scott Fulton" <fulton.scott@epa.gov>  
**Cc:** "Diane Thompson" <thompson.diane@epa.gov>  
**Subject:** Re: Fyi  
Thx. In the hold in the library.

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

**From:** Michelle DePass  
**Sent:** 11/05/2009 10:13 AM EST  
**To:** Richard Windsor; "Mathy Stanislaus" <stanislaus.mathy@epa.gov>; "Scott Fulton" <fulton.scott@epa.gov>  
**Subject:** Fyi

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Md

01268-EPA-402

**Daniel  
Gerasimowicz/DC/USEPA/US**  
11/05/2009 01:32 PM

To  
cc  
bcc

Subject Follow-Up Meeting

**Meeting**

Date 11/06/2009

Time 10:00:00 AM to 11:00:00 AM

Chair Daniel Gerasimowicz

Invitees

Required

Optional

FYI

Location White House, Roosevelt Room

Ct: Steve Moilanen (Office of Energy and Climate Change) **Ex. 6 Privacy**

Staff:

David McIntosh (OCIR)

Attendees:

Secretary Chu + 1

Secretary Salazar +1

WH Office of Energy and Climate Change

WH Legislative Affairs

01268-EPA-403

**Allyn  
Brooks-LaSure/DC/USEPA/US**

11/08/2009 02:12 PM

To windsor.richard, "DePass, Michelle"  
cc "Heinzerling, Lisa", "McCarthy, Gina"  
bcc

Subject Fw: Lord Smith's speech on climate and environment

FYI.

MABL.

-----

M. Allyn Brooks-LaSure  
Office of the Administrator  
U.S. Environmental Protection Agency  
Cell: 202-631-0415

---

**From:** "Ross, Alex" [alexross@environment-agency.gov.uk]**Sent:** 11/08/2009 05:20 PM GMT**To:** "Helen Bird" <helen.bird@foe.co.uk>; <bward@wwf.org.uk>; "Ade Thomas" <ade.thomas@largeblue.com>; Allyn Brooks-LaSure; "Britton, Dave" <Dave.Britton@metoffice.gov.uk>; Heidi Ellis; "Joanna Nadin" <jonadin@btinternet.com>; "Weight, Julie" <Julie.Weight@bskyb.com>; "Laura Oliphant" <Laura.Oliphant@kindredagency.com>; "Turton, Nick \ (DECC)" <Nick.Turton@decc.gsi.gov.uk>; Anna Phillips; "Popescu, Mark \ (CD)" <Mark.Popescu@defra.gsi.gov.uk>; "Richard Harrington" <richard.harrington@mcsuk.org>; "Solitaire Townsend" <solitaire@futura.co.uk>; "Sara Neame" <sara@futura.co.uk>; "Scott Cain" <Scott@enterpriseuk.org>; "Sandra Palmer" <Sandra.Palmer@corporateculture.co.uk>; "Tim Zecchin" <Tim.Zecchin@mediameasurement.com>; <ben.stewart@greenpeace.org.uk>**Subject:** Lord Smith's speech on climate and environment

Dear All

Lord Smith, Chair of the Environment Agency, will be giving a keynote speech on Monday 9 November at the EA's annual conference in London.

In it, he will set out his views on the Copenhagen summit, carbon trading and give a 'future vision' for a low carbon society in Britain.

I've included the text below from the press notice that was issued today. It summarises some of the key points from the speech and I thought you'd be interested to see it.

best wishes

**Alex Ross**  
**Head of Media and Events**  
Environment Agency - National Press Office

## **ENVIRONMENT CHIEF SETS OUT VISION FOR LOW CARBON REVOLUTION WITHIN OUR LIFETIME**

**\*\*Under strict embargo until 00.01 Monday 9th November 2009\*\***

### **Lord Smith calls for 'more engineers' and Climate Challenge Fund to meet major challenges**

Environment Agency Chairman, Lord Smith, will today set out the sorts of measures that Britain must take in the next 20 years to achieve a dramatic reduction in greenhouse gas emissions.

Speaking at the agency's annual conference today, he said that the UK needed "more scientists and more engineers" to develop the technology for a low carbon economy and that the UK was perfectly placed to lead the world.

He also called for a 'Climate Challenge Fund', with match funding from business and Government, to co-ordinate and prioritise research on combating climate change.

Lord Smith said that the Copenhagen Summit should be seen as "the crucial start to a process, not the end" and that it must achieve political agreement on cap and trade schemes across the world.

And he also outlined a range of other measures that should be developed within the next 20 years, irrespective of agreements on world emission targets. He urged Britain to lead a Green New Deal, creating more green jobs and technology to develop:

- Carbon-free energy production – a mixture of renewables, nuclear and carbon-capture and storage (CCS) for coal and gas.
- All cars, buses, lorries and trains running on electricity rather than petrol or diesel, supported by a recharging network.
- High-speed rail links across the UK and into Europe, to reduce the need for air travel.
- Minimal waste going to landfill, with emissions-free energy from waste in every area.
- Work to reduce emissions for high CO2-emitting industries, such as steel.
- High energy efficiency targets for all buildings and all major organisations.
- Personal carbon allowances for individuals.

Speaking at the Environment Agency's annual conference, Lord Smith said:

"We have to be realistic about Copenhagen. It won't solve all the issues. We have therefore to see it as the crucial start to a process, not the end. We need an agreement of principles and commitments that will at least give us a chance of beating the worst that climate change will bring.

"I'd like cap and trade schemes adopted around the world. And part of the agreement at Copenhagen

should be to take this approach, with further development by each continent.

"Cap and trade is important, but it's not the only show in town. Much else needs to be agreed. Such as flows of funds and technology from developed to developing nations, action to tackle other greenhouse gases and international research to find new ways of producing energy, running transport and dealing with waste.

"And if we're serious about a low carbon economy, we will need more scientists and more engineers. Britain gave the world Newton, Darwin, Fleming and Brunel. In the new world of climate change, we will need science and engineering skills more than ever.

"How about establishing a 'Climate Challenge Fund' to support, co-ordinate and prioritise research work on combating climate change across leading academic institutions? Why not set it up on the principle of match funding – where every pound contributed by business is matched jointly by government and the universities? It would put Britain at the forefront of international research and make a real contribution to the solutions to climate change"

ENDS

Media enquiries: Environment Agency Press Office: 020 7863 8710 or outside normal office hours, please contact the National Duty Press Officer on 07798 882 092.

#### NOTES TO EDITORS

Filming and interview opportunities with the University of East Anglia are available. The University is a world leader in climate change. Please contact the press office for more details.

Lord Smith is speaking at environment '09: creating the climate for change at the QEII Conference Centre, London. The event will feature numerous influential speakers from business, Government and NGOs in the UK and abroad. More details at [www.environment09.com](http://www.environment09.com).

Other speakers include: Richard LeBaron (Deputy Ambassador, Embassy of the United States), Kunihiro Shimada (Ministry of the Environment, Japan), Video address from Yvo de Boer (Executive Secretary, United Nations Framework Convention on Climate Change), Lord Adair Turner (Chair, Committee on Climate Change), Lord Browne of Madingley (President, Royal Academy of Engineering), Lord Chris Smith (Chairman, Environment Agency), Justin King (CEO, Sainsbury's).

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01268-EPA-404

Adora Andy/DC/USEPA/US

11/09/2009 01:09 PM

To Richard Windsor, Scott Fulton, Seth Oster, Bob Perciasepe

cc Allyn Brooks-LaSure

bcc

Subject \*ASAP\*DECISION: Please approve statement

The following is a proposed, DRAFT, on the record statement in response to media inquiries on the PEER release below:

Ex. 5 -  
Deliberative



**EPA ORDERS EMPLOYEES TO REMOVE YOUTUBE CLIMATE VIDEO  
Agency Threatens Discipline for Off-Duty Warnings on Cap & Trade Failures**

Washington, DC — The U.S. Environmental Protection Agency has ordered two of its attorneys to remove a video they posted on YouTube about problems with climate change legislation backed by the Obama administration or face “disciplinary action”, according to documents released today by Public Employees for Environmental Responsibility (PEER). The couple had received clearance for posting the video but EPA took issue with its content following publication of an op-ed piece by the two in The Washington Post on October 31.

The video, entitled “The Huge Mistake,” is by Laurie Williams and Allan Zabel, two EPA enforcement attorneys speaking as private citizens. The video explains why the cap & trade plan endorsed by President Obama will not accomplish its goals, let alone effectively curb climate change. On November 5, 2009, EPA ethics officials ordered the two veteran employees to –

- “Remove your climate change video from You Tube by the close of business on Friday, November 6, 2009”;
- “Edit your You Tube video...by:
  - (i) Removing the language starting at 1:06 min – ‘Our opinions are based on more than 20 years each working as attorneys at the U.S. Environmental Protection Agency in the San Francisco Regional Office.’
  - (ii) Removing the images of EPA’s building starting at 1:06 min...
  - (v) Remove [sic] the language starting at 6:30 min – ‘In my work at EPA, I’ve been overseeing California’s cap-and-trade and offset programs for more than 20 years.’”
- “All future requests for approval of an outside writing activity must be accompanied by a draft of the document that is the subject of the approval request...”

“EPA is abusing ethics rules to gag two conscientious employees who have every right to speak out as citizens,” stated PEER Executive Director Jeff Ruch, who has re-posted the original video and its script. “EPA reversed itself because someone in headquarters had a tantrum about their Washington Post essay.”

Williams and Zabel, who are married to each other, go to great lengths in the video and other writings to provide disclaimers affirming that their views are personal and do not represent the agency. However, EPA now objects to them even referring to their on-the-job experience as the basis for their views.

“How is government supposed to be transparent when public servants are forbidden from discussing the nature of their work?” asked Ruch. “EPA and every other federal agency should have simple, clear guidelines so that government workers can express themselves freely without political prior restraints.”

In August, EPA Administrator Jackson issued an all-employee statement saying the agency will operate as if in a “fishbowl” but left ambiguous whether and how employees may publish papers or communicate with Congress and the media. By contrast, a few agencies such as the U.S. Fish & Wildlife Service have dispensed with any pre-approval of employees’ unofficial expressions, as long as they are accompanied by a short disclaimer.

###

[Read the EPA directive to remove the video](#)

[Watch the censored video](#)

[Examine the video script](#)

[See their Washington Post op-ed](#)

[View Williams and Zabel’s more detailed critique of cap & trade](#)

[Look at EPA’s semi-transparency under Obama](#)

[Compare the Fish & Wildlife Service right to publish](#)

01268-EPA-405

Scott Fulton/DC/USEPA/US

11/09/2009 01:32 PM

To Adora Andy, Richard Windsor, Seth Oster, Bob Perciasepe

cc Allyn Brooks-LaSure

bcc

Subject Re: \*ASAP\*DECISION: Please approve statement

Ex. 5 - Deliberative

Adora Andy

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

**From:** Adora Andy**Sent:** 11/09/2009 01:09 PM EST**To:** Richard Windsor; Scott Fulton; Seth Oster; Bob Perciasepe**Cc:** Allyn Brooks-LaSure**Subject:** \*ASAP\*DECISION: Please approve statement

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Deliberative

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[View Williams and Zabel's more detailed critique of cap & trade](#)

[Look at EPA's semi-transparency under Obama](#)

[Compare the Fish & Wildlife Service right to publish](#)

01268-EPA-406

Allyn  
Brooks-LaSure/DC/USEPA/US

To Scott Fulton

cc Adora Andy, Bob Perciasepe, Richard Windsor, Seth Oster

11/09/2009 01:35 PM

bcc

Subject Re: \*ASAP\*DECISION: Please approve statement

Ex. 5 - Deliberative

M. Allyn Brooks-LaSure | Deputy Associate Administrator for Public Affairs

U.S. Environmental Protection Agency | Office of the Administrator

Phone: 202-564-8368 | Email: brooks-lasure.allyn@epa.gov

Scott Fulton

Ex. 5 - Deliberative

11/09/2009 01:32:32 PM

From: Scott Fulton/DC/USEPA/US  
To: Adora Andy/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA  
Cc: Allyn Brooks-LaSure/DC/USEPA/US@EPA  
Date: 11/09/2009 01:32 PM  
Subject: Re: \*ASAP\*DECISION: Please approve statement

Ex. 5 - Deliberative

Adora Andy

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

Ex. 5 - Deliberative

[Redacted]

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[Watch the censored video](#)

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[See their Washington Post op-ed](#)

[View Williams and Zabel's more detailed critique of cap & trade](#)

[Look at EPA's semi-transparency under Obama](#)

[Compare the Fish & Wildlife Service right to publish](#)

01268-EPA-407

**Adora Andy/DC/USEPA/US**  
11/09/2009 01:49 PM

To Allyn Brooks-LaSure  
cc Bob Perciasepe, Richard Windsor, Scott Fulton, Seth Oster  
bcc

Subject Re: \*ASAP\*DECISION: Please approve statement

**Ex. 5 - Deliberative**

Adora

Adora Andy  
Press Secretary  
U.S. Environmental Protection Agency  
Office of Public Affairs  
202-564-2715  
andy.adora@epa.gov

Allyn Brooks-LaSure **Ex. 5 - Deliberative** 11/09/2009 01:35:20 PM

From: Allyn Brooks-LaSure/DC/USEPA/US  
To: Scott Fulton/DC/USEPA/US@EPA  
Cc: Adora Andy/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA  
Date: 11/09/2009 01:35 PM  
Subject: Re: \*ASAP\*DECISION: Please approve statement

**Ex. 5 - Deliberative**

-----  
M. Allyn Brooks-LaSure | Deputy Associate Administrator for Public Affairs

U.S. Environmental Protection Agency | Office of the Administrator

Phone: 202-564-8368 | Email: brooks-lasure.allyn@epa.gov

Scott Fulton **Ex. 5 - Deliberative** 11/09/2009 01:32:32 PM

From: Scott Fulton/DC/USEPA/US  
To: Adora Andy/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA  
Cc: Allyn Brooks-LaSure/DC/USEPA/US@EPA  
Date: 11/09/2009 01:32 PM  
Subject: Re: \*ASAP\*DECISION: Please approve statement

**Ex. 5 - Deliberative**

Adora Andy

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

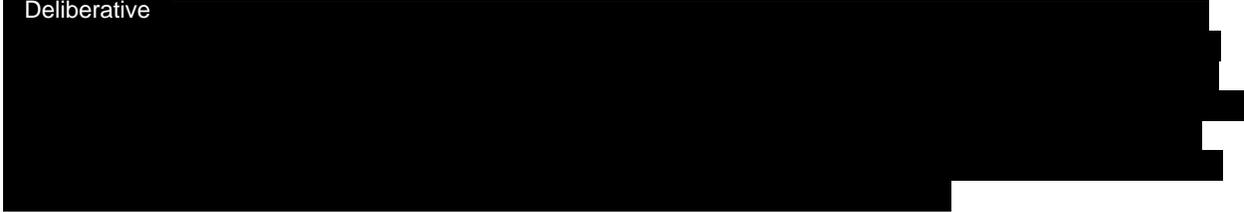
**From:** Adora Andy  
**Sent:** 11/09/2009 01:09 PM EST  
**To:** Richard Windsor; Scott Fulton; Seth Oster; Bob Perciasepe

**Cc:** Allyn Brooks-LaSure

**Subject:** \*ASAP\*DECISION: Please approve statement

The following is a proposed, DRAFT, on the record statement in response to media inquiries on the PEER release below:

Ex. 5 -  
Deliberative



**EPA ORDERS EMPLOYEES TO REMOVE YOUTUBE CLIMATE VIDEO  
Agency Threatens Discipline for Off-Duty Warnings on Cap & Trade Failures**

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“EPA is abusing ethics rules to gag two conscientious employees who have every right to speak out as citizens,” stated PEER Executive Director Jeff Ruch, who has re-posted the original video and its script. “EPA reversed itself because someone in headquarters had a tantrum about their Washington Post essay.”

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“How is government supposed to be transparent when public servants are forbidden from discussing the nature of their work?” asked Ruch. “EPA and every other federal agency should have simple, clear guidelines so that government workers can express themselves freely without political prior restraints.”

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[Compare the Fish & Wildlife Service right to publish](#)

01268-EPA-408

Scott Fulton/DC/USEPA/US  
11/09/2009 01:57 PM

To Adora Andy, Allyn Brooks-LaSure  
cc Bob Perciasepe, Richard Windsor, Seth Oster  
bcc

Subject Re: \*ASAP\*DECISION: Please approve statement

Ex. 5 - Deliberative

Adora Andy

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

From: Adora Andy  
Sent: 11/09/2009 01:49 PM EST  
To: Allyn Brooks-LaSure  
Cc: Bob Perciasepe; Richard Windsor; Scott Fulton; Seth Oster  
Subject: Re: \*ASAP\*DECISION: Please approve statement

Ex. 5 - Deliberative

Adora

Adora Andy  
Press Secretary  
U.S. Environmental Protection Agency  
Office of Public Affairs  
202-564-2715  
andy.adora@epa.gov

Allyn Brooks-LaSure Ex. 5 - Deliberative 11/09/2009 01:35:20 PM

From: Allyn Brooks-LaSure/DC/USEPA/US  
To: Scott Fulton/DC/USEPA/US@EPA  
Cc: Adora Andy/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA  
Date: 11/09/2009 01:35 PM  
Subject: Re: \*ASAP\*DECISION: Please approve statement

Ex. 5 - Deliberative

M. Allyn Brooks-LaSure | Deputy Associate Administrator for Public Affairs  
U.S. Environmental Protection Agency | Office of the Administrator  
Phone: 202-564-8368 | Email: brooks-lasure.allyn@epa.gov

Scott Fulton Ex. 5 - Deliberative 11/09/2009 01:32:32 PM

From: Scott Fulton/DC/USEPA/US  
To: Adora Andy/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA  
Cc: Allyn Brooks-LaSure/DC/USEPA/US@EPA  
Date: 11/09/2009 01:32 PM  
Subject: Re: \*ASAP\*DECISION: Please approve statement

Ex. 5 - Deliberative

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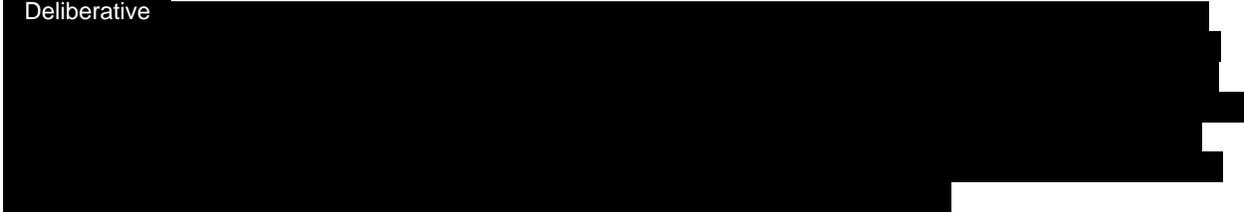
Adora Andy

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

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**To:** Richard Windsor; Scott Fulton; Seth Oster; Bob Perciasepe  
**Cc:** Allyn Brooks-LaSure  
**Subject:** \*ASAP\*DECISION: Please approve statement

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01268-EPA-409

Adora Andy/DC/USEPA/US  
11/09/2009 02:21 PM

To Bob Perciasepe, Scott Fulton, Seth Oster, Richard Windsor  
cc Allyn Brooks-LaSure  
bcc  
Subject PLEASE READ: \*ASAP\*DECISION: Please approve statement

Ex. 5 - Deliberative  
[Redacted]

Adora  
Ex. 5 - Deliberative  
[Redacted]

Ex. 5 - Deliberative  
[Redacted]

[Redacted]

Adora Andy  
Press Secretary  
U.S. Environmental Protection Agency  
Office of Public Affairs  
202-564-2715  
andy.adora@epa.gov

Bob Perciasepe Ex. 5 - Deliberative 11/09/2009 01:59:39 PM

From: Bob Perciasepe/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA  
Cc: Adora Andy/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA  
Date: 11/09/2009 01:59 PM  
Subject: Re: \*ASAP\*DECISION: Please approve statement

Ex. 5 - Deliberative  
[Redacted]

Ex. 5 - Deliberative  
[Redacted]

Bob Perciasepe  
US EPA  
Office of the Administrator  
1200 Pennsylvania Ave., ARN  
(o)202 564 2410  
(c) (b) (6) Privacy

Richard Windsor      Ex. 5 - Deliberative      11/09/2009 01:51:24 PM

From: Richard Windsor/DC/USEPA/US  
To: Adora Andy/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA  
Cc: Allyn Brooks-LaSure/DC/USEPA/US@EPA  
Date: 11/09/2009 01:51 PM  
Subject: Re: \*ASAP\*DECISION: Please approve statement

Ex. 5 - Deliberative

Adora Andy

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

**From:** Adora Andy  
**Sent:** 11/09/2009 01:09 PM EST  
**To:** Richard Windsor; Scott Fulton; Seth Oster; Bob Perciasepe  
**Cc:** Allyn Brooks-LaSure  
**Subject:** \*ASAP\*DECISION: Please approve statement

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[Redacted]

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[Compare the Fish & Wildlife Service right to publish](#)

01268-EPA-411

Adora Andy/DC/USEPA/US

11/09/2009 02:30 PM

To Bob Perciasepe

cc Allyn Brooks-LaSure, Richard Windsor, Scott Fulton, Seth Oster

bcc

Subject GOING IN 1 MIN: \*ASAP\*DECISION: Please approve statement

**Ex. 5 - Deliberative**

Adora

Adora Andy  
Press Secretary  
U.S. Environmental Protection Agency  
Office of Public Affairs  
202-564-2715  
andy.adora@epa.gov

Bob Perciasepe

**Ex. 5 - Deliberative**

11/09/2009 02:25:16 PM

From: Bob Perciasepe/DC/USEPA/US  
To: Adora Andy/DC/USEPA/US@EPA  
Cc: Allyn Brooks-LaSure/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA  
Date: 11/09/2009 02:25 PM  
Subject: Re: PLEASE READ: \*ASAP\*DECISION: Please approve statement

**Ex. 5 -**

Bob Perciasepe  
US EPA  
Office of the Administrator  
1200 Pennsylvania Ave., ARN  
(o)202 564 2410  
(c) **(b) (6) Privacy**

Adora Andy

**Ex. 5 - Deliberative**

11/09/2009 02:21:58 PM

From: Adora Andy/DC/USEPA/US  
To: Bob Perciasepe/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA  
Cc: Allyn Brooks-LaSure/DC/USEPA/US@EPA  
Date: 11/09/2009 02:21 PM  
Subject: PLEASE READ: \*ASAP\*DECISION: Please approve statement

**Ex. 5 - Deliberative**

Ex. 5 - Deliberative  
[Redacted]

[Redacted]

[Redacted]

Adora Andy  
Press Secretary  
U.S. Environmental Protection Agency  
Office of Public Affairs  
202-564-2715  
andy.adora@epa.gov

Bob Perciasepe Ex. 5 - Deliberative 11/09/2009 01:59:39 PM

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Cc: Adora Andy/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Scott  
Fulton/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA  
Date: 11/09/2009 01:59 PM  
Subject: Re: \*ASAP\*DECISION: Please approve statement

Ex. 5 - Deliberative  
[Redacted]

[Redacted]

Bob Perciasepe  
US EPA  
Office of the Administrator  
1200 Pennsylvania Ave., ARN  
(o)202 564 2410  
(c) (b) (6) Privacy

Richard Windsor      Ex. 5 - Deliberative      -----...      11/09/2009 01:51:24 PM

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Cc: Allyn Brooks-LaSure/DC/USEPA/US@EPA  
Date: 11/09/2009 01:51 PM  
Subject: Re: \*ASAP\*DECISION: Please approve statement

Ex. 5 - Deliberative

Adora Andy

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

**From:** Adora Andy  
**Sent:** 11/09/2009 01:09 PM EST  
**To:** Richard Windsor; Scott Fulton; Seth Oster; Bob Perciasepe  
**Cc:** Allyn Brooks-LaSure  
**Subject:** \*ASAP\*DECISION: Please approve statement  
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[Compare the Fish & Wildlife Service right to publish](#)

01268-EPA-412

Scott Fulton/DC/USEPA/US  
11/09/2009 02:33 PM

To Adora Andy, Bob Perciasepe  
cc Allyn Brooks-LaSure, Richard Windsor, Seth Oster  
bcc

Subject Re: PLEASE READ: \*ASAP\*DECISION: Please approve statement

Ex. 5 - Deliberative

Adora Andy

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

From: Adora Andy  
Sent: 11/09/2009 02:26 PM EST  
To: Bob Perciasepe  
Cc: Allyn Brooks-LaSure; Richard Windsor; Scott Fulton; Seth Oster  
Subject: Re: PLEASE READ: \*ASAP\*DECISION: Please approve statement

Ex. 5 - Deliberative

Adora Andy  
Press Secretary  
U.S. Environmental Protection Agency  
Office of Public Affairs  
202-564-2715  
andy.adora@epa.gov

Bob Perciasepe Ex. 5 - Deliberative 11/09/2009 02:25:16 PM

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Date: 11/09/2009 02:25 PM  
Subject: Re: PLEASE READ: \*ASAP\*DECISION: Please approve statement

Ex. 5 -

Bob Perciasepe  
US EPA  
Office of the Administrator  
1200 Pennsylvania Ave., ARN  
(o)202 564 2410  
(c) (b) (6) Privacy

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Subject: PLEASE READ: \*ASAP\*DECISION: Please approve statement

[Redacted] Ex. 5 - Deliberative [Redacted]

Adora

Ex. 5 - Deliberative [Redacted]

[Redacted]

(b)(5)  
deliberative [Redacted]

[Redacted]

Adora Andy  
Press Secretary  
U.S. Environmental Protection Agency  
Office of Public Affairs  
202-564-2715  
andy.adora@epa.gov

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[Redacted] Ex. 5 - Deliberative [Redacted]

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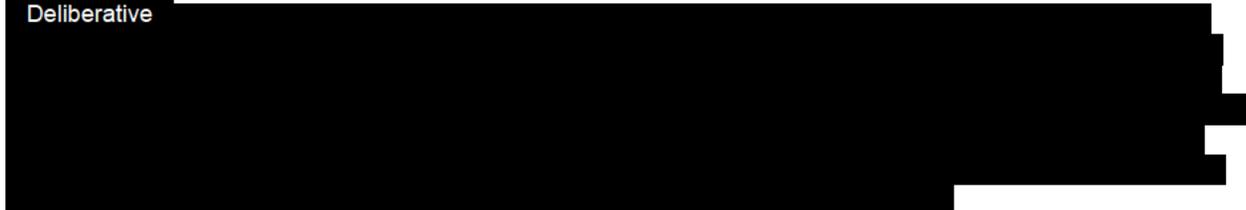
Ex. 5 - Deliberative

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[Examine the video script](#)

[See their Washington Post op-ed](#)

[View Williams and Zabel’s more detailed critique of cap & trade](#)

[Look at EPA’s semi-transparency under Obama](#)

[Compare the Fish & Wildlife Service right to publish](#)

01268-EPA-413

Scott Fulton/DC/USEPA/US  
11/09/2009 02:34 PM

To Adora Andy, Bob Perciasepe  
cc Allyn Brooks-LaSure, Richard Windsor, Seth Oster  
bcc  
Subject Re: GOING IN 1 MIN: \*ASAP\*DECISION: Please approve statement

**Ex. 5 - Deliberative**  
Adora Andy

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

**From:** Adora Andy  
**Sent:** 11/09/2009 02:30 PM EST  
**To:** Bob Perciasepe  
**Cc:** Allyn Brooks-LaSure; Richard Windsor; Scott Fulton; Seth Oster  
**Subject:** GOING IN 1 MIN: \*ASAP\*DECISION: Please approve statement

**Ex. 5 - Deliberative**  
Adora

Adora Andy  
Press Secretary  
U.S. Environmental Protection Agency  
Office of Public Affairs  
202-564-2715  
andy.adora@epa.gov

Bob Perciasepe **Ex. 5 - Deliberative** 11/09/2009 02:25:16 PM

**From:** Bob Perciasepe/DC/USEPA/US  
**To:** Adora Andy/DC/USEPA/US@EPA  
**Cc:** Allyn Brooks-LaSure/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA  
**Date:** 11/09/2009 02:25 PM  
**Subject:** Re: PLEASE READ: \*ASAP\*DECISION: Please approve statement

**Ex. 5 -**

Bob Perciasepe  
US EPA  
Office of the Administrator  
1200 Pennsylvania Ave., ARN  
(o)202 564 2410  
(c) **(b) (6) Privacy**

Adora Andy **Ex. 5 - Deliberative** 11/09/2009 02:21:58 PM

**From:** Adora Andy/DC/USEPA/US  
**To:** Bob Perciasepe/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA  
**Cc:** Allyn Brooks-LaSure/DC/USEPA/US@EPA  
**Date:** 11/09/2009 02:21 PM  
**Subject:** PLEASE READ: \*ASAP\*DECISION: Please approve statement

Ex. 5 - Deliberative

[Redacted]

Ex. 5 - Deliberative

[Redacted]

Adora Andy  
Press Secretary  
U.S. Environmental Protection Agency  
Office of Public Affairs  
202-564-2715  
andy.adora@epa.gov

Bob Perciasepe      Ex. 5 - Deliberative      11/09/2009 01:59:39 PM

From: Bob Perciasepe/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA  
Cc: Adora Andy/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA  
Date: 11/09/2009 01:59 PM  
Subject: Re: \*ASAP\*DECISION: Please approve statement

Ex. 5 - Deliberative

[Redacted]

Bob Perciasepe  
US EPA  
Office of the Administrator  
1200 Pennsylvania Ave., ARN  
(o)202 564 2410  
(c) (b) (6) Privacy

Richard Windsor Ex. 5 - Deliberative ----... 11/09/2009 01:51:24 PM

From: Richard Windsor/DC/USEPA/US  
To: Adora Andy/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA  
Cc: Allyn Brooks-LaSure/DC/USEPA/US@EPA  
Date: 11/09/2009 01:51 PM  
Subject: Re: \*ASAP\*DECISION: Please approve statement

Ex. 5 - Deliberative

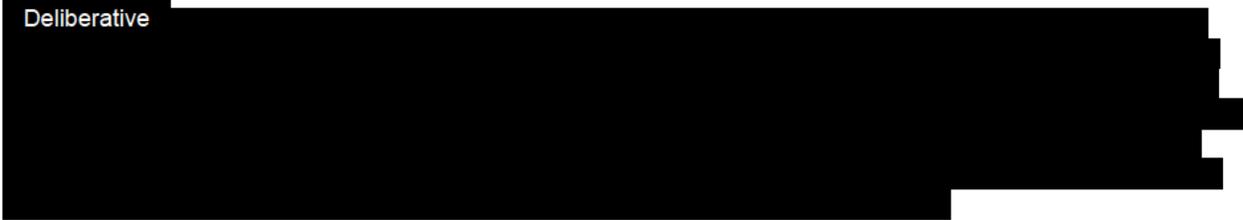
Adora Andy

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

**From:** Adora Andy  
**Sent:** 11/09/2009 01:09 PM EST  
**To:** Richard Windsor; Scott Fulton; Seth Oster; Bob Perciasepe  
**Cc:** Allyn Brooks-LaSure  
**Subject:** \*ASAP\*DECISION: Please approve statement

The following is a proposed, DRAFT, on the record statement in response to media inquiries on the PEER release below:

Ex. 5 -  
Deliberative



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Washington, DC — The U.S. Environmental Protection Agency has ordered two of its attorneys to remove a video they posted on YouTube about problems with climate change legislation backed by the Obama administration or face “disciplinary action”, according to documents released today by Public Employees for Environmental Responsibility (PEER). The couple had received clearance for posting the video but EPA took issue with its content following publication of an op-ed piece by the two in The Washington Post on October 31.

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effectively curb climate change. On November 5, 2009, EPA ethics officials ordered the two veteran employees to –

- “Remove your climate change video from You Tube by the close of business on Friday, November 6, 2009”;
- “Edit your You Tube video...by:
  - (i) Removing the language starting at 1:06 min – ‘Our opinions are based on more than 20 years each working as attorneys at the U.S. Environmental Protection Agency in the San Francisco Regional Office.’
  - (ii) Removing the images of EPA’s building starting at 1:06 min...
  - (v) Remove [sic] the language starting at 6:30 min – ‘In my work at EPA, I’ve been overseeing California’s cap-and-trade and offset programs for more than 20 years.’”
- “All future requests for approval of an outside writing activity must be accompanied by a draft of the document that is the subject of the approval request...”

“EPA is abusing ethics rules to gag two conscientious employees who have every right to speak out as citizens,” stated PEER Executive Director Jeff Ruch, who has re-posted the original video and its script. “EPA reversed itself because someone in headquarters had a tantrum about their Washington Post essay.”

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In August, EPA Administrator Jackson issued an all-employee statement saying the agency will operate as if in a “fishbowl” but left ambiguous whether and how employees may publish papers or communicate with Congress and the media. By contrast, a few agencies such as the U.S. Fish & Wildlife Service have dispensed with any pre-approval of employees’ unofficial expressions, as long as they are accompanied by a short disclaimer.

###

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[Watch the censored video](#)

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[Look at EPA's semi-transparency under Obama](#)

[Compare the Fish & Wildlife Service right to publish](#)

01268-EPA-414

**Adora Andy/DC/USEPA/US**

11/09/2009 02:47 PM

To Scott Fulton

cc Allyn Brooks-LaSure, Bob Perciasepe, Richard Windsor, Seth Oster

bcc

Subject Re: GOING IN 1 MIN: \*ASAP\*DECISION: Please approve statement

**Ex. 5 -**

Adora Andy  
 Press Secretary  
 U.S. Environmental Protection Agency  
 Office of Public Affairs  
 202-564-2715  
 andy.adora@epa.gov

Scott Fulton

**Ex. 5 - Deliberative**

----- Original M...

11/09/2009 02:34:23 PM

From: Scott Fulton/DC/USEPA/US  
 To: Adora Andy/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA  
 Cc: Allyn Brooks-LaSure/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA  
 Date: 11/09/2009 02:34 PM  
 Subject: Re: GOING IN 1 MIN: \*ASAP\*DECISION: Please approve statement

**Ex. 5 - Deliberative**

Adora Andy

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

**From:** Adora Andy  
**Sent:** 11/09/2009 02:30 PM EST  
**To:** Bob Perciasepe  
**Cc:** Allyn Brooks-LaSure; Richard Windsor; Scott Fulton; Seth Oster  
**Subject:** GOING IN 1 MIN: \*ASAP\*DECISION: Please approve statement

**Ex. 5 - Deliberative**

Adora

Adora Andy  
 Press Secretary  
 U.S. Environmental Protection Agency  
 Office of Public Affairs  
 202-564-2715  
 andy.adora@epa.gov

Bob Perciasepe

**Ex. 5 - Deliberative**

11/09/2009 02:25:16 PM

From: Bob Perciasepe/DC/USEPA/US  
 To: Adora Andy/DC/USEPA/US@EPA  
 Cc: Allyn Brooks-LaSure/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA  
 Date: 11/09/2009 02:25 PM  
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**Ex. 5 -**

Bob Perciasepe  
US EPA  
Office of the Administrator  
1200 Pennsylvania Ave., ARN  
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Adora Andy

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**Ex. 5 - Deliberative**

[Redacted content]

Adora Andy  
Press Secretary  
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Bob Perciasepe

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[Redacted]

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Date: 11/09/2009 01:51 PM  
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Ex. 5 - Deliberative

Adora Andy

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

**From:** Adora Andy  
**Sent:** 11/09/2009 01:09 PM EST  
**To:** Richard Windsor; Scott Fulton; Seth Oster; Bob Perciasepe  
**Cc:** Allyn Brooks-LaSure  
**Subject:** \*ASAP\*DECISION: Please approve statement

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Ex. 5 -  
Deliberative  
[Redacted]

Ex. 5 - Deliberative

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[Look at EPA's semi-transparency under Obama](#)

[Compare the Fish & Wildlife Service right to publish](#)

01268-EPA-415

**Seth Oster/DC/USEPA/US**

11/09/2009 04:35 PM

To Adora Andy, Allyn Brooks-LaSure, Arvin Ganesan, Bob Sussman, David McIntosh, Diane Thompson, Richard Windsor

cc

bcc

Subject Re: Gov Manchin Meeting Tomorrow

More information.....below is the list of attendees for the meeting, as relayed by Greg Peck.

Governor Joe Manchin III

Larry Puccio – Chief of Staff

Matt Turner – Director of Communications

Kelley Goes – Secretary of Commerce

Jeff Herholdt – Director of Energy

Randy Huffman – Secretary of Environmental Protection

Virgil Helton – Secretary of Revenue

Congresswoman Shelley Moore Capito

Congressman Nick J. Rahall II

Anne Barth – State Director for Senator Byrd

Rochelle Goodwin – State Director for Senator Rockefeller

Art Kirkendoll – President, Logan County Commission

Rocky Adkins – County Manager, Logan County Commission

Kent Carper – President, Kanawha County Commission

Charles McCann – President, Lincoln County Commission

Al Halstead – President, Boone County Commission

David Baisden – Member, Mingo County Commission

Bill Raney – WV Coal Association

Chris Hamilton – WV Coal Association

Jason Bostic – WV Coal Association

Jim Bunn – Blue Creek Processing

Michael Peelish – Alpha Natural Resources

Gary White – International Resource Partners

Ben Hatfield – ICG

John Snider – Arch Coal

Paul Vining – Patriot Coal

Jim Laurita – Mepco, Inc.

Daniel Pochick – Rish Equipment

Andrew Jordon – Pritchard Mining

Warren Hylton – Patience, Inc.

Brett Harvey – CONSOL Energy

Don Blankenship – Massey Energy

Joe Carter & Ted Hapney – UMWA

Nick Carter & Greg Wooten – NRP

Doug Williams & Gary Corns – INR

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

Seth Oster Over the past 30 minutes, the region ha... 11/09/2009 04:16:21 PM

From: Seth Oster/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA  
Cc: Diane Thompson/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Adora Andy/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA  
Date: 11/09/2009 04:16 PM  
Subject: Gov Manchin Meeting Tomorrow

---

Over the past 30 minutes, the region has been informed that Gov Manchin plans to hold a meeting tomorrow to discuss how the State will proceed with economic development in light of (or perhaps despite, is the word they'll use) EPA actions on mountaintop mining.

(b)(5) deliberative



We should anticipate press calls and need to be prepared with a response. OPA will work with Arvin and Mr. Sussman to develop a strategy.

Seth

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

01268-EPA-416

Arvin Ganesan/DC/USEPA/US

To Richard Windsor

11/10/2009 12:32 PM

cc Bob Perciasepe, Bob Sussman, Peter Silva

bcc

Subject Re: CBM, water impacts from natural gas, and hydrofracking

Ex. 5 - Deliberative  
[Redacted]

[Redacted]

[Redacted]

"The Committee is concerned about the risks posed to drinking water from hydraulic fracturing. The Committee questions whether past reviews by the Agency relied on independent sources of information and the best available science. The Committee urges EPA to review the risks that hydraulic fracturing poses to drinking water using the best available science, as well as independent sources of information."

Pete, Bob and Bob, I'll get a meeting scheduled soon.

Thanks.

-----  
ARVIN R. GANESAN  
Deputy Associate Administrator  
Congressional Affairs  
Office of the Administrator  
United States Environmental Protection Agency  
Ganesan.Arvin@epa.gov  
(p) 202.564.5200  
(f) 202.501.1519

Richard Windsor      Ex. 5 - Deliberative      11/10/2009 12:26:37 PM

From: Richard Windsor/DC/USEPA/US  
To: Bob Sussman/DC/USEPA/US@EPA  
Cc: Arvin Ganesan/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Peter Silva/DC/USEPA/US@EPA  
Date: 11/10/2009 12:26 PM  
Subject: Re: CBM, water impacts from natural gas, and hydrofracking

Ex. 5 - Deliberative  
[Redacted]

Bob Sussman      Ex. 5 - Deliberative      11/10/2009 12:24:27 PM

From: Bob Sussman/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA, Peter Silva/DC/USEPA/US@EPA  
Cc: Bob Perciasepe/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA  
Date: 11/10/2009 12:24 PM  
Subject: Re: CBM, water impacts from natural gas, and hydrofracking

Ex. 5 - Deliberative

Richard Windsor

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

**From:** Richard Windsor

**Sent:** 11/10/2009 11:42 AM EST

**To:** Peter Silva

**Cc:** Bob Perciasepe; Bob Sussman; Arvin Ganesan

**Subject:** CBM, water impacts from natural gas, and hydrofracking

Do we have a plan and timeline for dealing with the issues above. I believe that expectations are building in this regard and I would like to get a idea of strategy here. Please advise. Thanks, Lisa

01268-EPA-417

**Daniel  
Gerasimowicz/DC/USEPA/US**  
11/10/2009 05:22 PM

To  
cc  
bcc

Subject OECC/Cabinet Meeting

**Meeting**

Date 11/13/2009

Time 12:00:00 PM to 01:00:00 PM

Chair Daniel Gerasimowicz

Invitees

Required

Optional

FYI

Location White House, Roosevelt Room

Ct: Stephen Moilanen (Office of Energy and Climate Change)

Ex. 6 - Privacy

Staff:

David McIntosh (OCIR)

01268-EPA-419

**Allyn  
Brooks-LaSure/DC/USEPA/US**

11/11/2009 06:42 PM

To windsor.richard, "Perciasepe, Bob", "Fulton, Scott",  
"Thompson, Diane", "Giles, Cynthia"  
cc "Oster, Seth", "Andy, Adora"

bcc

Subject Fw: Inside EPA on Region 4 / OIG

FYI...

MABL.

-----

M. Allyn Brooks-LaSure  
Office of the Administrator  
U.S. Environmental Protection Agency  
Cell: 202-631-0415

---

**From:** "M. Allyn Brooks-LaSure" [mabl@brooks-lasure.com]**Sent:** 11/11/2009 04:08 PM MST**To:** Allyn Brooks-LaSure**Subject:** Inside EPA on Region 4 / OIGDAILY NEWS FROM [INSIDEEPA.COM](http://INSIDEEPA.COM) - TUESDAY, NOVEMBER 10, 2009

IG Reviewing Ability To Investigate Alleged Region IV Equity Complaints

EPA's Office of Inspector General (IG) is gathering information to determine whether it has the authority to grant environmental justice advocates' request for an IG investigation into an alleged decades-long record of decisions by EPA Region IV, which the advocates say have disproportionately impacted minorities.

Acting IG Bill Roderick in a Nov. 9 letter says IG investigative authority is limited under the Inspector General Act to investigations that involve fraud, waste and abuse of an EPA program or operation. "EPA is generally responsible for investigating substantive environmental offenses of pollution control laws under its jurisdiction," according to the letter to Robert Bullard, director of the Atlanta-based Environmental Justice Resource Center.

Nevertheless, Roderick says in the letter that IG representatives met with Bullard and others within the environmental justice community Oct. 27 to hear their complaints and, "at the invitation" of Acting Region IV Administrator Stan Meiburg, "we are gathering information to help us decide whether we have the authority to investigate these issues. I will follow up with you once this determination has been made."

Bullard and other advocates are seeking the IG investigation as part of a broad equity push that also includes lobbying President Obama to nominate environmental justice officials to head several key agency regions and urging EPA headquarters to establish equity as a mandatory factor in a wide range of policies.

Bullard previously helped craft a letter sent by three dozen activist groups Oct. 8 to civil

rights icon Rep. John Lewis (D-GA) urging him to commission an investigation by the Government Accountability Office (GAO) or EPA's IG into Region IV, claiming that "[a] long history of bad decisions in Region IV has turned far too many low-income and people of color communities into the dumping grounds."

If the IG grants Bullard's request then that could satisfy the activists' request for an internal agency investigation, though it is unclear whether they would also still want a GAO report.

Bullard, a long-time leader in the environmental justice movement, has repeatedly criticized what he says are the region's discriminatory environmental policies in the region's eight "Deep South" states -- Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

In a recent online article, Bullard lists a slew of "bad" regional decisions that harm African American and other communities at the fence-line of polluting facilities. The most recent example is the December spill of millions of gallons of coal combustion waste from a Tennessee Valley Authority facility.

Region IV approved shipping some of the waste to a landfill located in Perry County, AL, an area with a 69 percent African-American population. Bullard claims that no report has been made public showing that EPA took environmental justice into consideration before making its decision, although agency officials said they discussed the issue with the local community before approving the disposal plan.

--

"What you tolerate is what you get."

01268-EPA-421

**Adora Andy/DC/USEPA/US**

11/12/2009 04:09 PM

To Richard Windsor, Diane Thompson, Bob Perciasepe, Bob Sussman, Gina McCarthy, Lisa Heinzerling, Seth Oster, Allyn Brooks-LaSure, David McIntosh, Arvin Ganesan

cc

bcc

Subject HEADS UP: **Ex. 5 - Deliberative**

FYI...

Kim Strassel is writing a column tomorrow for the WSJ on EPA's transparency. **(b)(5) deliberative**

-Adora

Adora Andy  
Press Secretary  
U.S. Environmental Protection Agency  
Office of Public Affairs  
202-564-2715  
andy.adora@epa.gov

01268-EPA-422

Arvin Ganesan/DC/USEPA/US

To Bob Sussman

11/12/2009 06:09 PM

cc "Seth Oster", "Lisa P. Jackson"

bcc

Subject Re: Fw: Spruce

[Redacted] Ex. 5 - Deliberative [Redacted]

[Redacted]

-----  
ARVIN R. GANESAN  
Deputy Associate Administrator  
Congressional Affairs  
Office of the Administrator  
United States Environmental Protection Agency  
Ganesan.Arvin@epa.gov  
(p) 202.564.5200  
(f) 202.501.1519

Bob Sussman

[Redacted] Ex. 5 - Deliberative

11/11/2009 08:07:06 PM

From: Bob Sussman/DC/USEPA/US  
To: "Lisa P. Jackson" <Windsor.Richard@epamail.epa.gov>  
Cc: "Arvin Ganesan" <Ganesan.Arvin@epamail.epa.gov>, "Seth Oster" <Oster.Seth@epamail.epa.gov>  
Date: 11/11/2009 08:07 PM  
Subject: Fw: Spruce

[Redacted] Ex. 5 - Deliberative [Redacted]

Gregory Peck

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

**From:** Gregory Peck  
**Sent:** 11/11/2009 04:50 PM EST  
**To:** Bob Sussman  
**Cc:** Kevin Minoli  
**Subject:** Spruce

[Redacted] Ex. 5 - Deliberative [Redacted]

We'll continue discussions - but this is an encouraging sign.

[attachment " [Redacted] Ex. 5 - Deliberative (C1632063) .DOC" deleted by Arvin Ganesan/DC/USEPA/US]

---

Gregory E. Peck  
Chief of Staff  
Office of Water  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

202-564-5778

01268-EPA-423

**Richard Windsor/DC/USEPA/US**  
11/12/2009 08:27 PM

To Adora Andy  
cc  
bcc

Subject Re: WSJ/KIM STRASSEL: THE EPA'S PARANOID STYLE

Ex. 5 - Deliberative

Adora Andy

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

**From:** Adora Andy  
**Sent:** 11/12/2009 07:31 PM EST  
**To:** Richard Windsor; Bob Sussman; Bob Perciasepe; Diane Thompson; Allyn Brooks-LaSure; Seth Oster; David McIntosh; Arvin Ganesan; Gina McCarthy; Lisa Heinzerling  
**Cc:** Betsaida Alcantara; Brendan Gilfillan; Michael Moats  
**Subject:** WSJ/KIM STRASSEL: THE EPA'S PARANOID STYLE

# The EPA's Paranoid Style

*Employee arguments against cap-and-trade legislation aren't welcome.*

By KIMBERLEY A. STRASSEL



Give the Environmental Protection Agency credit: At least it practices equal opportunity censorship of its employees.

Dr. Alan Carlin, a 37-year agency veteran, was muzzled earlier this spring. Dr. Carlin offered a report poking holes in the science underlying the theory of manmade global warming. His superior, Al McGartland, complained the paper did "not help the legal or policy case" for Team Obama's decision to regulate carbon, told him to "move on to other issues," and forbade him from discussing it outside the office.

Now come Laurie Williams and Allan Zabel, married,

and each with more than 20 years tenure at the EPA. They too are dismayed by Democrats' approach to climate, though for different reasons. Dedicated environmentalists, they created a 10-minute YouTube video arguing Congress's convoluted cap-and-trade bill was a "big lie" that is too weak. They instead propose imposing taxes, lots of them, on fossil fuels.

Their views aren't new. Earlier this year the duo sent a letter to Congress making the same case. The video has been out for some time, and the pair got clearance from the EPA before they ran it. Mr. Zabel in the opening notes that "nothing in this video is intended to represent the views of EPA or the Obama Administration." It wasn't until the couple ran a high-profile op-ed in the Washington Post in October that the agency nerved out.

A few days after the op-ed, Ms. Williams and Mr. Zabel were contacted by an EPA ethics official telling them to remove the video or face "disciplinary action." EPA says the clearance was subject to "ethics guidelines," which it claims the couple violated. The agency said the video could go back up if it was altered to remove a picture of an EPA building, and to delete mentions of their EPA employment. In particular, Mr. Zabel was not to say that he'd worked on cap-and-trade issues.

Meet the Obama EPA, and its new suppressing, paranoid style. It was the president who once ripped the Bush administration for silencing scientific critics, and it was EPA Administrator Lisa Jackson who began

her tenure promising the agency would operate like a "fishbowl." But that was before EPA realized how vastly unpopular is its plan to usurp Congress and regulate the economy on its own, based on its bizarre finding that CO2 is a danger to health.

Faced with unhappy members of Congress, dissenting employees, an opposition business community, and a backlash on the science, Mrs. Jackson is no longer a fan of open government. The goal now is to rush the agency regulations through as quickly as possible, squashing threatening dissent and deflecting troublesome questions.

Reps. Jim Sensenbrenner and Darrell Issa recently put out a report documenting the EPA's slippery handling of its carbon rule, in which it truncated the process and dismissed contrary views. The Chamber of Commerce has been waiting all year for a response to its request for a hearing into the science underlying the regulation. Not a peep.

Alaska Sen. Lisa Murkowski in September requested a discussion with the agency about carbon regulation and legislation. That discussion has yet to happen.

Louisiana Sen. David Vitter recently quizzed Mrs. Jackson about a provision in Congress's climate legislation that would give the president awesome power over energy regulation. Mrs. Jackson said it was a "premature" discussion. "The EPA is playing dirty to get green," says Rep. Sensenbrenner. "The agency can't be allowed to silence its scientists just because what they say threatens to delay its political agenda."

There is a legitimate debate over what right administrations have to clamp down on rebel staffers, yet the EPA's stomp on dissenting views appears unprecedented. Dr. Carlin says he's been treated "relatively well" since the blow-up. Yet he has been forbidden from working on climate or attending climate seminars. When asked how this compares to previous administrations, Mr. Carlin says that years ago he actually believed the science was "correct"—a position that put him at odds with the Bush administration.

Mr. Carlin knew one of his top supervisors back then disagreed with him. "At no time did he say don't work on it, don't express these views which are contrary to mine. And he in effect allowed me to work on climate change for five years. . . . I had no problems until March of this current year."

The problem for the EPA is that the Williams-Zabel dust-up is growing, and underlining the gap between the agency's transparency rhetoric and reality. The very media and activists who ran hit jobs on Mr. Carlin are, of course, now furious the agency is quieting card-carrying environmentalists. Public Employees for Environmental Responsibility, a left-leaning outfit that represents scientists has latched on to the Williams-Zabel video, is lamenting that "EPA is abusing ethics rules to gag two conscientious employees" and promising to assist with any litigation.

If the EPA were so proud of this power grab, it ought to be eager to have a discussion, right?

*Write to* [kim@wsj.com](mailto:kim@wsj.com)

Adora Andy  
Press Secretary  
U.S. Environmental Protection Agency  
Office of Public Affairs  
202-564-2715  
[andy.adora@epa.gov](mailto:andy.adora@epa.gov)

01268-EPA-424

Adora Andy/DC/USEPA/US  
11/12/2009 11:45 PM

To Richard Windsor  
cc  
bcc

Subject Re: WSJ/KIM STRASSEL: THE EPA'S PARANOID STYLE

Ex. 5 - Deliberative

Richard Windsor

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

**From:** Richard Windsor  
**Sent:** 11/12/2009 08:27 PM EST  
**To:** Adora Andy  
**Subject:** Re: WSJ/KIM STRASSEL: THE EPA'S PARANOID STYLE

Ex. 5 - Deliberative

Adora Andy

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

**From:** Adora Andy  
**Sent:** 11/12/2009 07:31 PM EST  
**To:** Richard Windsor; Bob Sussman; Bob Perciasepe; Diane Thompson; Allyn Brooks-LaSure; Seth Oster; David McIntosh; Arvin Ganesan; Gina McCarthy; Lisa Heinzerling  
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Adora Andy  
Press Secretary  
U.S. Environmental Protection Agency  
Office of Public Affairs  
202-564-2715  
[andy.adora@epa.gov](mailto:andy.adora@epa.gov)

01268-EPA-425

Seth Oster/DC/USEPA/US

11/13/2009 07:28 AM

To "Lisa Heinzerling"

cc "Lisa Jackson", "Bob Perciasepe", Adora Andy, "Allyn Brooks-LaSure", "Scott Fulton", "Diane Thompson"

bcc

Subject Fw: Latest News From InsideEPA.com

Lisa H -- good morning.

See the story in "Inside EPA" below on your planned reorg.

Ex. 5 - Deliberative

Seth

**From:** "InsideEPA.com" [epa-alerts@iwppnews.com]

**Sent:** 11/13/2009 05:19 AM EST

**To:** Seth Oster

**Subject:** Latest News From InsideEPA.com

**Latest News - 11/13/2009**

**[EPA Eyes Limiting Retroactive Application Of Wage Rules For FY10 Water Funds](#)**

EPA is expected in the next week to issue guidance to states on implementing wage requirements for water infrastructure projects that Congress set in the agency's fiscal year 2010 budget, requiring that projects pay workers prevailing local wages, but limiting retroactive application of the wage requirements.

**[Agency Faces Dilemma Regulating Waste Tires Burned As Fuel](#)**

EPA is grappling with revising a proposal for regulating waste tires used as fuel, facing a difficult political dilemma in trying to comply with an appeals court ruling while satisfying competing demands by facilities that burn the tires, solid waste haulers, state officials and environmentalists.

**[EPA Claims Industry Seeking To 'Derail' Ozone NAAQS Reconsideration](#)**

EPA claims industry is trying to □derail□ the agency's reconsideration of a stricter Bush-era ozone national ambient air quality standard (NAAQS) by asking a federal appeals court to proceed with briefing in a lawsuit challenging the standard, saying EPA lacks authority to keep the stricter standard in effect during the reconsideration.

**[EPA Creating Framework For Human Health Data Pesticide Assessments](#)**

EPA is developing a new framework to provide guidance on how to incorporate epidemiological studies and incident data, especially information that may not match animal model data, into agency pesticide

risk assessments as part of a high-profile series of meetings on the controversial herbicide atrazine.

### [EPA Seeks Industry Input On Ending 'Minimum Risk' Pesticide Waiver](#)

EPA is seeking small business officials to join a new panel on assessing the impact on industry of ending an exemption for some □minimum risk□ personal insect repellents, due to concern that some exempted products may not perform effectively and to ensure adequate protection against insect-borne disease such as West Nile Virus.

### [EPA Reorganization Plan Sparks Fears of Policy Office Budget Cuts](#)

EPA is pushing ahead with a contentious plan to reorganize its Office of Policy, Economics & Innovation (OPEI) in what a top official calls □a time of constrained resources,□ prompting concern that the agency may seek to cut OPEI□s budget and possibly diminish the role of voluntary programs within EPA.

### [Midwest Climate Program Advances □Model Rule□ For Cap-And-Trade](#)

A panel of Midwest state officials and other key stakeholders are advancing a draft □model rule□ for a regional greenhouse gas (GHG) cap-and-trade program, an effort that sources say is driven in part by a desire among Midwest officials to influence federal climate change proposals moving through Congress.

## **The Inside Story**

### [Targeting TVA](#)

Environmentalists are challenging a recently-approved Clean Water Act (CWA) effluent discharge permit for the Tennessee Valley Authority's (TVA) Kingston Fossil Plant, claiming it allows unacceptable levels of mercury and other pollutants into nearby rivers, in activists' latest effort to block issuance of such permits before EPA issues discharge limits in 2012 or sooner.

### [Meeting On The Mountain\(top\)](#)

West Virginia's political leaders are concerned they do not know how EPA plans to review 79 Clean Water Act (CWA) permits for mountaintop mining projects and are seeking a meeting with White House officials to answer their questions.

---

## **About this message**

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01268-EPA-426

Sarah Pallone/DC/USEPA/US  
11/13/2009 08:21 AM

To Richard Windsor  
cc  
bcc  
Subject Re: Objection to Wyoming NPDES Permits for Coal Bed Methane

Will do.

Sarah Hospodor-Pallone  
Deputy Associate Administrator  
for Intergovernmental Relations  
Office of the Administrator  
202-564-7178  
pallone.sarah@epa.gov

Richard Windsor Sarah can notify thr Govs office tomor... 11/12/2009 09:47:26 PM

From: Richard Windsor/DC/USEPA/US  
To: Bob Sussman/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Peter Silva/DC/USEPA/US@EPA, Sarah Pallone/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA  
Date: 11/12/2009 09:47 PM  
Subject: Re: Objection to Wyoming NPDES Permits for Coal Bed Methane

Sarah can notify thr Govs office tomorrow. Note we made an informal outreach tonight as well. Tx.

Bob Sussman

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

**From:** Bob Sussman  
**Sent:** 11/12/2009 06:18 PM EST  
**To:** Richard Windsor; Bob Perciasepe; Diane Thompson; Arvin Ganesan; Peter Silva; Sarah Pallone; Seth Oster  
**Subject:** Objection to Wyoming NPDES Permits for Coal Bed Methane

Ex. 5 - Deliberative

[Redacted]

[Redacted]

[Redacted]

Let me know if there are concerns or suggestions on how we should proceed.

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

01268-EPA-429

**Cynthia  
Giles-AA/DC/USEPA/US**  
11/16/2009 08:09 AM

To Bob Sussman  
cc "andy adora", Arvin Ganesan, Bob Perciasepe, "Allyn  
Brooks-LaSure", Peter Silva, Seth Oster, "Diane Thompson",  
"Lisa Jackson"  
bcc

Subject Re: Upcoming EPW Hearings and NYtimes article

Here is what Duhigg said on NPR his story was going to be about:

GROSS: How do I know if I'm drinking chemicals from the scrubbing process from coal-powered energy plants, if I'm drinking weed killer? How can I find that out?

Mr. DUHIGG: It's really hard, and that's the key issue. And we're actually going to do one more story later this year that looks explicitly at that. So we have a law called the Safe Drinking Water Act. And what the Safe Drinking Water Act says is, it says that the water that we deliver to Terry Gross's home -and anyone else's home - has to meet a certain threshold of cleanliness. And if there is bad stuff in there, I have to tell you what's in there so that you can make an informed decision and decide not to drink it if you don't want to.

Much like the Clean Water Act has essentially kind of fallen apart in the last decade or so, the Safe Drinking Water Act, in many ways, has also stopped working in two ways, the first of which is, there's just a whole bunch of new chemicals that the Safe Drinking Water Act doesn't address at all. So there's literally thousands and thousands of chemicals that are invented every year, and there's a huge backlog of tens of thousands of chemicals that the EPA has never analyzed. So they can't say this should or shouldn't be in your drinking water supply.

But the second way that the Safe Drinking Water Act has fallen apart is that many, many water systems, including - I know because we've looked at it - your water system violate the Safe Drinking Water Act regularly. There's too much arsenic in the water. There's too much of these other contaminants and pollutants that are regulated, and the water system doesn't clean them out before delivering the water to you. And moreover, when they do warn you that there's bad stuff in the water, they do so in this way that it's just almost too easy for you to ignore.

I'm sure when you get your water bill, you'll see some fine print that says, we violated the Safe Drinking Water Act this way and to this measure. But it's totally incomprehensible. For the average American, you can't figure out whether that's something you should be worried about or not worried about. And as a result, people basically don't have the information they need to make informed choices.

And so one of the things that advocates tell me is that a huge change that should occur is that the EPA should just do a much better job and water systems should do a much better job of just informing people, giving them the facts so that they can say, look, this month I'm going to use bottled water instead of tap water.

Earlier parts of the interview talk about the impact of farm waste on drinking water, and also mining and

power plant discharges.

Link to full transcript:

<http://www.npr.org/templates/story/story.php?storyId=113927993>

Cynthia Giles  
Assistant Administrator  
U.S. EPA, Office of Enforcement and Compliance Assurance  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460  
202-564-2440

THIS MESSAGE IS CONFIDENTIAL and may contain legally privileged information. If you receive it in error, please delete it immediately, do not copy, and notify the sender. Thank you.

Bob Sussman (b)(5) deliberative 11/16/2009 06:38:11 AM

From: Bob Sussman/DC/USEPA/US  
To: Seth Oster/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, "Lisa Jackson" <windsor.richard@epa.gov>, "Diane Thompson" <thompson.diane@epa.gov>  
Cc: Cynthia Giles-AA/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Peter Silva/DC/USEPA/US@EPA, "andy adora" <andy.adora@epa.gov>, "Allyn Brooks-LaSure" <brooks-lasure.allyn@epa.gov>  
Date: 11/16/2009 06:38 AM  
Subject: Re: Upcoming EPW Hearings and NYtimes article

Ex. 5 - Deliberative

Seth Oster

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

**From:** Seth Oster  
**Sent:** 11/15/2009 07:59 PM EST  
**To:** Arvin Ganesan; "Lisa Jackson" <windsor.richard@epa.gov>; "Diane Thompson" <thompson.diane@epa.gov>  
**Cc:** Cynthia Giles-AA; Bob Perciasepe; Peter Silva; Bob Sussman; "andy adora" <andy.adora@epa.gov>; "Allyn Brooks-LaSure" <brooks-lasure.allyn@epa.gov>  
**Subject:** Re: Upcoming EPW Hearings and NYtimes article

Ex. 5 - Deliberative

Arvin Ganesan

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

**From:** Arvin Ganesan  
**Sent:** 11/15/2009 07:26 PM EST  
**To:** windsor.richard@epa.gov; thompson.diane@epa.gov  
**Cc:** Cynthia Giles-AA; Bob Perciasepe; Peter Silva; Bob Sussman;

oster.seth@epa.gov; andy.adora@epa.gov

**Subject:** Upcoming EPW Hearings and NYtimes article  
Evening,

Ex. 5 - Deliberative

[Redacted]

[Redacted]

Thanks.

-----  
ARVIN R. GANESAN  
Deputy Associate Administrator  
Congressional Affairs  
Office of the Administrator  
United States Environmental Protection Agency  
Ganesan.Arvin@epa.gov  
(p) 202.564.5200  
(f) 202.501.1519

01268-EPA-430

Arvin Ganesan/DC/USEPA/US

To Bob Sussman

11/16/2009 08:26 AM

cc Cynthia Giles-AA, "andy adora", Bob Perciasepe, "Allyn Brooks-LaSure", Peter Silva, Seth Oster, "Diane Thompson", "Lisa Jackson"

bcc

Subject Re: Upcoming EPW Hearings and NYtimes article

Why don't we find some time this week to meet to talk?

Ex. 5 - Deliberative

-----  
ARVIN R. GANESAN  
Deputy Associate Administrator  
Congressional Affairs  
Office of the Administrator  
United States Environmental Protection Agency  
[Ganesan.Arvin@epa.gov](mailto:Ganesan.Arvin@epa.gov)  
(p) 202.564.5200  
(f) 202.501.1519

-----Bob Sussman/DC/USEPA/US wrote: -----

To: Cynthia Giles-AA/DC/USEPA/US@EPA  
From: Bob Sussman/DC/USEPA/US  
Date: 11/16/2009 08:23AM  
cc: "andy adora" <andy.adora@epa.gov>, Arvin Ganesan/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, "Allyn Brooks-LaSure" <brooks-lasure.allyn@epa.gov>, Peter Silva/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, "Diane Thompson" <thompson.diane@epa.gov>, "Lisa Jackson" <windsor.richard@epa.gov>  
Subject: Re: Upcoming EPW Hearings and NYtimes article

Ex. 5 - Deliberative

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

Cynthia Giles-AA---11/16/2009 08:09:49 AM---Here is what Duhigg said on NPR his story was going to be about: GROSS: How do I know if I'm drinki

Fro Cynthia Giles-AA/DC/USEPA/US  
m:

To: Bob Sussman/DC/USEPA/US@EPA

Cc: "andy adora" <andy.adora@epa.gov>, Arvin Ganesan/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, "Allyn Brooks-LaSure" <brooks-lasure.allyn@epa.gov>, Peter Silva/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, "Diane Thompson"

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Dat 11/16/2009 08:09 AM  
e:  
Sub Re: Upcoming EPW Hearings and NYtimes article  
ject  
:

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Cynthia Giles  
Assistant Administrator  
U.S. EPA, Office of Enforcement and Compliance Assurance  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460  
202-564-2440

THIS MESSAGE IS CONFIDENTIAL and may contain legally privileged information. If you receive it in error, please delete it immediately, do not copy, and notify the sender. Thank you.

Bob Sussman---11/16/2009 06:38:11 AM--- [REDACTED] Ex. 5 - Deliberative

Fro Bob Sussman/DC/USEPA/US  
m:  
To: Seth Oster/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, "Lisa Jackson" <windsor.richard@epa.gov>, "Diane Thompson" <thompson.diane@epa.gov>  
Cc: Cynthia Giles-AA/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Peter Silva/DC/USEPA/US@EPA, "andy adora" <andy.adora@epa.gov>, "Allyn Brooks-LaSure" <brooks-lasure.allyn@epa.gov>  
Dat 11/16/2009 06:38 AM  
e:  
Sub Re: Upcoming EPW Hearings and NYtimes article  
ject  
:

[REDACTED] Ex. 5 - Deliberative

Ex. 5 - Deliberative

Seth Oster

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

**From:** Seth Oster  
**Sent:** 11/15/2009 07:59 PM EST  
**To:** Arvin Ganesan; "Lisa Jackson" <windsor.richard@epa.gov>; "Diane Thompson" <thompson.diane@epa.gov>  
**Cc:** Cynthia Giles-AA; Bob Perciasepe; Peter Silva; Bob Sussman; "andy adora" <andy.adora@epa.gov>; "Allyn Brooks-LaSure" <brooks-lasure.allyn@epa.gov>  
**Subject:** Re: Upcoming EPW Hearings and NYtimes article

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**To:** windsor.richard@epa.gov; thompson.diane@epa.gov  
**Cc:** Cynthia Giles-AA; Bob Perciasepe; Peter Silva; Bob Sussman; oster.seth@epa.gov; andy.adora@epa.gov  
**Subject:** Upcoming EPW Hearings and NYtimes article

Evening,

Ex. 5 - Deliberative

Thanks.

-----  
ARVIN R. GANESAN  
Deputy Associate Administrator  
Congressional Affairs  
Office of the Administrator  
United States Environmental Protection Agency  
Ganesan.Arvin@epa.gov

(p) 202.564.5200  
(f) 202.501.1519

01268-EPA-432

Seth Oster/DC/USEPA/US  
11/16/2009 05:37 PM

To Richard Windsor  
cc  
bcc

Subject Re: Concerns about Zabel and Williams

[Redacted] Ex. 5 - Deliberative

[Redacted]

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

Richard Windsor

[Redacted] Ex. 5 - Deliberative

11/16/2009 05:35:00 PM

From: Richard Windsor/DC/USEPA/US  
To: Seth Oster/DC/USEPA/US@EPA  
Date: 11/16/2009 05:35 PM  
Subject: Re: Concerns about Zabel and Williams

[Redacted] Ex. 5 - Deliberative

Seth Oster

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

**From:** Seth Oster  
**Sent:** 11/16/2009 05:32 PM EST  
**To:** Richard Windsor  
**Cc:** Diane Thompson; Scott Fulton; Bob Perciasepe  
**Subject:** Fw: Concerns about Zabel and Williams

Lisa - [Redacted] Ex. 5 - Deliberative

[Redacted]

[Redacted]

Seth

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918

oster.seth@epa.gov

----- Forwarded by Seth Oster/DC/USEPA/US on 11/16/2009 05:29 PM -----

From: "Francesca Grifo" [REDACTED] Ex. 6 - Privacy  
To: LisaP Jackson/DC/USEPA/US@EPA  
Cc: Paul Anastas/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA  
Date: 11/16/2009 04:32 PM  
Subject: Concerns about Zabel and Williams

---

November 16, 2009

The Honorable Lisa Jackson  
Administrator  
U. S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W. (MC1101A)  
Washington, DC 20460

Dear Administrator Jackson:

I am writing to you on behalf of the Union of Concerned Scientists to express our concerns regarding EPA's handling of the posting of a video criticizing a cap and trade policy by two Region 9 lawyers—Allan Zabel and Laurie Williams. While UCS strongly supports cap and trade as part of a suite of climate policies, we believe that these attorneys and all EPA employees should feel empowered to speak as private citizens to inform public policy under debate in the halls of Congress.

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We very much appreciate that both you and President Obama have spoken clearly and consistently about the importance of transparency in rebuilding the credibility of the agency. This incident can be used as a crucial test of those principles. How EPA responds to this situation will set the tone for agency employees and frame how the public views any further pronouncements on the importance of transparency. We therefore urge the agency to publicly reaffirm the right of EPA employees to speak freely on any topic of their choosing, so long as they make it clear that they are not speaking on behalf of the agency.

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To reiterate, while we strongly disagree with the rejection of cap and trade policy espoused by the EPA lawyers' online video and their op-ed in the Washington Post, we strongly support their right to voice their concerns to the public. We look forward to discussing both short and long-term reforms with you in the near future and to working with you to implement improved EPA policies governing employee speech and publication.

Thank you very much.

Sincerely,

Francesca Grifo, Ph.D.  
Senior Scientist and Program Director  
Scientific Integrity Program  
Union of Concerned Scientists

Cc:

Scott Fulton, General Counsel  
Seth Oster, Office of Public Affairs  
Paul Anastas, Office of Research and Development

Francesca T. Grifo, Ph.D.  
Senior Scientist and Director  
Scientific Integrity Program  
1825 K Street NW, Suite 800  
Washington, DC 20006-1232  
202-331-5446 (direct)  
202-223-6133 (main number)  
202-223-6162 (fax)

[www.ucsusa.org](http://www.ucsusa.org)

[attachment "UCS letter to EPA about Zabel and Williams, 11-16-09.doc" deleted by Richard

Windsor/DC/USEPA/US]

01268-EPA-433

**Seth Oster/DC/USEPA/US**

To Richard Windsor

11/16/2009 05:41 PM

cc

bcc

Subject Re: Concerns about Zabel and Williams

No worries. Larry is keeping us amused.

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

Richard Windsor

(b)(5) deliberative

Will call in 10...

11/16/2009 05:38:39 PM

From: Richard Windsor/DC/USEPA/US  
To: Seth Oster/DC/USEPA/US@EPA  
Date: 11/16/2009 05:38 PM  
Subject: Re: Concerns about Zabel and Williams

(b)(5) deliberative Will call in 10 minutes when done. Sorry.

Seth Oster

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

**From:** Seth Oster  
**Sent:** 11/16/2009 05:37 PM EST  
**To:** Richard Windsor  
**Subject:** Re: Concerns about Zabel and Williams

Ex. 5 - Deliberative

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

Richard Windsor

Thx. Got it.

(b)(5) deliberative

11/16/2009 05:35:00 PM

From: Richard Windsor/DC/USEPA/US  
To: Seth Oster/DC/USEPA/US@EPA  
Date: 11/16/2009 05:35 PM  
Subject: Re: Concerns about Zabel and Williams

Thx. Got it

(b)(5) deliberative

Ex. 5 - Deliberative

Seth Oster

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

**From:** Seth Oster  
**Sent:** 11/16/2009 05:32 PM EST  
**To:** Richard Windsor  
**Cc:** Diane Thompson; Scott Fulton; Bob Perciasepe  
**Subject:** Fw: Concerns about Zabel and Williams

Lisa -- Ex. 5 - Deliberative

[Redacted]

[Redacted]

Seth

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

----- Forwarded by Seth Oster/DC/USEPA/US on 11/16/2009 05:29 PM -----

**From:** "Francesca Grifo" Ex. 6 - Privacy  
**To:** LisaP Jackson/DC/USEPA/US@EPA  
**Cc:** Paul Anastas/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA  
**Date:** 11/16/2009 04:32 PM  
**Subject:** Concerns about Zabel and Williams

November 16, 2009

The Honorable Lisa Jackson  
Administrator  
U. S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W. (MC1101A)  
Washington, DC 20460

Dear Administrator Jackson:

I am writing to you on behalf of the Union of Concerned Scientists to express our concerns regarding EPA's handling of the posting of a video criticizing a cap and trade policy by two Region 9 lawyers—Allan Zabel and Laurie Williams. While UCS strongly supports cap and trade as part of a suite of climate policies, we believe that these attorneys and all EPA

employees should feel empowered to speak as private citizens to inform public policy under debate in the halls of Congress.

We would like to request a meeting sometime in the next week to discuss our concerns and share our suggestions regarding what steps the EPA might take to ensure that this incident can become an opportunity for the agency to move forward on free speech for federal employees. We will follow up by telephone to see when a discussion might be arranged.

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To reiterate, while we strongly disagree with the rejection of cap and trade policy espoused by the EPA lawyers' online video and their op-ed in the Washington Post, we strongly support their right to voice their concerns to the public. We look forward to discussing both short and long-term reforms with you in the near future and to working with you to implement improved EPA policies governing employee speech and publication.

Thank you very much.

Sincerely,

Francesca Grifo, Ph.D.  
Senior Scientist and Program Director  
Scientific Integrity Program  
Union of Concerned Scientists

Cc:

Scott Fulton, General Counsel

Seth Oster, Office of Public Affairs

Paul Anastas, Office of Research and Development

Francesca T. Grifo, Ph.D.

Senior Scientist and Director

Scientific Integrity Program

1825 K Street NW, Suite 800

Washington, DC 20006-1232

202-331-5446 (direct)

202-223-6133 (main number)

202-223-6162 (fax)

[www.ucsusa.org](http://www.ucsusa.org)

[attachment "UCS letter to EPA about Zabel and Williams, 11-16-09.doc" deleted by Richard Windsor/DC/USEPA/US]

01268-EPA-434

Diane  
Thompson/DC/USEPA/US  
11/16/2009 06:03 PM

To Seth Oster  
cc Bob Perciasepe, Richard Windsor, Scott Fulton  
bcc

Subject Re: Fw: Concerns about Zabel and Williams

Ex. 5 - Deliberative

DT

\*\*\*\*\*

Diane E. Thompson  
Chief of Staff  
U. S. Environmental Protection Agency  
202-564-6999

Seth Oster

Lisa -- Ex. 5 - Deliberative

11/16/2009 05:32:38 PM

From: Seth Oster/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA  
Cc: Diane Thompson/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA  
Date: 11/16/2009 05:32 PM  
Subject: Fw: Concerns about Zabel and Williams

Lisa -- Ex. 5 - Deliberative

[Redacted]

[Redacted]

Seth

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

----- Forwarded by Seth Oster/DC/USEPA/US on 11/16/2009 05:29 PM -----

From: "Francesca Grifo" Ex.6 - Privacy  
To: LisaP Jackson/DC/USEPA/US@EPA  
Cc: Paul Anastas/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA  
Date: 11/16/2009 04:32 PM  
Subject: Concerns about Zabel and Williams

November 16, 2009

The Honorable Lisa Jackson  
Administrator  
U. S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W. (MC1101A)  
Washington, DC 20460

Dear Administrator Jackson:

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Thank you very much.

Sincerely,

Francesca Grifo, Ph.D.  
Senior Scientist and Program Director  
Scientific Integrity Program  
Union of Concerned Scientists

Cc:

Scott Fulton, General Counsel  
Seth Oster, Office of Public Affairs  
Paul Anastas, Office of Research and Development

Francesca T. Grifo, Ph.D.  
Senior Scientist and Director  
Scientific Integrity Program  
1825 K Street NW, Suite 800  
Washington, DC 20006-1232  
202-331-5446 (direct)  
202-223-6133 (main number)  
202-223-6162 (fax)

[www.ucsusa.org/attachment "UCS letter to EPA about Zabel and Williams, 11-16-09.doc"](http://www.ucsusa.org/attachment/UCS_letter_to_EPA_about_Zabel_and_Williams_11-16-09.doc)  
[deleted by Diane Thompson/DC/USEPA/US\]](#)

01268-EPA-435

**Seth Oster/DC/USEPA/US**

11/16/2009 06:22 PM

To Richard Windsor

cc

bcc

Subject Going to Copenhagen

Ex. 5 - Deliberative



Seth

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

01268-EPA-436

Scott Fulton/DC/USEPA/US  
11/16/2009 06:59 PM

To Bob Perciasepe, Diane Thompson, Seth Oster  
cc Richard Windsor  
bcc

Subject Re: Fw: Concerns about Zabel and Williams

Ex. 5 - Deliberative

Bob Perciasepe

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

From: Bob Perciasepe  
Sent: 11/16/2009 06:47 PM EST  
To: Diane Thompson; Seth Oster  
Cc: Richard Windsor; Scott Fulton  
Subject: Re: Fw: Concerns about Zabel and Williams

Ex. 5 - Deliberative

Ex. 5 - Deliberative

Bob Perciasepe  
Office of the Administrator  
(o)202 564 4711  
(c) (b) (6) Privacy  
Diane Thompson

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

From: Diane Thompson  
Sent: 11/16/2009 06:03 PM EST  
To: Seth Oster  
Cc: Bob Perciasepe; Richard Windsor; Scott Fulton  
Subject: Re: Fw: Concerns about Zabel and Williams

Ex. 5 - Deliberative

DT

\*\*\*\*\*

Diane E. Thompson  
Chief of Staff  
U. S. Environmental Protection Agency  
202-564-6999

Seth Oster      Lisa --      Ex. 5 - Deliberative      11/16/2009 05:32:38 PM

From: Seth Oster/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA  
Cc: Diane Thompson/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA  
Date: 11/16/2009 05:32 PM  
Subject: Fw: Concerns about Zabel and Williams

Lisa --      Ex. 5 - Deliberative

[Redacted]

Ex. 5 - Deliberative

Seth

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

----- Forwarded by Seth Oster/DC/USEPA/US on 11/16/2009 05:29 PM -----

From: "Francesca Grifo" Ex. 6 - Privacy  
To: LisaP.Jackson/DC/USEPA/US@EPA  
Cc: Paul Anastas/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA  
Date: 11/16/2009 04:32 PM  
Subject: Concerns about Zabel and Williams

---

November 16, 2009

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Administrator  
U. S. Environmental Protection Agency  
Ariel Rios Building  
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Washington, DC 20460

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Thank you very much.

Sincerely,

Francesca Grifo, Ph.D.  
Senior Scientist and Program Director  
Scientific Integrity Program  
Union of Concerned Scientists

Cc:  
Scott Fulton, General Counsel  
Seth Oster, Office of Public Affairs  
Paul Anastas, Office of Research and Development

Francesca T. Grifo, Ph.D.

Senior Scientist and Director  
Scientific Integrity Program  
1825 K Street NW, Suite 800  
Washington, DC 20006-1232  
202-331-5446 (direct)  
202-223-6133 (main number)  
202-223-6162 (fax)

[www.ucsusa.org](http://www.ucsusa.org)[attachment "UCS letter to EPA about Zabel and Williams, 11-16-09.doc"  
[deleted by Diane Thompson/DC/USEPA/US](#)]

01268-EPA-437

**Seth Oster/DC/USEPA/US**

To Richard Windsor

11/16/2009 07:02 PM

cc

bcc

Subject Re: Going to Copenhagen

Ex. 5 - Deliberative

Richard Windsor

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

**From:** Richard Windsor

**Sent:** 11/16/2009 06:43 PM EST

**To:** Seth Oster

**Subject:** Re: Going to Copenhagen

Ex. 5 - Deliberative

Seth Oster

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

**From:** Seth Oster

**Sent:** 11/16/2009 06:22 PM EST

**To:** Richard Windsor

**Subject:** Going to Copenhagen

Ex. 5 - Deliberative

Seth

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

01268-EPA-438

Seth Oster/DC/USEPA/US

To Richard Windsor

11/16/2009 09:34 PM

cc

bcc

Subject Re: Going to Copenhagen

Ex. 5 - Deliberative

[Redacted]

[Redacted]

[Redacted]

Richard Windsor

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

From: Richard Windsor  
Sent: 11/16/2009 07:06 PM EST  
To: Seth Oster  
Subject: Re: Going to Copenhagen

Ex. 5 - Deliberative

Seth Oster

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

From: Seth Oster  
Sent: 11/16/2009 07:02 PM EST  
To: Richard Windsor  
Subject: Re: Going to Copenhagen

Ex. 5 - Deliberative

Richard Windsor

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

From: Richard Windsor  
Sent: 11/16/2009 06:43 PM EST  
To: Seth Oster  
Subject: Re: Going to Copenhagen

(b)(5) deliberative

Seth Oster

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

From: Seth Oster

**Sent:** 11/16/2009 06:22 PM EST  
**To:** Richard Windsor  
**Subject:** Going to Copenhagen

Ex. 5 - Deliberative

[REDACTED]

[REDACTED]

[REDACTED]

Seth

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

01268-EPA-440

**Seth Oster/DC/USEPA/US**

11/17/2009 11:51 AM

To Bob Sussman

cc Arvin Ganesan, Bob Perciasepe, Bob Sussman, Brendan Gilfillan, Diane Thompson, Peter Silva, Richard Windsor

bcc

Subject Re: Fw: Bee tree

Ex. 5 - Deliberative

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

Bob Sussman

Ex. 5 - Deliberative

11/17/2009 10:03:15 AM

From: Bob Sussman/DC/USEPA/US  
To: Bob Sussman/DC/USEPA/US@EPA  
Cc: Arvin Ganesan/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Peter Silva/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA  
Date: 11/17/2009 10:03 AM  
Subject: Re: Fw: Bee tree

Ex. 5 - Deliberative

[Redacted]

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

Bob Sussman

Ex. 5 - Deliberative

11/16/2009 07:47:37 PM

From: Bob Sussman/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA  
Cc: Diane Thompson/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Peter Silva/DC/USEPA/US@EPA  
Date: 11/16/2009 07:47 PM  
Subject: Fw: Bee tree

Ex. 5 - Deliberative

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

----- Forwarded by Bob Sussman/DC/USEPA/US on 11/16/2009 07:41 PM -----

From: Gregory Peck/DC/USEPA/US  
To: Brendan Gilfillan/DC/USEPA/US@EPA  
Cc: "Adora Andy" <Andy.Adora@epamail.epa.gov>, "Bob Sussman" <Sussman.Bob@epamail.epa.gov>  
Date: 11/16/2009 07:24 PM  
Subject: Re: Bee tree

Brendan:

Ex. 5 - Deliberative

Greg

Gregory E. Peck  
Chief of Staff  
Office of Water  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

202-564-5778

Brendan Gilfillan

Ex. 5 - Deliberative

11/16/2009 06:32:39 PM

From: Brendan Gilfillan/DC/USEPA/US  
To: "Bob Sussman" <Sussman.Bob@epamail.epa.gov>, "Gregory Peck" <Peck.Gregory@epamail.epa.gov>  
Cc: "Adora Andy" <Andy.Adora@epamail.epa.gov>  
Date: 11/16/2009 06:32 PM  
Subject: Bee tree

Ex. 5 - Deliberative

Thanks.

- Brendan

01268-EPA-441

Adora Andy/DC/USEPA/US

11/17/2009 05:34 PM

To Richard Windsor, Seth Oster, Allyn Brooks-LaSure, Diane Thompson, Bob Perciasepe, Gina McCarthy  
cc Brendan Gilfillan, Michael Moats

bcc

Subject FOX NEWS: "EPA'S GAG ORDER"

Ex. 5 - Deliberative

<http://www.foxnews.com/search-results/m/27452259/gag-order.htm?q=allan+zabel>

ROUGH TRANSCRIPT:

ALISYN CAMEROTA, ANCHOR: "A congressional oversight panel is demanding answers from the Obama administration after it threatened disciplinary action. Against too long time **EPA** climate experts. Who questioned the science behind **global warming** policy even though the husband and wife spoke out as just private citizens. The **EPA** ordered them to remove their ten minute video. From the web Foxes William La Jeunesse is in Los Angeles. More on the government's gag order tell us about this objectionable YouTube video."

WILLIAM LA JEUNESSE, REPORTER:

"Well, Alisyn, as you know after health care, the administration's number one legislative goal is a **climate change** bill known as cap and trade. Now these two experts say that's a disaster in the making what's equally important here is the public's right to hear dissenting voice from inside these agencies. Even when the president's team. Doesn't want you hear it."

NAT SOUND FROM YOUTUBE VIDEO: "We're speaking out because our political leaders are getting bad advice."

Laurie Williams and husband Alan Zabel have each worked for the **EPA** for more than twenty years and both have serious concerns about the administration's plan to address **climate change** so on their own time they made a video about it.

NAT SOUND FROM YOUTUBE VIDEO "Cap and trade with offsets provides a false sense of progress and and puts money in the pockets of offset invests

Their bosses in San Francisco approve the effort but after their editorial appeared in the Washington Post. **EPA's** director ordered to appear to kill the video or face disciplinary action.

LAURIE: "People understand the problems with the cap and trade with offsets bill are not being heard"

Specifically the **EPA** didn't want them mentioning their Ford decades of experience with the agency. Time spent studying these precise issues

ALAN: "We think that these restrictions might not be constitutional."

Jeff Ruch, PEER: "It is censorship."

In a statement the **EPA** says it welcomes free expression provided employees adhere to ethics rules. Republicans on the house oversight and government reform committee want an investigation into what regulations Zabel and Williams violated. Critics argue the action contradicts the president's support for open government.

PEER: "If through the Obama administration believes in transparency. -- in precisely these sort of cases that they need to practices."

REPORTER BACK ON CAMERA: " The bottom line is the video is down congress wants answers and especially **White House** and because it was the president who said he wanted to take the politics. Out of science and this is a very important issues you know if you cut."

\*\*DOUBLE BOXES\*\*

ANCHOR: " And of course William that they shouldn't they're just speaking for themselves of these are not the opinions of the **EPA**. And isn't this just free speech."

REPORTER:

" What that's what the lawyer for -- lawyers contend because there isn't disclaimer in the video that says we are speaking number one. As private citizens and these are not the views of the administration or the agency but nevertheless the **EPA**. They got clearance and haven't Cisco would suddenly Washington heard it and they seven down."

Adora Andy  
Press Secretary  
U.S. Environmental Protection Agency  
Office of Public Affairs  
202-564-2715  
andy.adora@epa.gov

01268-EPA-442

**Seth Oster/DC/USEPA/US**

11/18/2009 02:02 PM

To Bob Sussman

cc Adora Andy, Allyn Brooks-LaSure, Brendan Gilfillan, Peter Silva, Richard Windsor, Robert Goulding

bcc

Subject Re: \*HEADS UP\*\* FINAL press release for MTM announcement

Ok, thanks Bob.

**Ex. 5 - Deliberative**

Seth

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

Bob Sussman

**Ex. 5 - Deliberative**

11/18/2009 01:58:37 PM

From: Bob Sussman/DC/USEPA/US  
To: Seth Oster/DC/USEPA/US@EPA  
Cc: Adora Andy/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Peter Silva/DC/USEPA/US@EPA, Robert Goulding/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA  
Date: 11/18/2009 01:58 PM  
Subject: Re: \*HEADS UP\*\* FINAL press release for MTM announcement

**Ex. 5 - Deliberative**

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

Seth Oster

**Ex. 5 - Deliberative**

11/18/2009 01:51:23 PM

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To: Adora Andy/DC/USEPA/US@EPA  
Cc: Allyn Brooks-LaSure/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Peter Silva/DC/USEPA/US@EPA, Robert Goulding/DC/USEPA/US@EPA  
Date: 11/18/2009 01:51 PM  
Subject: Re: \*HEADS UP\*\* FINAL press release for MTM announcement

**Ex. 5 - Deliberative**

Ex. 5 - Deliberative

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

Adora Andy Ex. 5 - Deliberative 11/18/2009 12:02:53 PM

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To: Seth Oster/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Peter Silva/DC/USEPA/US@EPA  
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Date: 11/18/2009 12:02 PM  
Subject: \*HEADS UP\*\* FINAL press release for MTM announcement

Hey folks,

Ex. 5 - Deliberative

Thanks,  
Adora

Date: November 18, 2009  
Contact: Peter Mali (202) 536-7351  
Frank Quimby (202) 208-6416

## Interior Strengthens Coal Mining Oversight, Announces Initiatives to Better Protect Streams in Coal Country

WASHINGTON, D.C. – The Department of the Interior is taking immediate actions to strengthen oversight of state surface coal mining programs and promulgating Federal regulations to better protect streams affected by surface coal mining operations, Interior officials announced today.

“America’s vast coal resources are a vital component of our energy future and our economy, but we have a responsibility to ensure that development is done in a way that protects public health and safety and the environment,” said Assistant Secretary for Land and Minerals Management Wilma Lewis. “We are moving as quickly as possible under the law to gather public input for a new rule, based on sound science, that will govern how companies handle fill removed from mountaintop coal seams. Until we put a new rule in place, we will work to provide certainty to

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While the new rule is being developed, Interior is taking immediate actions to strengthen protections for streams and communities in coal country, provide regulatory certainty for industry, and bolster OSM’s oversight and enforcement activities.

“We are moving as expeditiously as possible in the rulemaking process, but we will not take shortcuts around the law or the science,” said OSM Director Joe Pizarchik. “Until we complete the new rule, we have to manage the shortcomings of the 2008 rule. OSM will establish a new practice for reviewing permits under the Surface Mining Control and Reclamation Act (SMCRA) that would improve consistency and coordination with other Federal agencies.”

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Lewis and Pizarchik also announced a number [of proposed actions](#) to improve the agency’s effectiveness in overseeing state implementation of their approved surface coal mining regulatory programs. Under these proposed actions, OSM would, for the first time since coal-producing states assumed responsibility for their regulatory programs, conduct independent inspections of operators with state-issued surface coal mining permits. OSM would also conduct more oversight inspections, place greater emphasis on reducing the off-site impacts of mining, and review more state-issued surface coal mining permits and state permitting processes in an effort to improve state permitting decisions. The new OSM oversight and enforcement policy will also include revised guidelines for conducting oversight inspections.

“Through tougher oversight and stronger enforcement of SMCRA, we are putting all hands on deck to ensure that Appalachian communities are protected,” Pizarchik added. The reforms announced today are consistent with the Obama Administration’s commitments in a June 11,

2009, Memorandum of Understanding (MOU) among the Department of the Interior, the Environmental Protection Agency, and the Army Corps of Engineers to reduce the harmful environmental consequences of Appalachian surface coal mining.

The public is invited to review and comment on the proposed rulemaking and on OSM's proposed Oversight Improvement Actions. The advance notice of proposed rulemaking will be sent to the *Federal Register* shortly. Beginning on the date of publication, comments may be submitted using the Federal e-Rulemaking Portal at [www.regulations.gov](http://www.regulations.gov). The document has been assigned Docket ID: OSM-2009-0009.

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[attachment "11-18-09 Coal ANPR.doc" deleted by Seth Oster/DC/USEPA/US]

01268-EPA-443

Adora Andy/DC/USEPA/US  
11/18/2009 02:13 PM

To Richard Windsor, Seth Oster, Bob Sussman  
cc Allyn Brooks-LaSure, Brendan Gilfillan, Peter Silva, Robert  
Goulding  
bcc

Subject Re: \*HEADS UP\*\* FINAL press release for MTM  
announcement

Ex. 5 - Deliberative

Richard Windsor

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

**From:** Richard Windsor  
**Sent:** 11/18/2009 02:06 PM EST  
**To:** Seth Oster; Bob Sussman  
**Cc:** Adora Andy; Allyn Brooks-LaSure; Brendan Gilfillan; Peter Silva;  
Robert Goulding  
**Subject:** Re: \*HEADS UP\*\* FINAL press release for MTM announcement

Ex. 5 - Deliberative

Seth Oster

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

**From:** Seth Oster  
**Sent:** 11/18/2009 02:02 PM EST  
**To:** Bob Sussman  
**Cc:** Adora Andy; Allyn Brooks-LaSure; Brendan Gilfillan; Peter Silva;  
Richard Windsor; Robert Goulding  
**Subject:** Re: \*HEADS UP\*\* FINAL press release for MTM announcement  
Ok, thanks Bob.

Ex. 5 - Deliberative

Seth

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

Bob Sussman

Ex. 5 - Deliberative

11/18/2009 01:58:37 PM

**From:** Bob Sussman/DC/USEPA/US  
**To:** Seth Oster/DC/USEPA/US@EPA  
**Cc:** Adora Andy/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Brendan  
Gilfillan/DC/USEPA/US@EPA, Peter Silva/DC/USEPA/US@EPA, Robert  
Goulding/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA  
**Date:** 11/18/2009 01:58 PM  
**Subject:** Re: \*HEADS UP\*\* FINAL press release for MTM announcement

Ex. 5 - Deliberative  
[Redacted]

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

Seth Oster      Ex. 5 - Deliberative      11/18/2009 01:51:23 PM

From: Seth Oster/DC/USEPA/US  
To: Adora Andy/DC/USEPA/US@EPA  
Cc: Allyn Brooks-LaSure/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Peter Silva/DC/USEPA/US@EPA, Robert Goulding/DC/USEPA/US@EPA  
Date: 11/18/2009 01:51 PM  
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[Redacted]

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Associate Administrator  
Office of Public Affairs  
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Adora Andy      Ex. 5 - Deliberative      11/18/2009 12:02:53 PM

From: Adora Andy/DC/USEPA/US  
To: Seth Oster/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Peter Silva/DC/USEPA/US@EPA  
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Date: 11/18/2009 12:02 PM  
Subject: \*HEADS UP\*\* FINAL press release for MTM announcement

Hey folks,

Ex. 5 - Deliberative  
[Redacted]

Thanks,  
Adora

Date: November 18, 2009  
Contact: Peter  
Mali (202) 536-7351  
Frank Quimby (202) 208-6416

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“America’s vast coal resources are a vital component of our energy future and our economy, but we have a responsibility to ensure that development is done in a way that protects public health and safety and the environment,” said Assistant Secretary for Land and Minerals Management Wilma Lewis. “We are moving as quickly as possible under the law to gather public input for a new rule, based on sound science, that will govern how companies handle fill removed from mountaintop coal seams. Until we put a new rule in place, we will work to provide certainty to coal operations and the communities that depend on coal for their livelihood, strengthen our oversight and inspections, and work to better protect streams and water quality.”

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"Through tougher oversight and stronger enforcement of SMCRA, we are putting all hands on deck to ensure that Appalachian communities are protected," Pizarchik added. The reforms announced today are consistent with the Obama Administration's commitments in a June 11, 2009, Memorandum of Understanding (MOU) among the Department of the Interior, the Environmental Protection Agency, and the Army Corps of Engineers to reduce the harmful environmental consequences of Appalachian surface coal mining.

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[attachment "11-18-09 Coal ANPR.doc" deleted by Seth Oster/DC/USEPA/US]

01268-EPA-444

Adora Andy/DC/USEPA/US  
11/18/2009 02:32 PM

To Richard Windsor, Seth Oster, Bob Sussman  
cc Allyn Brooks-LaSure, Brendan Gilfillan, Peter Silva, Robert  
Goulding  
bcc  
Subject Re: \*HEADS UP\*\* FINAL press release for MTM  
announcement

Ex. 5 - Deliberative  
[Redacted]

Richard Windsor

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From: Richard Windsor  
Sent: 11/18/2009 02:06 PM EST  
To: Seth Oster; Bob Sussman  
Cc: Adora Andy; Allyn Brooks-LaSure; Brendan Gilfillan; Peter Silva;  
Robert Goulding  
Subject: Re: \*HEADS UP\*\* FINAL press release for MTM announcement

Ex. 5 - Deliberative  
[Redacted]

Seth Oster

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

From: Seth Oster  
Sent: 11/18/2009 02:02 PM EST  
To: Bob Sussman  
Cc: Adora Andy; Allyn Brooks-LaSure; Brendan Gilfillan; Peter Silva;  
Richard Windsor; Robert Goulding  
Subject: Re: \*HEADS UP\*\* FINAL press release for MTM announcement  
Ok, thanks Bob.

Ex. 5 - Deliberative  
[Redacted]

Seth

Seth Oster  
Associate Administrator  
Office of Public Affairs  
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Bob Sussman

Ex. 5 - Deliberative 11/18/2009 01:58:37 PM

From: Bob Sussman/DC/USEPA/US  
To: Seth Oster/DC/USEPA/US@EPA  
Cc: Adora Andy/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Brendan  
Gilfillan/DC/USEPA/US@EPA, Peter Silva/DC/USEPA/US@EPA, Robert

Date: Goulding/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA  
11/18/2009 01:58 PM  
Subject: Re: \*HEADS UP\*\* FINAL press release for MTM announcement

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Robert M. Sussman  
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Frank Quimby (202) 208-6416

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[attachment "11-18-09 Coal ANPR.doc" deleted by Seth Oster/DC/USEPA/US]

01268-EPA-449

**Daniel  
Gerasimowicz/DC/USEPA/US**  
11/25/2009 10:22 AM

To  
cc  
bcc

Subject Remarks at the WH Youth Energy Event

**Meeting**

Date 12/02/2009  
Time 04:45:00 PM to 05:35:00 PM  
Chair Daniel Gerasimowicz  
Invitees  
Required  
Optional  
FYI

Location WH, South Court Auditorium

Site Ct: Amy Salzman (CEO) 202-456-3621 or Greg Nelson 202-456-4811  
Advance Ct: (b) (6) Privacy

Staff:  
Shira Sternberg (OPA)

Call time is 4:45 PM, Administrator's Panel with Secretary Solis begins at 5 PM.

Agenda:

- 4:58 - 5: 00 PM - Introduction of Administrator Jackson and Secretary Solis
- 5:00 - 5:05 PM - Brief Remarks by Admin. Jackson on equity/justice and ongoing efforts to address climate change
- 5:05 - 5:10 PM - Brief Remarks by Secretary Solis on green jobs, youth, and opportunity for all in the green economy
- 5:10 - 5:35 PM - Q & A with Administrator Jackson and Secretary Solis

This event will be broadcast live on [whitehouse.gov](http://whitehouse.gov)

01268-EPA-450

**Barbara Bennett/DC/USEPA/US**  
12/02/2009 04:32 PM

To Richard Windsor  
cc Diane Thompson, Bob Perciasepe  
bcc  
Subject Fw: Pass through

Just making sure you have AA comments where it doesn't appear you've been cc'd....

----- Forwarded by Barbara Bennett/DC/USEPA/US on 12/02/2009 04:29 PM -----

From: Gina McCarthy/DC/USEPA/US  
To: perciasepe.bob@epa.gov, Barbara Bennett/DC/USEPA/US@EPA  
Date: 12/02/2009 08:52 AM  
Subject: Pass through

---

Bob and Barbara,

Here are my quick comments following along with the Passback Summary:

Page 2:

- Clean Energy and Climate: Ex. 5 - Deliberative  
[Redacted]

- Promoting Healthy Communities - Ex. 5 - Deliberative  
[Redacted]

Page 3:

- Termination of the climate showcase grants is referenced. Ex. 5 - Deliberative  
[Redacted]

Page 5:

- Categorical Grants: Ex. 5 - Deliberative  
[Redacted]

- Climate Change program: Ex. 5 - Deliberative  
[Redacted]

- Federal Stationary Source Regulations: Ex. 5 - Deliberative  
[Redacted]

Ex. 5 - Deliberative  
[Redacted]

- Federal Vehicle and Fuels Standards and Certifications: Ex. 5 - Deliberative  
[Redacted]

Page 6:  
- Categorical Grant: Local Government Climate Change: Ex. 5 - Deliberative  
[Redacted]

- Climate Protection Program: Ex. 5 - Deliberative  
[Redacted]

Energy Star disinvestments Ex. 5 - Deliberative  
[Redacted]

Ex. 5 - Deliberative  
[Redacted]

- DERA: Ex. 5 - Deliberative  
[Redacted]

- Federal Vehicles and Fuels Standards and Certifications: Ex. 5 - Deliberative  
[Redacted]

Page 8:  
- Categorical Grant: Local Government Climate Change: Ex. 5 - Deliberative  
[Redacted]

Page 12:  
- Energy Star: Energy Star disinvestment Ex. 5 - Deliberative  
[Redacted]

- GHG Reporting Rule: Ex. 5 - Deliberative  
[Redacted]

- Clean Automotive Technologies: Ex. 5 - Deliberative  
[Redacted]

- DERA: Ex. 5 - Deliberative  
[Redacted]

appropriators will raise concerns.

Page 13:

- Federal Stationary Source regulations: Ex. 5 - Deliberative

[Redacted]

Ex. 5 - Deliberative

Page 14:

- Federal Support for AQ Management: Ex. 5 - Deliberative

[Redacted]

- Federal Vehicle and Fuels: Ex. 5 - Deliberative

[Redacted]

Page 15:

- Ex. 5 - Deliberative

[Redacted]

Page 18:

- Reduce Risks from Indoor Air: Ex. 5 - Deliberative

[Redacted]

Page 19:

- State and Local Air Quality Management: Ex. 5 - Deliberative

[Redacted]

- Tribes: Ex. 5 - Deliberative

[Redacted]

Thanks, Gina

01268-EPA-453

Adora Andy/DC/USEPA/US

To Richard Windsor

12/02/2009 06:59 PM

cc

bcc

Subject Re: Reuters: UK climate expert steps aside after hacked e-mails

Ex. 5 - Deliberative

Adora Andy  
 Press Secretary  
 U.S. Environmental Protection Agency  
 Office of Public Affairs  
 202-564-2715  
 andy.adora@epa.gov

Richard Windsor

Ex. 5 - Deliberative

12/02/2009 06:51:11 PM

From: Richard Windsor/DC/USEPA/US  
 To: Adora Andy/DC/USEPA/US@EPA  
 Date: 12/02/2009 06:51 PM  
 Subject: Re: Reuters: UK climate expert steps aside after hacked e-mails

Ex. 5 - Deliberative

Adora Andy

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

**From:** Adora Andy**Sent:** 12/02/2009 06:45 PM EST

**To:** "Richard Windsor" <windsor.richard@epa.gov>; "Seth Oster" <oster.seth@epa.gov>; "Allyn Brooks-LaSure" <brooks-lasure.allyn@epa.gov>; "Arvin Ganesan" <ganesan.arvin@epa.gov>; David McIntosh; "Bob Sussman" <sussman.bob@epa.gov>; Gina McCarthy; Bob Perciasepe; Diane Thompson; Lisa Heinzerling

**Cc:** "Betsaida Alcantara" <alcantara.betsaida@epa.gov>; "Brendan Gilfillan" <gilfillan.brendan@epa.gov>; Michael Moats

**Subject:** Reuters: UK climate expert steps aside after hacked e-mails  
 UK climate expert steps aside after hacked e-mails  
 05:23 PM EST

\* University of East Anglia to investigate hacked e-mails

\* Sceptics say undermines evidence of climate change

\* US EPA head says flap won't stop possible regulations (Adds U.S. reaction)

LONDON, Dec 2 (Reuters) - The head of a British climate research institute has stepped aside after hacked e-mails were seized upon by sceptics as evidence that the case for global warming has been exaggerated.

Phil Jones, head of the Climatic Research Unit (CRU) at the University of East Anglia, will step aside "until the completion of an independent review," the university said in a statement.

"It is an important step to ensure that CRU can continue to operate normally," University Vice-Chancellor Professor Edward Acton said after accepting Jones' offer to stand aside.

Dubbing the affair "Climategate," some climate change sceptics have seized upon the e-mails, some of them written 13 years ago, and accused scientists at CRU of colluding to suppress data that might have undermined their arguments.

In the United States, some Republican politicians opposed to climate change legislation pounced on the controversy, calling on the U.S. Environmental Protection Agency to stop climate change regulatory efforts, which they say are based on "dubious science."

EPA Administrator Lisa Jackson responded that her agency's work "is proceeding."

"At this point I have seen nothing that indicates that scientists out there have said that they've changed their consensus" that human actions contribute to global warming, she said.

"These emails certainly may show some poor manners, maybe more ... but what we have to be constantly looking at is the science."

The Obama administration wants Congress to pass comprehensive legislation controlling greenhouse gas emissions but says it stands ready to regulate if legislative efforts fail.

'OUT OF CONTEXT'

Sceptics have pointed to phrases in the e-mails in which climate scientists talk of using a "trick" to "hide the decline" in temperatures as evidence that they adjusted data to fit their theories. CRU denies any manipulation.

Delegates meet in Copenhagen for a Dec. 7-18 talks to try to work out a new U.N. pact to address global warming.

The head of the U.N.'s Intergovernmental Panel on Climate (IPCC) Change, Rajendra Pachauri, told Reuters last week that the leaks do not affect findings in 2007 that it was more than 90 percent certain that human activities were causing climate change.

"This private communication in no way damages the credibility of the ... findings," he said, saying that all conclusions were subjected to rigorous review.

Some CRU researchers contribute to the IPCC's reports that pull together data from scientists around the world in an attempt to give a consensus view on climate change.

"Opposition groups are taking passages out of context to try to undermine public confidence in climate science," the Union of Concerned Scientists said in a statement Wednesday.

"Even without data from CRU, there is still an overwhelming body of evidence that human activity (is) triggering dangerous levels of global warming," it said. (Additional reporting by Richard Cowan in Washington; Editing by Robin Pomeroy) ((For a TAKE A LOOK about the Road to Copenhagen, click on [nSP382015]. For an overview of climate change stories, click [nCLIMATE])) (For an Interactive factbox on the Climate Change conference in Copenhagen please click on <http://uk.reuters.com/news/factbox?fj=20091111151536.js&fn=Climate%20Change%20conference%20in%20Denmark%20>)

-- For Reuters latest environment blogs click on: <http://blogs.reuters.com/environment/>  
((alister.doyle@thomsonreuters.com; +47 900 87 663; Reuters Messaging:  
rm://alister.doyle.reuters.com@reuters.net))

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01268-EPA-458

Arvin Ganesan/DC/USEPA/US

To Richard Windsor

12/03/2009 02:48 PM

cc Bob Sussman, Diane Thompson, Peter Silva, Seth Oster  
bcc

Subject Re: Major MTM Op-ED by Byrd

**Ex. 5 - Deliberative**

ARVIN R. GANESAN  
Deputy Associate Administrator  
Congressional Affairs  
Office of the Administrator  
United States Environmental Protection Agency  
Ganesan.Arvin@epa.gov  
(p) 202.564.5200  
(f) 202.501.1519

Richard Windsor

**Ex. 5 - Deliberative**

12/03/2009 02:46:55 PM

From: Richard Windsor/DC/USEPA/US  
To: Arvin Ganesan/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Peter Silva/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA  
Date: 12/03/2009 02:46 PM  
Subject: Re: Major MTM Op-ED by Byrd

**Ex. 5 - Deliberative**

**[Redacted]**

Arvin Ganesan

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

**From:** Arvin Ganesan  
**Sent:** 12/03/2009 02:35 PM EST  
**To:** Richard Windsor; Diane Thompson; Bob Sussman; Peter Silva; Seth Oster  
**Subject:** Major MTM Op-ED by Byrd

**Ex. 5 - Deliberative**

### COAL MUST EMBRACE THE FUTURE

**Senator Robert C. Byrd (D-W.Va.)**

For more than 100 years, coal has been the backbone of the Appalachian economy. Even today, the economies of more than 20 states depend to some degree on the mining of coal. About half of all the electricity generated in America and about one quarter of all the energy consumed globally is generated by coal.

Change is no stranger to the coal industry. Think of the huge changes which came with the onset of the Machine Age in the late 1800's. Mechanization has increased coal production and revenues, but also has

eliminated jobs, hurting the economies of coal communities. In 1979, there were 62,500 coal miners in the Mountain State. Today there are about 22,000. In recent years, West Virginia has seen record high coal production and record low coal employment.

And change is undeniably upon the coal industry again. The increased use of mountaintop removal mining means that fewer miners are needed to meet company production goals. Meanwhile the Central Appalachian coal seams that remain to be mined are becoming thinner and more costly to mine. Mountaintop removal mining, a declining national demand for energy, rising mining costs and erratic spot market prices all add up to fewer jobs in the coal fields.

These are real problems. They affect real people. And West Virginia's elected officials are rightly concerned about jobs and the economic impact on local communities. I share those concerns. But the time has come to have an open and honest dialogue about coal's future in West Virginia.

Let's speak the truth. The most important factor in maintaining coal-related jobs is demand for coal. Scapegoating and stoking fear among workers over the permitting process is counter-productive.

Coal companies want a large stockpile of permits in their back pockets because that implies stability to potential investors. But when coal industry representatives stir up public anger toward federal regulatory agencies, it can damage the state's ability to work with those agencies to West Virginia's benefit. This, in turn, may create the perception of ineffectiveness within the industry, which can drive potential investors away.

Let's speak a little more truth here. No deliberate effort to do away with the coal industry could ever succeed in Washington because there is no available alternative energy supply that could immediately supplant the use of coal for base load power generation in America. That is a stubborn fact that vexes some in the environmental community, but it is reality.

It is also a reality that the practice of mountaintop removal mining has a diminishing constituency in Washington. It is not a widespread method of mining, with its use confined to only three states. Most members of Congress, like most Americans, oppose the practice, and we may not yet fully understand the effects of mountaintop removal mining on the health of our citizens. West Virginians may demonstrate anger toward the Environmental Protection Agency (EPA) over mountaintop removal mining, but we risk the very probable consequence of shouting ourselves out of any productive dialogue with EPA and our adversaries in the Congress.

Some have even suggested that coal state representatives in Washington should block any advancement of national health care reform legislation until the coal industry's demands are met by the EPA. I believe that the notion of holding the health care of over 300 million Americans hostage in exchange for a handful of coal permits is beyond foolish; it is morally indefensible. It is a non-starter, and puts the entire state of West Virginia and the coal industry in a terrible light.

To be part of any solution, one must first acknowledge a problem. To deny the mounting science of climate change is to stick our heads in the sand and say "deal me out." West Virginia would be much smarter to stay at the table.

The 20 coal-producing states together hold some powerful political cards. We can have a part in shaping energy policy, but we must be honest brokers if we have any prayer of influencing coal policy on looming issues important to the future of coal like hazardous air pollutants, climate change, and federal dollars for investments in clean coal technology.

Most people understand that America cannot meet its current energy needs without coal, but there is strong bi-partisan opposition in Congress to the mountaintop removal method of mining it. We have our work cut out for us in finding a prudent and profitable middle ground – but we will not reach it by using fear mongering, grandstanding and outrage as a strategy. As your United States Senator, I must represent the opinions and the best interests of the entire Mountain State, not just those of coal operators and southern coalfield residents who may be strident supporters of mountaintop removal mining.

I have spent the past six months working with a group of coal state Democrats in the Senate, led by West Virginia native Senator Tom Carper (D-Del.), drafting provisions to assist the coal industry in more easily transitioning to a lower-carbon economy. These include increasing funding for clean coal projects and easing emission standards and timelines, setting aside billions of dollars for coal plants that install new technology and continue using coal. These are among the achievable ways coal can continue its major role in our national energy portfolio. It is the best way to step up to the challenge and help lead change.

The truth is that some form of climate legislation will likely become public policy because most American voters want a healthier environment. Major coal-fired power plants and coal operators operating in West Virginia have wisely already embraced this reality, and are making significant investments to prepare.

The future of coal and indeed of our total energy picture lies in change and innovation. In fact, the future of American industrial power and our economic ability to compete globally depends on our ability to advance energy technology.

The greatest threats to the future of coal do not come from possible constraints on mountaintop removal mining or other environmental regulations, but rather from rigid mindsets, depleting coal reserves, and the declining demand for coal as more power plants begin shifting to biomass and natural gas as a way to reduce emissions.

Fortunately, West Virginia has a running head-start as an innovator. Low-carbon and renewable energy projects are already under development in West Virginia, including: America's first integrated carbon capture and sequestration project on a conventional coal-fired power plant in Mason County; the largest wind power facility in the eastern United States; a bio-fuel refinery in Nitro; three large wood pellet plants in Fayette, Randolph, and Gilmer Counties; and major dams capable of generating substantial electricity.

Change has been a constant throughout the history of our coal industry. West Virginians can choose to anticipate change and adapt to it, or resist and be overrun by it. One thing is clear. The time has arrived for the people of the Mountain State to think long and hard about which course they want to choose.

###

---

ARVIN R. GANESAN  
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United States Environmental Protection Agency  
Ganesan.Arvin@epa.gov

(p) 202.564.5200  
(f) 202.501.1519

01268-EPA-459

**Adora Andy/DC/USEPA/US**

12/04/2009 10:35 AM

To "Richard Windsor"

cc

bcc

Subject Topics

Ex. 5 - Deliberative



01268-EPA-460

**Allyn  
Brooks-LaSure/DC/USEPA/US**

12/04/2009 05:04 PM

To "Jackson, Lisa P.", "Fulton, Scott", "Perciasepe, Bob",  
"Thompson, Diane", "McCarthy, Gina", "DePass, Michelle",  
"Mcintosh, David", "Ganesan, Arvin", "Heinzerling, Lisa"  
cc "Oster, Seth", "Andy, Adora"

bcc

Subject Fw: Statement from the Press Secretary on the United  
Nations Climate Change Conference

MABL.

-----

M. Allyn Brooks-LaSure  
Office of the Administrator  
U.S. Environmental Protection Agency  
Cell: 202-631-0415

---

**From:** "White House Press Office" [whitehouse-lists-noreply@list.whitehouse.gov]  
**Sent:** 12/04/2009 04:42 PM EST  
**To:** Allyn Brooks-LaSure  
**Subject:** Statement from the Press Secretary on the United Nations Climate Change Conference

THE WHITE HOUSE  
Office of the Press Secretary

---

FOR IMMEDIATE RELEASE  
December 4, 2009

STATEMENT FROM THE PRESS SECRETARY ON THE UNITED NATIONS CLIMATE  
CHANGE CONFERENCE

The President strongly believes that all nations have a responsibility to combat the threat of climate change. He has already taken unprecedented action to do so at home, including an historic investment in clean energy solutions that will reduce our dependence on oil and create jobs. Abroad, he has engaged leaders bilaterally and multilaterally on the issue of climate change, and agreed to participate in the climate conference in Copenhagen.

After months of diplomatic activity, there is progress being made towards a meaningful Copenhagen accord in which all countries pledge to take action against the global threat of climate change. Following bilateral meetings with the President and since the United States announced an emissions reduction target that reflects the progress being made in Congress towards comprehensive energy legislation, China and India have for the

first time set targets to reduce their carbon intensity. There has also been progress in advancing the Danish proposal for an immediate, operational accord that covers all of the issues under negotiation, including the endorsement of key elements of this approach by the 53 countries represented at the Commonwealth Summit last weekend.

This week, the President discussed the status of the negotiations with Prime Minister Rudd, Chancellor Merkel, President Sarkozy, and Prime Minister Brown and concluded that there appears to be an emerging consensus that a core element of the Copenhagen accord should be to mobilize \$10 billion a year by 2012 to support adaptation and mitigation in developing countries, particularly the most vulnerable and least developed countries that could be destabilized by the impacts of climate change. The United States will pay its fair share of that amount and other countries will make substantial commitments as well. In Copenhagen, we also need to address the need for financing in the longer term to support adaptation and mitigation in developing countries. Providing this assistance is not only a humanitarian imperative - it's an investment in our common security, as no climate change accord can succeed if it does not help all countries reduce their emissions.

Based on his conversations with other leaders and the progress that has already been made to give momentum to negotiations, the President believes that continued US leadership can be most productive through his participation at the end of the Copenhagen conference on December 18<sup>th</sup> rather than on December 9<sup>th</sup>. There are still outstanding issues that must be negotiated for an agreement to be reached, but this decision reflects the President's commitment to doing all that he can to pursue a positive outcome. The United States will have representation in Copenhagen throughout the negotiating process by State Department negotiators and Cabinet officials who will highlight the great strides we have made this year towards a clean energy economy.

###

01268-EPA-464

**Daniel  
Gerasimowicz/DC/USEPA/US**  
12/07/2009 01:41 PM

To  
cc  
bcc

Subject Meeting with Canadian Ambassador to the United States,  
Gary Doer

**Meeting**

Date 01/05/2010  
Time 02:30:00 PM to 03:15:00 PM  
Chair Daniel Gerasimowicz

Invitees  
Required  
Optional  
FYI

Location Bullet Room

Ct: Virginia Robertson (Embassy of Canada)

Ex.6 - Privacy

Staff:

Michelle DePass, Shalini Vajjhala, Gary Waxmonsky, Michael Stahl, Pete Christich (OIA)  
Gina McCarthy, Beth Craig, Brian McLean (OAR)  
Pete Silva, Mike Shapiro (OW)  
Optional attendee: Diane Thompson (OA)  
Joseph Freedman (OGC)

Attendees:

Ambassador Gary Doer  
Marc LePage, Special Advisor for Climate Change and Energy  
Christina Jutzi, Program Officer  
Duncan Stewart, Program Officer

01268-EPA-465

**Richard Windsor/DC/USEPA/US**  
12/08/2009 10:29 AM

To Adora Andy, Bob Perciasepe, Diane Thompson, Bob Sussman, Seth Oster, Allyn Brooks-LaSure, David McIntosh, Arvin Ganesan, Gina McCarthy, Lisa Heinzerling  
cc Brendan Gilfillan, Betsaida Alcantara, Michael Moats  
bcc

Subject Re: NYT: THE ENDANGERMENT FINDING

Ex. 5 - Deliberative

Adora Andy

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

**From:** Adora Andy

**Sent:** 12/08/2009 10:23 AM EST

**To:** Richard Windsor; Bob Perciasepe; Diane Thompson; Bob Sussman; Seth Oster; Allyn Brooks-LaSure; David McIntosh; Arvin Ganesan; Gina McCarthy; Lisa Heinzerling

**Cc:** Brendan Gilfillan; Betsaida Alcantara; Michael Moats

**Subject:** NYT: THE ENDANGERMENT FINDING

NEW YORK TIMES

December 8, 2009

Editorial

## The Endangerment Finding

The Environmental Protection Agency formally declared on Monday that carbon dioxide and other greenhouse gases constitute a threat to human health and welfare. The move empowers the agency to regulate these emissions and gives President Obama an important tool if Congress fails to pass legislation to reduce global warming emissions.

Mr. Obama and the E.P.A. administrator, Lisa Jackson, have said repeatedly that they would much prefer a comprehensive legislative approach. But while the House has passed a broad climate change bill, the prospects in the Senate are uncertain. The threat of regulation gives Congress extra incentive to act; regulation would provide a strong backstop if it does not.

The E.P.A.'s declaration — known as an “endangerment finding” — is a necessary precondition under the Clean Air Act to regulatory action. Earlier this year, the administration proposed new rules limiting greenhouse gas emissions from cars and light trucks. Those rules, which have been broadly accepted by industry and will be accompanied by big increases in fuel-economy standards, will now be finalized.

The finding also allows the E.P.A. to regulate emissions from stationary sources including power plants, refineries and factories. So far, Ms. Jackson has offered no specific proposals — though she is working on them — beyond a “tailoring rule” that would limit any new regulations to big operations that produce 25,000 tons or more a year of carbon emissions.

Even so, the mere prospect of regulation has inspired something approaching panic, with industry groups like the Chamber of Commerce railing against “top-down,

command-and-control" regulation. The House, in an otherwise admirable climate change bill, included a provision restricting the E.P.A.'s authority to control emissions.

This is utterly wrongheaded. The Supreme Court ruled two years ago that the E.P.A. has clear authority under the Clean Air Act to regulate greenhouse gases. It should be retained as both a goad and a backstop.

There is one obvious way to keep the E.P.A. from having to use this authority on a broad scale. And that is for Congress to pass a credible and comprehensive bill requiring economywide cuts in emissions.

No one would be cheering louder than Ms. Jackson, who has neither the resources nor the ambition to regulate what would amount to 70 percent of the American economy. If Congress fails to act, she will have no choice.

Adora Andy  
Press Secretary  
U.S. Environmental Protection Agency  
Office of Public Affairs  
202-564-2715  
andy.adora@epa.gov

01268-EPA-466

**Adora Andy/DC/USEPA/US**

To Richard Windsor

12/11/2009 08:33 AM

cc

bcc

Subject Re: WSJ Strassel: The EPA's Carbon Bomb Fizzles

She's such a nut  
Richard Windsor

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

**From:** Richard Windsor**Sent:** 12/11/2009 06:29 AM EST**To:** Adora Andy**Subject:** Re: WSJ Strassel: The EPA's Carbon Bomb Fizzles

Interesting

Adora Andy

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

**From:** Adora Andy**Sent:** 12/10/2009 10:20 PM EST**To:** Gina McCarthy; Lisa Heinzerling; "Richard Windsor"

<windsor.richard@epa.gov>; Bob Perciasepe; Diane Thompson; "Bob Sussman"  
<sussman.bob@epa.gov>; David McIntosh; "Seth Oster" <oster.seth@epa.gov>;  
"Allyn Brooks-LaSure" <brooks-lasure.allyn@epa.gov>; "Arvin Ganesan"  
<ganesan.arvin@epa.gov>

**Cc:** "Brendan Gilfillan" <gilfillan.brendan@epa.gov>; "Betsaida Alcantara"  
<alcantara.betsaida@epa.gov>; Michael Moats

**Subject:** WSJ Strassel: The EPA's Carbon Bomb Fizzles

OPINION: POTOMAC WATCH

DECEMBER 10, 2009, 9:31 P.M. ET

The EPA's Carbon Bomb Fizzles

The administration has given a skittish Congress another reason not to pass cap and trade.

By KIMBERLEY A. STRASSELShare:

In the high-stakes game of chicken the Obama White House has been playing with Congress over who will regulate the earth's climate, the president's team just motored into a ditch. So much for threats.

The threat the White House has been leveling at Congress is the Environmental Protection Agency's "endangerment finding," which EPA Administrator Lisa Jackson finally issued this week. The finding lays the groundwork for the EPA to regulate greenhouse gas emissions across the entire economy, on the grounds that global warming is hazardous to human health.

From the start, the Obama team has wielded the EPA action as a club, warning Congress that if it did not come up with cap-and-trade legislation the EPA would act on its own—and in a far more blunt fashion than Congress preferred. As one anonymous administration official menaced again this week: "If [Congress doesn't] pass this legislation," the EPA is going to have to "regulate in a command-and-control way, which will probably generate even more uncertainty."

The thing about threats, though, is that at some point you have to act on them. The EPA has been sitting on its finding for months, much to the agitation of environmental groups that have been upping the pressure for action.

President Obama, having failed to get climate legislation, didn't want to show up to the Copenhagen climate talks with a big, fat nothing. So the EPA pulled the pin. In doing so, it exploded its own threat.

Far from alarm, the feeling sweeping through many quarters of the Democratic Congress is relief. Voters know cap-and-trade is Washington code for painful new energy taxes. With a recession on, the subject has become poisonous in congressional districts. Blue Dogs and swing-state senators watched in alarm as local Democrats in the recent Virginia and New Jersey elections were pounded on the issue, and lost their seats.

But now? Hurrah! It's the administration's problem! No one can say Washington isn't doing something; the EPA has it under control. The agency's move gives Congress a further excuse not to act.

"The Obama administration now owns this political hot potato," says one industry source. "If I'm [Nebraska Senator] Ben Nelson or [North Dakota Senator] Kent Conrad, why would I ever want to take it back?"

All the more so, in Congress's view, because the EPA "command and control" threat may yet prove hollow. Now that the endangerment finding has become reality, the litigation is also about to become real. Green groups pioneered the art of environmental lawsuits. It turns out the business community took careful notes.

Industry groups are gearing up for a legal onslaught; and don't underestimate their prospects. The leaked emails from the Climatic Research Unit in England alone are a gold mine for those who want to challenge the science underlying the theory of manmade global warming.

But the EPA's legal vulnerabilities go beyond that. The agency derives its authority to regulate pollutants from the Clean Air Act. To use that law to regulate greenhouse gases, the EPA has to prove those gases are harmful to human health (thus, the endangerment finding). Put another way, it must provide "science" showing that a slightly warmer earth will cause Americans injury or death. Given that most climate scientists admit that a warmer earth could provide "net benefits" to the West, this is a tall order.

Then there are the rules stemming from the finding. Not wanting to take on the political nightmare of regulating every American lawn mower, the EPA has produced a "tailoring rule" that it says allows it to focus solely on large greenhouse gas emitters. Yet the Clean Air Act—authored by Congress—clearly directs the EPA to also regulate small emitters.

This is where green groups come in. The tailoring rule "invites suits," says Sen. John Barrasso (R., Wyo.), who has emerged as a top Senate watchdog of EPA actions. Talk of business litigation aside, Mr. Barrasso sees "most of the lawsuits coming from the environmental groups" who want to force the EPA to regulate everything. The agency is going to get hit from all directions. Even if these outsiders don't win their suits, they have the ability to twist up the regulations for a while.

Bottom line: At least some congressional Democrats view this as breathing room, a further reason to not tackle a killer issue in the run-up to next year's election. Mr. Obama may emerge from Copenhagen with some sort of "deal." But his real problem is getting Congress to act, and his EPA move may have just made that job harder.

Write to [kim@wsj.com](mailto:kim@wsj.com)

01268-EPA-467

**Adora Andy/DC/USEPA/US**

To Richard Windsor

12/11/2009 08:46 AM

cc

bcc

Subject Re: WSJ Strassel: The EPA's Carbon Bomb Fizzles

I see..

Richard Windsor

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

**From:** Richard Windsor

**Sent:** 12/11/2009 08:34 AM EST

**To:** Adora Andy

**Subject:** Re: WSJ Strassel: The EPA's Carbon Bomb Fizzles

Yeah but it helps in strange and interesting ways. Tx.

Adora Andy

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

**From:** Adora Andy

**Sent:** 12/11/2009 08:33 AM EST

**To:** Richard Windsor

**Subject:** Re: WSJ Strassel: The EPA's Carbon Bomb Fizzles

She's such a nut

Richard Windsor

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

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**Sent:** 12/11/2009 06:29 AM EST

**To:** Adora Andy

**Subject:** Re: WSJ Strassel: The EPA's Carbon Bomb Fizzles

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Adora Andy

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**From:** Adora Andy

**Sent:** 12/10/2009 10:20 PM EST

**To:** Gina McCarthy; Lisa Heinzerling; "Richard Windsor"

<windsor.richard@epa.gov>; Bob Perciasepe; Diane Thompson; "Bob Sussman"

<sussman.bob@epa.gov>; David McIntosh; "Seth Oster" <oster.seth@epa.gov>;

"Allyn Brooks-LaSure" <brooks-lasure.allyn@epa.gov>; "Arvin Ganesan"

<ganesan.arvin@epa.gov>

**Cc:** "Brendan Gilfillan" <gilfillan.brendan@epa.gov>; "Betsaida Alcantara"

<alcantara.betsaida@epa.gov>; Michael Moats

**Subject:** WSJ Strassel: The EPA's Carbon Bomb Fizzles

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DECEMBER 10, 2009, 9:31 P.M. ET

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"The Obama administration now owns this political hot potato," says one industry source. "If I'm [Nebraska Senator] Ben Nelson or [North Dakota Senator] Kent Conrad, why would I ever want to take it back?"

All the more so, in Congress's view, because the EPA "command and control" threat may yet prove hollow. Now that the endangerment finding has become reality, the litigation is also about to become real. Green groups pioneered the art of environmental lawsuits. It turns out the business community took careful notes.

Industry groups are gearing up for a legal onslaught; and don't underestimate their prospects. The leaked emails from the Climatic Research Unit in England alone are a gold mine for those who want to challenge the science underlying the theory of manmade global warming.

But the EPA's legal vulnerabilities go beyond that. The agency derives its authority to regulate pollutants from the Clean Air Act. To use that law to regulate greenhouse gases, the EPA has to prove those gases are harmful to human health (thus, the endangerment finding). Put another way, it must provide "science" showing that a slightly warmer earth will cause Americans injury or death. Given that most climate scientists admit that a warmer earth could provide "net benefits" to the West, this is a tall order.

Then there are the rules stemming from the finding. Not wanting to take on the political nightmare of regulating every American lawn mower, the EPA has produced a "tailoring rule" that it says allows it to focus solely on large greenhouse gas emitters. Yet the Clean Air Act—authored by Congress—clearly directs the EPA to also regulate small emitters.

This is where green groups come in. The tailoring rule "invites suits," says Sen. John Barrasso (R., Wyo.), who has emerged as a top Senate watchdog of EPA actions. Talk of business litigation aside, Mr. Barrasso sees "most of the lawsuits coming from the environmental groups" who want to force the EPA to regulate everything. The agency is going to get hit from all directions. Even if these outsiders don't win

their suits, they have the ability to twist up the regulations for a while.

Bottom line: At least some congressional Democrats view this as breathing room, a further reason to not tackle a killer issue in the run-up to next year's election. Mr. Obama may emerge from Copehagen with some sort of "deal." But his real problem is getting Congress to act, and his EPA move may have just made that job harder.

Write to [kim@wsj.com](mailto:kim@wsj.com)

01268-EPA-468

Shalini  
Vajjhala/DC/USEPA/US  
12/11/2009 06:16 PM

To David McIntosh, "windsor richard", "oster seth", "depass michelle", "vajjhala shalini"  
cc  
bcc  
Subject Re: TIME SENSITIVE: MONDAY Senator Boxer to Deliver Remarks on Copenhagen and Climate Change (12/14 at 11 am ET)

David,

Thanks for the heads up.

(b)(5) deliberative

Best,  
Shalini

PS. Everyone on the del and in the halls is still talking about the Administrator's keynote and NGO briefing, and have heard multiple times that both outshine every event since-

---

**From:** David McIntosh  
**Sent:** 12/11/2009 04:55 PM EST  
**To:** windsor.richard@epa.gov; oster.seth@epa.gov; depass.michelle@epa.gov; vajjhala.shalini@epa.gov  
**Subject:** Fw: TIME SENSITIVE: MONDAY Senator Boxer to Deliver Remarks on Copenhagen and Climate Change (12/14 at 11 am ET)

Just FYI.

(b)(5) deliberative

---

**From:** "Gilman, Kate (EPW)" [Kate\_Gilman@epw.senate.gov]  
**Sent:** 12/11/2009 04:49 PM EST  
**Cc:** "Ordal, Paul (EPW)" <Paul\_Ordal@epw.senate.gov>; "Rafle, Peter (EPW)" <Peter\_Rafle@epw.senate.gov>  
**Subject:** TIME SENSITIVE: MONDAY Senator Boxer to Deliver Remarks on Copenhagen and Climate Change (12/14 at 11 am ET)

**Hello, we would like to invite you to attend Senator Boxer's press conference on Monday, December 14<sup>th</sup>. The details are below. Please RSVP if you are able to attend as soon as possible.  
Thank you.**

**For Planning Purposes Only**  
(cell)  
Transmitted December 11, 2009

**Contact: Pete Rafle 202-302-7086**  
Kate Gilman 202-207-8639 (cell)

**U.S. Senate Committee on  
Environment and Public Works**

**\* MEDIA ADVISORY \***

**Senator Boxer to Deliver Remarks on Copenhagen and Climate Change**

**BACKGROUND:** As the high level segment of the United Nations Climate Change Conference begins in Denmark, U.S. Senator Barbara Boxer (D-CA), Chairman of the Senate Environment and Public Works Committee, will hold a press conference to deliver remarks on Copenhagen and climate change.

**WHEN:** **MONDAY, DECEMBER 14, 2009**  
**11:00 AM ET**

**LOCATION:** **EPW Hearing Room**  
406 Dirksen

**WHO:** **Senator Barbara Boxer (D-CA)**  
Chairman, Environment and Public Works Committee

###

Kate Gilman  
Press Secretary  
Senate Committee on Environment and Public Works  
Senator Barbara Boxer, Chairman  
410 Dirksen Senate Office Building  
(202) 224-8832 main  
(202) 207-8639 cell  
[kate\\_gilman@epw.senate.gov](mailto:kate_gilman@epw.senate.gov)

01268-EPA-471

Arvin Ganesan/DC/USEPA/US

To Richard Windsor, Charles Imohiosen, Diane Thompson, Bob Sussman

12/12/2009 06:47 PM

cc David McIntosh, "Arvin Ganesan", "goffman joseph", Gina McCarthy, Bob Perciasepe

bcc

Subject Re: home retrofit proposals

(b)(5) deliberative

(b)(5) deliberative

Sent from my Blackberry Wireless Device  
Richard Windsor

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

**From:** Richard Windsor

**Sent:** 12/12/2009 06:41 PM EST

**To:** Charles Imohiosen; Diane Thompson; Bob Sussman; Arvin Ganesan

**Cc:** David McIntosh; "Arvin Ganesan" <ganesan.arvin@epa.gov>; "goffman joseph" <goffman.joseph@epa.gov>; Gina McCarthy; Bob Perciasepe

**Subject:** Re: home retrofit proposals

(b)(5) deliberative

Charles Imohiosen

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

**From:** Charles Imohiosen

**Sent:** 12/12/2009 04:58 PM EST

**To:** Diane Thompson; Bob Sussman; Arvin Ganesan; Richard Windsor

**Cc:** David McIntosh; "Arvin Ganesan" <ganesan.arvin@epa.gov>; "goffman joseph" <goffman.joseph@epa.gov>; Gina McCarthy; Bob Perciasepe

**Subject:** Re: home retrofit proposals

I just spoke with Nikki Buffa at CEQ.

(b)(5) deliberative

Ex. 5 - Deliberative

[Redacted]

Regards,

Charles

Charles Imohiosen  
Office of the Administrator  
US Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.

\*\*\*\*\*

Sent via Blackberry  
Diane Thompson

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

**From:** Diane Thompson  
**Sent:** 12/12/2009 03:16 PM EST  
**To:** Bob Sussman; Arvin Ganesan; Richard Windsor  
**Cc:** Charles Imohiosen; David McIntosh; "Arvin Ganesan" <ganesan.arvin@epa.gov>; "goffman joseph" <goffman.joseph@epa.gov>; Gina McCarthy; Bob Perciasepe  
**Subject:** Re: home retrofit proposals

Ex. 5 - Deliberative

Bob Sussman

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

**From:** Bob Sussman  
**Sent:** 12/12/2009 02:59 PM EST  
**To:** Arvin Ganesan  
**Cc:** Charles Imohiosen; David McIntosh; "ganesan arvin" <ganesan.arvin@epa.gov>; "goffman joseph" <goffman.joseph@epa.gov>; Gina McCarthy; Bob Perciasepe; Diane Thompson  
**Subject:** Re: home retrofit proposals

Ex. 5 - Deliberative

[Redacted]

[Redacted]

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

From: Arvin Ganesan/DC/USEPA/US  
To: David McIntosh/DC/USEPA/US@EPA, "ganesan arvin" <ganesan.arvin@epa.gov>, "goffman joseph" <goffman.joseph@epa.gov>, Charles Imohiosen/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA  
Date: 12/12/2009 02:44 PM  
Subject: Re: home retrofit proposals

---

Ex. 5 - Deliberative

Sent from my Blackberry Wireless Device

David McIntosh

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

**From:** David McIntosh  
**Sent:** 12/12/2009 02:12 PM EST  
**To:** ganesan.arvin@epa.gov; goffman.joseph@epa.gov; Charles Imohiosen; Bob Sussman  
**Subject:** home retrofit proposals

Hi Arvin, Joe, Charles, and Bob:

Ex. 5 - Deliberative



Thanks,  
David

01268-EPA-473

**Seth Oster/DC/USEPA/US**  
12/14/2009 02:04 PM

To Richard Windsor  
cc  
bcc

**Subject** Re: TODAY: Jared Bernstein and Carol Browner to Hold Conference Call on Vice President Biden's Memo to the President on Clean Energy Progress

Ex. 5 - Deliberative

---

**From:** Richard Windsor  
**Sent:** 12/14/2009 01:39 PM EST  
**To:** Seth Oster  
**Subject:** Re: TODAY: Jared Bernstein and Carol Browner to Hold Conference Call on Vice President Biden's Memo to the President on Clean Energy Progress

Ex. 5 - Deliberative

---

**From:** Seth Oster  
**Sent:** 12/14/2009 01:10 PM EST  
**To:** "Lisa Jackson" <windsor richard@epa.gov>; Arvin Ganesan; "Lisa Heinzerling" <Heinzerling.lisa@epa.gov>; Bob Sussman; Charles Imohiosen; David McIntosh; "Diane Thompson" <thompson.diane@epa.gov>; Bob Perciasepe  
**Subject:** Fw: TODAY: Jared Bernstein and Carol Browner to Hold Conference Call on Vice President Biden's Memo to the President on Clean Energy Progress

Just FYI.

---

**From:** "White House Press Office" [whitehouse-lists-noreply@list.whitehouse.gov]  
**Sent:** 12/14/2009 01:06 PM EST  
**To:** Seth Oster  
**Subject:** TODAY: Jared Bernstein and Carol Browner to Hold Conference Call on Vice President Biden's Memo to the President on Clean Energy Progress

THE WHITE HOUSE  
Office of the Vice President

FOR IMMEDIATE RELEASE  
December 14, 2009

**TODAY: Jared Bernstein and Carol Browner to Hold Conference Call on Vice President Biden's Memo to the President on Clean Energy Progress**  
*\*\*Call is Embargoed for 12:00 AM EST\*\**

WASHINGTON - **TODAY** at 3:45pm ET, Chief Economic Adviser to the Vice President Jared

Bernstein and Director of the White House Office of Energy and Climate Change Policy Carol Browner will hold a conference call with reporters to discuss the Vice President's memo to the President on Administration progress building a clean energy economy through the Recovery Act and other initiatives. The memo was produced at the request of the Vice President by the White House Office of Energy and Climate Change, the Office of the Vice President, the Council of Economic Advisors and the Department of Energy.

**WHO:** Jared Bernstein, Chief Economic Adviser to the Vice President  
Carol Browner, Director of the White House Office of Energy and Climate Change Policy

**WHAT:** Conference Call on Vice President's memo to the President on Clean Energy Progress

**WHEN:** TODAY, 3:45pm ET  
EMBARGOED FOR 12:00 PM ET

**HOW:** Reporters wishing to join this call should use the call information below. No pass code is necessary.

United States: (800) 230-1092  
International: (612) 234-9959

##

01268-EPA-474

Eric Wachter/DC/USEPA/US To Richard Windsor  
12/14/2009 06:27 PM cc Aaron Dickerson  
bcc  
Subject Fw: A Week to Remember

Ex. 5 - Deliberative

----- Forwarded by Eric Wachter/DC/USEPA/US on 12/14/2009 06:26 PM -----

Message Information

Date 12/14/2009 04:14 PM  
From Bettina Stokes/R10/USEPA/US  
To LisaP Jackson/DC/USEPA/US@EPA  
cc  
Subject Re: A Week to Remember

Message Body

Hello! I'm just a lowly Grants Coordinator & FCO in R10's Office of Water & Watersheds. I just had to write you and tell you how very proud I am of working for EPA, and now more than ever. Courageous leadership is so important to the well being of our home Earth. When President Obama appointed you to lead EPA, I told my husband , "We're Back!" Thank you for your intelligence, your foresight, and your dedication.  
Wishing you Happy Holidays!

Bettina Stokes

Message from the Administrator Visit the Agency's Intra... 12/11/2009 11:40:23 AM  
Message from the Administrator To All EPA Employees  
12/11/2009 11:40 AM cc  
Subject A Week to Remember

[Visit the Agency's Intranet for More Information](#)



[All Hands Email-Archive](#)

\*\*\*\*\*  
**This message is being sent to all EPA Employees.**  
**Please do not reply to this mass mailing.**  
\*\*\*\*\*

**MEMORANDUM****SUBJECT:** A Week to Remember**FROM:** Administrator Lisa P. Jackson**TO:** All EPA Employees

Colleagues:

This week we made history.

On Monday, I signed the finalized endangerment finding on greenhouse gases, a decision that has been years in the making. The long-overdue finding cements 2009's place in history as the year when our government – and our agency – truly began addressing the challenge of greenhouse gas pollution and seizing the opportunities of clean energy reform. This achievement resulted from the hard work of so many of you within the agency – in particular, our colleagues in the Office of Air and Radiation. They worked tirelessly to prepare this finding and collect and respond to an overwhelming number of public comments received – nearly 400,000 in all. I thank all of them – and all of you – for your incredible efforts.

We are now on a path towards enduring, pragmatic solutions to reduce greenhouse gases. We've already set in motion groundbreaking initiatives like the clean cars rule – with the nation's first-ever limits on GHGs from American vehicles – and the creation of a nationwide, and what I believe will be world-leading, greenhouse gas reporting system.

These are important tools for fulfilling our responsibility to future generations and tackling climate change today. Our actions also send a clear message to the global community that the United States – with EPA leading the way – is committed to acting on the greatest environmental challenge of our time.

That message to our global partners was absolutely critical this week in my talks at the United Nations Climate Change Conference in Copenhagen. I can't tell you how proud I was to represent the United States and all of us here at EPA in the meetings I attended. The world is watching – and they are excited about the hard work you are doing. I met with individuals, government officials and stakeholders from all around the world; I saw innovative ideas taking shape to protect our planet, and was particularly inspired by the energy and enthusiasm of the many young people in attendance.

We have much work left to do. We are off and running on our far-reaching efforts to reduce greenhouse emissions, grow the clean energy economy, and free ourselves from our dependence on foreign oil that threatens our national security and our economy. We're also moving full steam ahead to clean up our water, reform chemical management, reduce dangerous pollution in the air we breathe, and expand the conversation on environmentalism.

But I would like you to take just a moment to reflect on our accomplishments this week, and all

that we have accomplished this year. Thank you so much for all of your hard work, and your commitment to protecting the health and environment of the American people.

Sincerely,  
Lisa P. Jackson

---

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**OEX Processing Information**

Processed Date:

Processed By

PO Office

Category:

Message Count

01268-EPA-475

**Richard Windsor/DC/USEPA/US**  
12/15/2009 09:32 AM

To [REDACTED] Ex.6 - Privacy

cc

bcc

Subject Fw: 12.15.09 Daily Climate Change Talking Points--COP 15

Tom,

I hope you talk went well today. Congratulations on the MOU with the dairy industry

[REDACTED] Ex. 5 -  
Deliberative

[REDACTED]. Lisa

01268-EPA-476

**Allyn  
Brooks-LaSure/DC/USEPA/US**

To "Jackson, Lisa P.", "Sussman, Bob", "Stanislaus, Mathy",  
"Heinzerling, Lisa", "Perciasepe, Bob", "Thompson, Diane",  
"Fulton, Scott"

12/15/2009 11:02 AM

cc "Oster, Seth"

bcc

Subject Ummm...

Administrator, you have your own Christmas carols...

Coal Ash Regs Are Comin' To Town

Rob Perks

Director, NRDC - Center for Advocacy Campaigns,

Washington, D.C.

Posted December 15, 2009 in Curbing Pollution , Health and the Environment , Solving Global Warming

Call it a gift or a curse, but I have a thing for song parody. I'm like the Weird Al Yankovic of environmentalists. Usually my peculiar "talent" gets displayed at the office holiday party. Who can forget my odes to coal belted out last year by NRDC's in-house carolers?

Unfortunately, I missed this year's party due to travel. But never fear, I give to you the 2009 coal carol -- ba-rumpa, bum, bum.

Coal Ash Regs Are Comin' To Town

She's making a list,

Priority: High,

Gonna find out who's wet or dry.

Coal ash regs are comin' to town!

-----

Yes, Lisa Jackson,

Is making all haste,

EPA's cracking down, On combustion waste.

Coal ash regs are comin' to town!

-----

She knows which landfill's leaching,

She knows which pond might break,

She knows they all lack liners,

Close 'em down, for goodness sake!

-----

One-thirty million tons,

Ev-ery year,

Spew from coal plants, Far and near.

Coal ash regs are comin' to town!

-----

So, you better watch out,

Coal waste fly,

A high hazard, Either wet or dry.

Coal ash regs are comin' to town!

-----

So, don't worry about a lump of coal in your stocking. Tops on this year's wish list are new federal regulations to finally treat dirty, unsafe coal ash as hazardous waste. Just be sure to send your letter to EPA Administrator Lisa Jackson to make your holiday wish come true. Happy holidays, everyone!

MABL.

-----

M. Allyn Brooks-LaSure  
Office of the Administrator  
U.S. Environmental Protection Agency  
Cell: 202-631-0415

01268-EPA-477

**Richard Windsor/DC/USEPA/US**  
12/15/2009 11:28 AM

To "Tom Vilsack"  
cc  
bcc

Subject Re: 12.15.09 Daily Climate Change Talking Points--COP 15

Thanks Tom.

Ex. 5 - Deliberative

Good luck. Lisa

---

**From:** TJV [jd@osec.usda.gov]  
**Sent:** 12/15/2009 11:05 AM EST  
**To:** Richard Windsor  
**Subject:** Re: 12.15.09 Daily Climate Change Talking Points--COP 15

Lisa - Ex. 5 - Deliberative

Tom

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

From: Windsor.Richard@epamail.epa.gov <Windsor.Richard@epamail.epa.gov>  
To: TJV  
Sent: Tue Dec 15 09:32:38 2009  
Subject: Fw: 12.15.09 Daily Climate Change Talking Points--COP 15

Tom,

I hope you talk went well today. Congratulations on the MOU with the dairy industry.

Ex. 5 - Deliberative

Lisa

01268-EPA-478

**Richard Windsor/DC/USEPA/US**  
12/15/2009 03:00 PM

To "Tom Vilsack"  
cc  
bcc

Subject Re: 12.15.09 Daily Climate Change Talking Points--COP 15

Ex. 5 - Deliberative

---

**From:** TJV [jd@osec.usda.gov]  
**Sent:** 12/15/2009 11:58 AM EST  
**To:** Richard Windsor  
**Subject:** Re: 12.15.09 Daily Climate Change Talking Points--COP 15

Ex. 5 - Deliberative

---

**From:** Windsor.Richard@epamail.epa.gov  
**To:** TJV  
**Sent:** Tue Dec 15 11:28:36 2009  
**Subject:** Re: 12.15.09 Daily Climate Change Talking Points--COP 15

Thanks Tom.

Ex. 5 - Deliberative  
Good luck. Lisa

---

**From:** TJV [jd@osec.usda.gov]  
**Sent:** 12/15/2009 11:05 AM EST  
**To:** Richard Windsor  
**Subject:** Re: 12.15.09 Daily Climate Change Talking Points--COP 15

Lisa - (b)(5) deliberative

Tom

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

**From:** Windsor.Richard@epamail.epa.gov <Windsor.Richard@epamail.epa.gov>  
**To:** TJV  
**Sent:** Tue Dec 15 09:32:38 2009  
**Subject:** Fw: 12.15.09 Daily Climate Change Talking Points--COP 15

Tom,



01268-EPA-480

**Seth Oster/DC/USEPA/US**

12/16/2009 03:33 PM

To Richard Windsor

cc Bob Sussman, Diane Thompson

bcc

Subject First Draft of Coal Ash Statement

LPJ,

Here is a first draft.

[Redacted] Ex. 5 - Deliberative

[Redacted]

Seth

**STATEMENT FROM EPA ON COAL ASH**

[Redacted] Ex. 5 - Deliberative

[Redacted]

[Redacted]

01268-EPA-482

Seth Oster/DC/USEPA/US  
12/17/2009 08:37 AM

To Richard Windsor  
cc  
bcc  
Subject Re: Coal Ash. Too weak?

Ex. 5 - Deliberative

[Redacted]

[Redacted]

[Redacted]

Seth

STATEMENT FROM EPA ON COAL ASH

Ex. 5 - Deliberative

[Redacted]

[Redacted]

[Redacted]

Seth Oster  
Associate Administrator

Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

Richard Windsor

STATEMENT FROM EPA ON COAL...

12/17/2009 06:35:40 AM

From: Richard Windsor/DC/USEPA/US  
To: "Seth Oster" <oster.seth@epa.gov>  
Date: 12/17/2009 06:35 AM  
Subject: Coal Ash. Too weak?

---

STATEMENT FROM EPA ON COAL ASH

[REDACTED] Ex. 5 - Deliberative

[REDACTED]

[REDACTED]

[REDACTED]g

of her Administration to complete these efforts, and expects to issue a proposed rule in the near future.

01268-EPA-483

Seth Oster/DC/USEPA/US  
12/17/2009 09:07 AM

To Richard Windsor  
cc  
bcc

Subject Re: Coal Ash. Too weak?

Ex. 5 - Deliberative  
[Redacted]

[Redacted]

Richard Windsor

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

**From:** Richard Windsor  
**Sent:** 12/17/2009 08:42 AM EST  
**To:** Seth Oster  
**Subject:** Re: Coal Ash. Too weak?

Ex. 5 - Deliberative  
[Redacted]

[Redacted]

Seth Oster

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

**From:** Seth Oster  
**Sent:** 12/17/2009 08:37 AM EST  
**To:** Richard Windsor  
**Subject:** Re: Coal Ash. Too weak?

Ex. 5 - Deliberative  
[Redacted]

[Redacted]

[Redacted]

[Redacted]

Seth

**STATEMENT FROM EPA ON COAL ASH**

Ex. 5 - Deliberative

[Redacted]

[Redacted]

[Redacted]

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

Richard Windsor    STATEMENT FROM EPA ON COAL...    12/17/2009 06:35:40 AM

From: Richard Windsor/DC/USEPA/US  
To: "Seth Oster" <oster.seth@epa.gov>  
Date: 12/17/2009 06:35 AM  
Subject: Coal Ash. Too weak?

STATEMENT FROM EPA ON COAL ASH

Ex. 5 - Deliberative

[Redacted]

[Redacted]

[Redacted]

(b)(5) deliberative

01268-EPA-484

**Seth Oster/DC/USEPA/US**

To Richard Windsor

12/17/2009 09:29 AM

cc

bcc

Subject Re: Coal Ash. Too weak?

Ex. 5 - Deliberative

Richard Windsor

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

**From:** Richard Windsor

**Sent:** 12/17/2009 09:25 AM EST

**To:** Seth Oster

**Subject:** Re: Coal Ash. Too weak?

Ex. 5 - Deliberative

Seth Oster

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

**From:** Seth Oster

**Sent:** 12/17/2009 09:07 AM EST

**To:** Richard Windsor

**Subject:** Re: Coal Ash. Too weak?

Ex. 5 - Deliberative

Richard Windsor

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

**From:** Richard Windsor

**Sent:** 12/17/2009 08:42 AM EST

**To:** Seth Oster

**Subject:** Re: Coal Ash. Too weak?

Ex. 5 - Deliberative

Seth Oster

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

**From:** Seth Oster

**Sent:** 12/17/2009 08:37 AM EST

**To:** Richard Windsor

**Subject:** Re: Coal Ash. Too weak?

Ex. 5 - Deliberative

Ex. 5 - Deliberative  
[Redacted]

[Redacted]

[Redacted]

Seth

STATEMENT FROM EPA ON COAL ASH

(b)(5) deliberative  
[Redacted]

[Redacted]

[Redacted]

[Redacted]

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

Richard Windsor    STATEMENT FROM EPA ON COAL...    12/17/2009 06:35:40 AM

From: Richard Windsor/DC/USEPA/US  
To: "Seth Oster" <oster.seth@epa.gov>  
Date: 12/17/2009 06:35 AM  
Subject: Coal Ash. Too weak?

STATEMENT FROM EPA ON COAL ASH

[REDACTED] Ex. 5 - Deliberative [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

01268-EPA-485

Seth Oster/DC/USEPA/US  
12/17/2009 11:35 AM

To Richard Windsor  
cc  
bcc  
Subject Coal Ash - Final Draft

Ex. 5 - Deliberative

[Redacted]

[Redacted]

Seth

STATEMENT FROM EPA ON COAL ASH – Version 3

(b)(5) deliberative

[Redacted]

[Redacted]

[Redacted]

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

01268-EPA-486

**Seth Oster/DC/USEPA/US**

12/17/2009 12:45 PM

To "Lisa Jackson"

cc "Aaron Dickerson", "Diane Thompson", Bob Sussman

bcc

Subject Eric Schaeffer

Ex. 5 - Deliberative

01268-EPA-487

Seth Oster/DC/USEPA/US  
12/17/2009 12:56 PM

To Richard Windsor  
cc  
bcc

Subject Fw: Coal Ash Announcement

The plan is below. Ex. 5 - Deliberative  
[Redacted]

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

----- Forwarded by Seth Oster/DC/USEPA/US on 12/17/2009 12:55 PM -----

From: Seth Oster/DC/USEPA/US  
To: Bob Sussman/DC/USEPA/US@EPA, Mathy Stanislaus/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Betsaida Alcantara/DC/USEPA/US@EPA  
Cc: Diane Thompson/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA  
Date: 12/17/2009 12:55 PM  
Subject: Coal Ash Announcement

Ex. 5 - Deliberative  
[Redacted]

[Redacted]

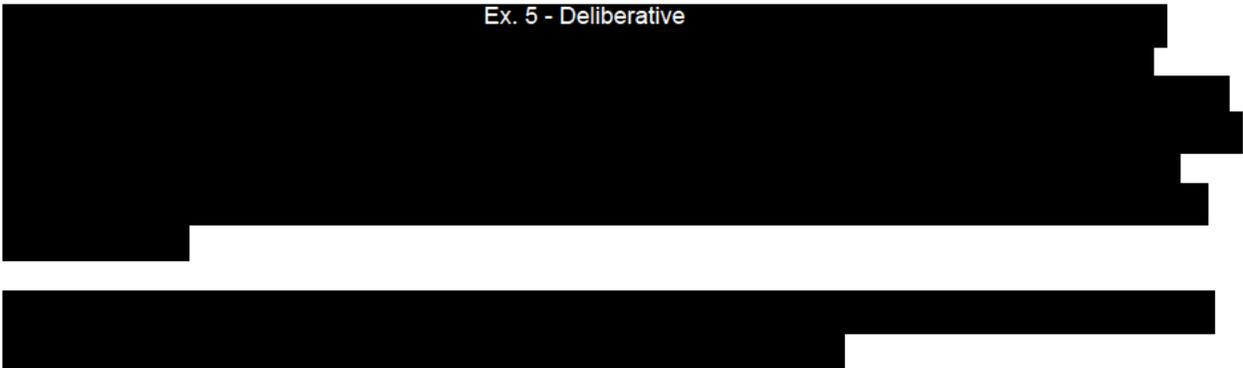
- [Redacted]
- [Redacted]
- [Redacted]

**STATEMENT FROM EPA ON COAL ASH**

Ex. 5 - Deliberative  
[Redacted]

[Redacted]

Ex. 5 - Deliberative



###

01268-EPA-488

**Seth Oster/DC/USEPA/US**

To Richard Windsor

12/17/2009 02:11 PM

cc

bcc

Subject Re: Coal Ash Announcement

**Ex. 5 - Deliberative**

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

Richard Windsor

**(b)(5)**

----- Original Me...

12/17/2009 01:23:22 PM

From: Richard Windsor/DC/USEPA/US  
To: Seth Oster/DC/USEPA/US@EPA  
Date: 12/17/2009 01:23 PM  
Subject: Re: Coal Ash Announcement

**Ex. 5 - Deliberative**

Seth Oster

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

**From:** Seth Oster  
**Sent:** 12/17/2009 12:56 PM EST  
**To:** Richard Windsor  
**Subject:** Fw: Coal Ash Announcement

The plan is below.

**Ex. 5 - Deliberative**

[Redacted content]

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

----- Forwarded by Seth Oster/DC/USEPA/US on 12/17/2009 12:55 PM -----

From: Seth Oster/DC/USEPA/US  
To: Bob Sussman/DC/USEPA/US@EPA, Mathy Stanislaus/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Betsaida Alcantara/DC/USEPA/US@EPA  
Cc: Diane Thompson/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA  
Date: 12/17/2009 12:55 PM  
Subject: Coal Ash Announcement

Ex. 5 - Deliberative

[Redacted]

- [Redacted]
- [Redacted]
- [Redacted]

STATEMENT FROM EPA ON COAL ASH

Ex. 5 - Deliberative

[Redacted]

[Redacted]

[Redacted]

###

01268-EPA-489

**Seth Oster/DC/USEPA/US**

12/17/2009 02:12 PM

To: Richard Windsor

cc

bcc

Subject: Re: Coal Ash Announcement

**Ex. 5 - Deliberative**

Seth Oster  
 Associate Administrator  
 Office of Public Affairs  
 Environmental Protection Agency  
 (202) 564-1918  
 oster.seth@epa.gov

Richard Windsor

Someone should. That's all. Tx. -----

12/17/2009 02:11:57 PM

From: Richard Windsor/DC/USEPA/US  
 To: Seth Oster/DC/USEPA/US@EPA  
 Date: 12/17/2009 02:11 PM  
 Subject: Re: Coal Ash Announcement

**Ex. 5 - Deliberative**

Seth Oster

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

**From:** Seth Oster  
**Sent:** 12/17/2009 02:11 PM EST  
**To:** Richard Windsor  
**Subject:** Re: Coal Ash Announcement

**Ex. 5 - Deliberative**

Seth Oster  
 Associate Administrator  
 Office of Public Affairs  
 Environmental Protection Agency  
 (202) 564-1918  
 oster.seth@epa.gov

Richard Windsor

Who is doing EEI? ----- Original Me...

12/17/2009 01:23:22 PM

From: Richard Windsor/DC/USEPA/US  
 To: Seth Oster/DC/USEPA/US@EPA  
 Date: 12/17/2009 01:23 PM  
 Subject: Re: Coal Ash Announcement

**Ex. 5 - Deliberative**

Seth Oster

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

**From:** Seth Oster  
**Sent:** 12/17/2009 12:56 PM EST  
**To:** Richard Windsor  
**Subject:** Fw: Coal Ash Announcement

The plan is below. Ex. 5 - Deliberative  
[Redacted]

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

----- Forwarded by Seth Oster/DC/USEPA/US on 12/17/2009 12:55 PM -----

**From:** Seth Oster/DC/USEPA/US  
**To:** Bob Sussman/DC/USEPA/US@EPA, Mathy Stanislaus/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Betsaida Alcantara/DC/USEPA/US@EPA  
**Cc:** Diane Thompson/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA  
**Date:** 12/17/2009 12:55 PM  
**Subject:** Coal Ash Announcement

Ex. 5 - Deliberative  
[Redacted]

[Redacted]

- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

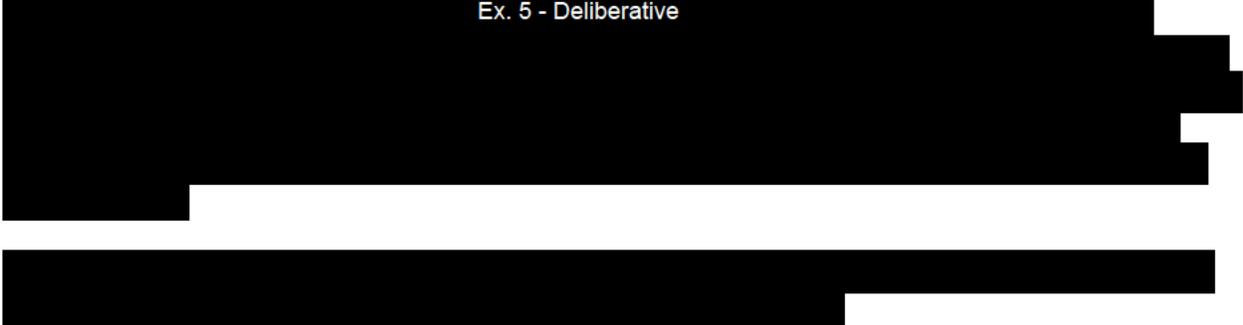
**STATEMENT FROM EPA ON COAL ASH**

Ex. 5 - Deliberative  
[Redacted]

[Redacted]

[Redacted]

Ex. 5 - Deliberative



###

01268-EPA-493

**Seth Oster/DC/USEPA/US**

12/21/2009 10:43 AM

To Mathy Stanislaus, Bob Sussman, "Lisa Jackson"

cc Adora Andy

bcc

Subject Fw: AP: EPA, USDA push farmers to use coal waste on fields

Ex. 5 - Deliberative

Seth

Betsaida Alcantara

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

**From:** Betsaida Alcantara**Sent:** 12/21/2009 10:34 AM EST**To:** Mathy Stanislaus; Seth Oster; Allyn Brooks-LaSure; Adora Andy; Brendan Gilfillan**Subject:** AP: EPA, USDA push farmers to use coal waste on fields

EPA, USDA push farmers to use coal waste on fields

By RICK CALLAHAN (AP) - 6 hours ago

INDIANAPOLIS – The federal government is encouraging farmers to spread a chalky waste from coal-fired power plants on their fields to loosen and fertilize soil even as it considers regulating coal wastes for the first time.

The material is produced by power plant "scrubbers" that remove acid rain causing sulfur dioxide from plant emissions. A synthetic form of the mineral gypsum, it also contains mercury, arsenic, lead and other heavy metals.

The U.S. Environmental Protection Agency says those toxic metals occur in only tiny amounts that pose no threat to crops, surface water or humans. But some environmentalists say too little is known about how the material affects crops, and ultimately human health, for the government to suggest that farmers use it on their land.

"Basically this is a leap into the unknown," said Jeff Ruch, executive director of Public Employees for Environmental Responsibility. "This stuff has materials in it that we're trying to prevent entering the environment from coal-fired power plants and then to turn around and smear it across ag lands raises some real questions."

With coal wastes piling up around the coal-fired plants that produce half the nation's power, the EPA and U.S. Department of Agriculture began promoting what they call the wastes' "beneficial uses" during the Bush administration.

Part of that push is to expand use of synthetic gypsum – a whitish, calcium-rich material known as flue gas desulfurization gypsum, or FGD gypsum.

The Obama administration has continued promoting FGD gypsum's use in farming even as it drafts a coal waste rule in response to a spill from a coal ash pond near Knoxville, Tenn., one year ago Tuesday. Ash and water flooded 300 acres, damaging homes and killing fish in nearby rivers. The cleanup is expected to cost about \$1 billion.

The EPA is expected to announce its proposals for regulation early next year, setting the first federal standards for storage and disposal of coal wastes.

EPA officials declined to talk about the agency's promotion of FGD gypsum before then and wouldn't say whether the draft rule would cover it.

Instead, the agency released a statement saying the heavy metals in the material are far less than the amount considered a threat to human health. Field studies have shown that mercury, the main heavy metal of concern because it can damage development of the human nervous system, doesn't accumulate in crops or run off fields in surface water at "significant" levels, it said.

"EPA believes that the use of FGD gypsum in agriculture is safe in appropriate soil and hydrogeologic conditions," the statement said.

Eric Schaeffer, executive director of the Environmental Integrity Project, which advocates for more effective enforcement of environmental laws, said he's not overly worried about FGD gypsum's use on fields because research shows it contains only tiny amounts of heavy metals. But he said federal limits on the amounts of heavy metals in FGD gypsum sold to farmers would help allay concerns.

"That would give them assurance that they've got clean FGD gypsum," he said. "The farmers don't want to get a bad batch."

Since the EPA/USDA partnership began in 2001, farmers' use of the material has more than tripled, from about 78,000 tons spread on fields in 2002 to nearly 279,000 tons last year, according to the American Coal Ash Association, a utility industry group.

About half of the 17.7 million tons of FGD gypsum produced in the U.S. last year was used to make drywall, said Thomas Adams, the association's executive director. But he said it's important to find new uses for it and other coal wastes because the nation is likely to remain reliant on coal-fired power plants for decades to come.

"If we can find safe ways to recycle those materials, we're a lot better off doing that than we are creating a whole bunch of new landfills," Adams said.

Darrell Norton, a USDA soil scientist, said a predecessor of FGD gypsum produced about 25 years ago often had high levels of heavy metals because it had been mixed with coal fly ash. But FGD gypsum has no fly ash and is "environmentally clean," he said.

FGD gypsum is widely used in the South as a less expensive alternative to mined gypsum, said Glen Harris, a soil scientist at the University of Georgia in Tifton, Ga. Farmers in states such as Georgia, Alabama and the Carolinas have long spread mined gypsum on their fields, where its calcium spurs the growth of peanuts.

Clay McDaniel, 47, who farms about 4,000 acres of peanuts and corn near the southern Georgia town of Newton, has used synthetic gypsum on his peanut fields for more than 20 years. He and other farmers call both FGD and mined gypsum "land plaster." He said he's never worried about the safety of the synthetic version.

"If we buy a chemical that's toxic, it's got a skull and crossbones on it," he said. "But this does not come with any such warning. It's just a calcium source."

01268-EPA-494

**Allyn  
Brooks-LaSure/DC/USEPA/US**

12/22/2009 08:30 AM

To "Perciasepe, Bob", "Sussman, Bob", "Thompson, Diane",  
"McIntosh, David", "Ganesan, Arvin", "Heinzerling, Lisa"  
cc "Jackson, Lisa P.", "Oster, Seth", "Moats, Michael"

bcc

Subject ACTION: memo language

Folks-

Below is a draft message from LPJ that aims to capture the end of year accomplishments. OPA has combined this with a direct video message LPJ recorded last week.

Please provide any thoughts or comments on the copy. We hope to send to internal stakeholders later today. Thanks all.

-----

Colleagues:

Ex. 5 - Deliberative  
[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Sincerely,  
Lisa P. Jackson

MABL.

-----

M. Allyn Brooks-LaSure  
Office of the Administrator  
U.S. Environmental Protection Agency  
Cell: 202-631-0415

01268-EPA-496

Scott Fulton/DC/USEPA/US

To Richard Windsor

12/22/2009 02:41 PM

cc

bcc

Subject Fw: Looking Back on a Great 2009

Great job!!!!

----- Forwarded by Scott Fulton/DC/USEPA/US on 12/22/2009 02:41 PM -----

From: LisaP Jackson/DC/USEPA/US  
To: Scott Fulton/DC/USEPA/US@EPA  
Date: 12/22/2009 02:28 PM  
Subject: Looking Back on a Great 2009

---

Colleagues:

Ex. 5 - Deliberative  
[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Ex. 5 - Deliberative

Sincerely,  
Lisa P. Jackson

01268-EPA-497

**Allyn  
Brooks-LaSure/DC/USEPA/US**

12/23/2009 10:46 AM

To Brendan Gilfillan, Richard Windsor, "Sussman, Bob", "Fulton, Scott", "Thompson, Diane", "Perciasepe, Bob", "McIntosh, David", "Ganesan, Arvin", "Heinzerling, Lisa", "Wachter, Eric", "Goulding, Robert"

cc Adora Andy, "Oster, Seth"

bcc

Subject Re: Newsweek: Steven Chu, Lisa Jackson #2 on Newsweek's 10 Most important People in 2010

You beat out Steve Jobs and Vladimir Putin!

MABL.

-----

M. Allyn Brooks-LaSure  
Office of the Administrator  
U.S. Environmental Protection Agency  
Cell: 202-631-0415  
Brendan Gilfillan

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

**From:** Brendan Gilfillan**Sent:** 12/23/2009 10:42 AM EST**To:** Richard Windsor**Cc:** Allyn Brooks-LaSure; Adora Andy**Subject:** Newsweek: Steven Chu, Lisa Jackson #2 on Newsweek's 10 Most important People in 2010

Link here:

<http://2010.newsweek.com/top-10/people-to-watch/steven-chu-and-lisa-jackson.html>

## Steven Chu and Lisa Jackson

By Newsweek

EPA Administrator [Lisa Jackson](#) is a chemical engineer, and Energy Secretary [Steven Chu](#) is a physicist with a [Nobel Prize](#), but starting in 2010 you can think of them as bad cop and good cop. With the Copenhagen climate negotiations failing to reach a legally binding treaty, and with climate legislation stalled in the Senate, this duo will lead the charge toward reducing U.S. greenhouse emissions and moving us to renewable energy.

As of Jan. 1, any facility that emits at least 25,000 metric tons of carbon dioxide annually (or its equivalent in greenhouse gases such as methane and nitrous oxide) will have to start measuring and reporting their emissions to Jackson's [EPA](#). That includes power plants, aluminum manufacturers, refineries, paper mills, and solid-waste landfills (a big source of methane). Insiders call the requirement the most "world-changing greenhouse policy" EPA has ever undertaken, since once something is counted it can be regulated.

Then, in March, using authority the [Supreme Court confirmed in 2007](#), Jackson will issue rules requiring manufacturers to reduce greenhouse emissions from cars and trucks to a fleet average of 250 grams per mile ([it's now 422](#)) [by 2016](#). Carmakers will achieve that through more hybrids and plug-in electrics, averting a projected 950 million metric tons of carbon dioxide and other

greenhouse gases over the lifetime of those low-CO<sub>2</sub> vehicles. Finally, as early as summer, Jackson will issue rules making “major polluters”—like those subject to the greenhouse-gas reporting rule—use top-of-the-line CO<sub>2</sub>-control technology if they want to [build a new facility or make significant changes to an existing one](#).

The regs are significant in themselves, but Jackson’s real clout will be showing industry how much can be done on greenhouse emissions even without climate legislation. “This will encourage congressional action,” says [Rep. Edward Markey](#), cosponsor of the [climate bill](#) that passed the House in June. “Industry’s choice is no longer between legislation and no legislation, but between legislation and regulation. Congress is a stimulus-response institution, and there is nothing more stimulating than a regulatory agency preempting powers Congress thinks it should have.” We’ll see if the dis is enough to move a [climate bill out of the Senate](#) in 2010.

Either way, utilities and other major greenhouse polluters could find salvation in Chu (whom *Nature* just named its [Newsmaker of the Year 2009](#)). Chu’s task is nothing less than revamping the energy sector in the world’s largest economy, which he is doing by encouraging high-risk/high-reward research. Besides being a “public cheerleader for clean-energy research,” as *Nature* calls him, he’s been opening the federal purse strings. He has \$400 million to award for clean-energy research—a big, fat carrot to Jackson’s stick.

01268-EPA-498

**Adora Andy/DC/USEPA/US**

12/23/2009 10:59 AM

To Allyn Brooks-LaSure

cc Brendan Gilfillan, "Fulton, Scott", "Ganesan, Arvin", "Goulding, Robert", "Heinzerling, Lisa", "McIntosh, David", "Oster, Seth", "Perciasepe, Bob", Richard Windsor, "Sussman, Bob", "Thompson, Diane", "Wachter, Eric"

bcc

Subject Re: Newsweek: Steven Chu, Lisa Jackson #2 on Newsweek's 10 Most important People in 2010

And Republican Governors!

Adora Andy  
 Press Secretary  
 U.S. Environmental Protection Agency  
 Office of Public Affairs  
 202-564-2715  
 andy.adora@epa.gov

Allyn Brooks-LaSure

You beat out Steve Jobs and Vlad...

12/23/2009 10:46:47 AM

From: Allyn Brooks-LaSure/DC/USEPA/US  
 To: Brendan Gilfillan/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA, "Sussman, Bob" <sussman.bob@epa.gov>, "Fulton, Scott" <fulton.scott@epa.gov>, "Thompson, Diane" <Thompson.Diane@epamail.epa.gov>, "Perciasepe, Bob" <Perciasepe.Bob@epamail.epa.gov>, "McIntosh, David" <McIntosh.David@epamail.epa.gov>, "Ganesan, Arvin" <Ganesan.Arvin@epamail.epa.gov>, "Heinzerling, Lisa" <Heinzerling.Lisa@epamail.epa.gov>, "Wachter, Eric" <Wachter.Eric@epamail.epa.gov>, "Goulding, Robert" <Goulding.Robert@epamail.epa.gov>  
 Cc: Adora Andy/DC/USEPA/US@EPA, "Oster, Seth" <Oster.Seth@epa.gov>  
 Date: 12/23/2009 10:46 AM  
 Subject: Re: Newsweek: Steven Chu, Lisa Jackson #2 on Newsweek's 10 Most important People in 2010

You beat out Steve Jobs and Vladimir Putin!

MABL.

-----

M. Allyn Brooks-LaSure  
 Office of the Administrator  
 U.S. Environmental Protection Agency  
 Cell: 202-631-0415

Brendan Gilfillan

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

**From:** Brendan Gilfillan**Sent:** 12/23/2009 10:42 AM EST**To:** Richard Windsor**Cc:** Allyn Brooks-LaSure; Adora Andy**Subject:** Newsweek: Steven Chu, Lisa Jackson #2 on Newsweek's 10 Most important People in 2010

Link here:

<http://2010.newsweek.com/top-10/people-to-watch/steven-chu-and-lisa-jackson.html>

# Steven Chu and Lisa Jackson

By Newsweek

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01268-EPA-499

Arvin Ganesan/DC/USEPA/US

To David McIntosh

12/23/2009 01:45 PM

cc brooks-lasure.allyn, fulton.scott, heinzerling.lisa, mccarthy.gina, oster.seth, perciasepe.bob, thompspn.diane, windsor.richard

bcc

Subject Re: Fw: Floor Update Agreement on Health Care, Debt Limit, and Beverly Martin, US Circuit Judge

Ex. 5 - Deliberative  
[Redacted]

[Redacted]

-----  
ARVIN R. GANESAN  
Deputy Associate Administrator  
Congressional Affairs  
Office of the Administrator  
United States Environmental Protection Agency  
Ganesan.Arvin@epa.gov  
(p) 202.564.5200  
(f) 202.501.1519

David McIntosh FYI. [Redacted] (b)(5) deliberative 12/22/2009 03:52:38 PM

From: David McIntosh/DC/USEPA/US  
To: windsor.richard@epa.gov, thompspn.diane@epa.gov, fulton.scott@epa.gov, ganesan.arvin@epa.gov, oster.seth@epa.gov, mccarthy.gina@epa.gov, heinzerling.lisa@epa.gov, brooks-lasure.allyn@epa.gov, perciasepe.bob@epa.gov  
Date: 12/22/2009 03:52 PM  
Subject: Fw: Floor Update Agreement on Health Care, Debt Limit, and Beverly Martin, US Circuit Judge

FYI. [Redacted] (b)(5) deliberative One piece of it is that the Murkowski anti-endangerment measure will actually receive a vote on January 20 as an amendment to the bill to lift the debt ceiling. The amendment will need 60 votes in order to be adopted. [Redacted] (b)(5) deliberative

[Redacted]

----- Forwarded by David McIntosh/DC/USEPA/US on 12/22/2009 03:47 PM -----

From: "Miller, Chris (Reid)" <Chris\_Miller@reid.senate.gov>  
To: David McIntosh/DC/USEPA/US@EPA  
Date: 12/22/2009 03:38 PM  
Subject: Fw: Floor Update Agreement on Health Care, Debt Limit, and Beverly Martin, US Circuit Judge

This will be ugly

-----  
Sent from my BlackBerry Wireless Handheld

**From:** Engle, Tricia (DPC) <Tricia\_Engle@DPC.SENATE.GOV>  
**To:** D-FLOOR@LISTSERV.SENATE.GOV <D-FLOOR@LISTSERV.SENATE.GOV>  
**Sent:** Tue Dec 22 15:33:03 2009  
**Subject:** Floor Update Agreement on Health Care, Debt Limit, and Beverly Martin, US Circuit Judge

The Senate has entered into the following agreement:

**If cloture is invoked on HR 3590 tomorrow, all post-cloture debate time will be considered expired at 8:00am Thursday, December 24 and the Senate will proceed to vote on passage of the bill, as amended.**

*Please note, that this agreement is in addition to the votes with respect to points of order, adoption of the Reid Substitute amendment, and cloture on the underlying bill. Those votes are expected to begin at approximately 3:20pm tomorrow, Wednesday, December 23 .*

Upon disposition of HR 3590, the Senate will proceed to the immediate consideration of **H.R. 4314, an act to permit continued financing of government operations, with no amendments in order. The Senate will then proceed to vote on passage of the bill.** Passage of HR 4314 will require 60-affirmative votes.

**Therefore, there will be 2 votes at 8am Thursday, December 24:**

- **Passage of HR 3590, as amended**
- **Passage of HR 4314, government operations (60 vote threshold)**

**On Wednesday, January 20, 2010, at a time to be determined by the Majority Leader, following consultation with the Republican Leader, the Finance Committee will be discharged of H.J.Res. 45, Increasing the statutory limit on the public debt, and the Senate will proceed to the measure.** Senator Reid or his designee will be recognized to offer a substitute amendment. The following are the only amendments in order to the joint resolution:

- Thune-TARP
- Murkowski-Endangerment EPA regs
- Coburn-Rescission package
- Sessions-spending caps
- McConnell-relevant to any on list
- Reid-relevant to any on list
- Reid-paygo
- Baucus-3 relevant to any on list
- Conrad-Gregg-fiscal task force

Each of the listed amendments will be subject to an affirmative 60-vote threshold. Upon disposition of all amendments, the substitute amendment, as amended, if amended, will be agreed to; the joint resolution, as amended, will be read a third time and the Senate then proceed to vote on passage, with passage subject to a 60-vote threshold.

**Further, on Wednesday, January 21, 2010, after a period of morning business, the Senate will proceed to Executive Session to consider the nomination of Beverly Martin to be a U.S. Circuit Judge for the 11<sup>th</sup> Circuit.** There will be 60 minutes of debate with respect to the nomination with the time equally divided

and controlled between Senators Leahy and Sessions or their designees. Upon the use or yielding back of time, the Senate will proceed to vote on confirmation of the nomination.

01268-EPA-500

**Barbara  
Bennett/DC/USEPA/US**  
12/23/2009 03:51 PM

To Bob Perciasepe, Richard Windsor  
cc Diane Thompson, Scott Fulton  
bcc

Subject Re: Draft email to Orszag and Nabors - Edits after discussion

I like this version. Blackberry friendly.  
Bob Perciasepe

Ex. 5 - Deliberative

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

**From:** Bob Perciasepe  
**Sent:** 12/23/2009 03:28 PM EST  
**To:** Richard Windsor; Barbara Bennett  
**Cc:** Diane Thompson; Scott Fulton  
**Subject:** Draft email to Orszag and Nabors - Edits after discussion

Another draft -----

-----

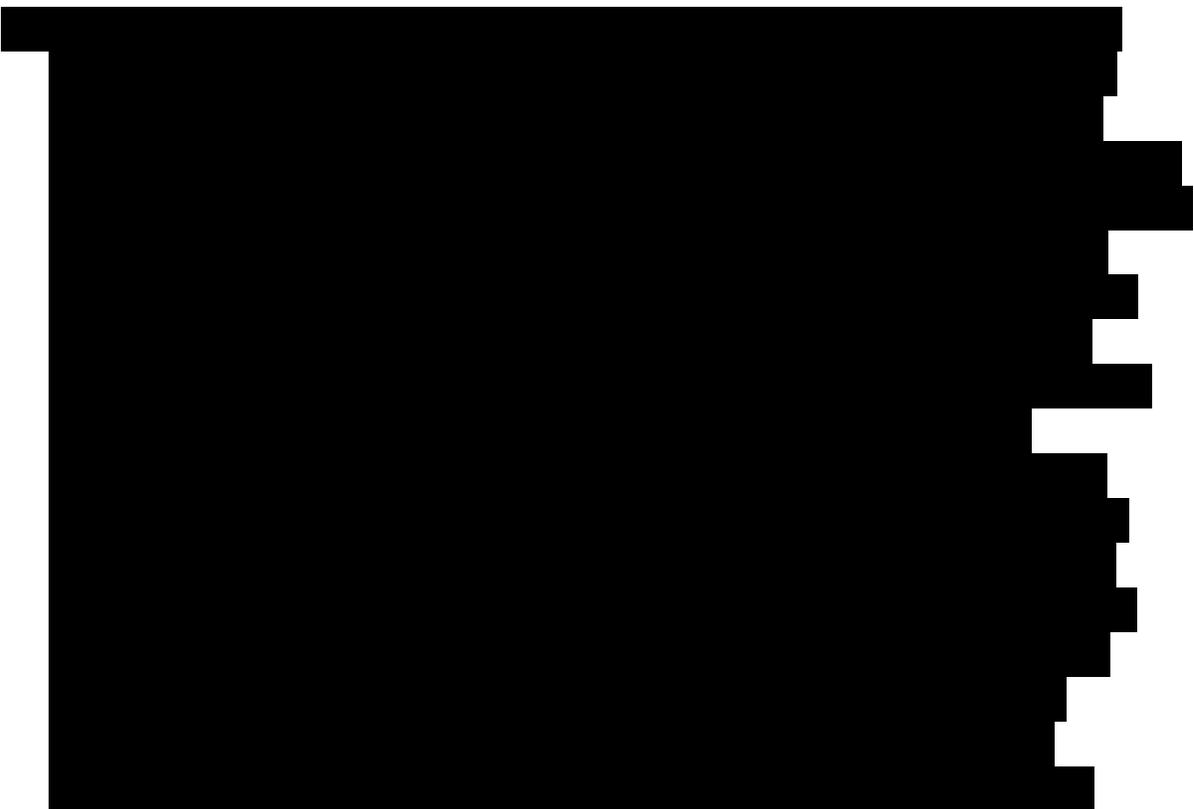
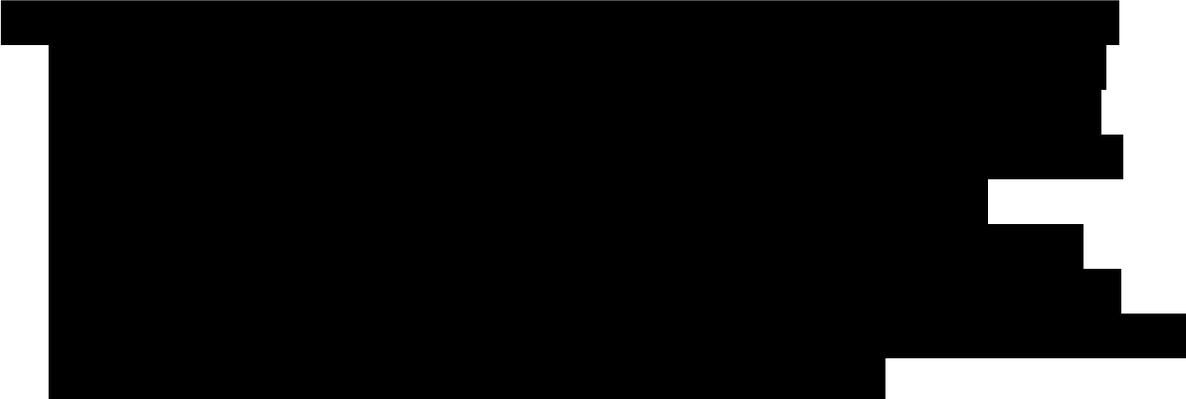
Ex. 5 - Deliberative

[Redacted]

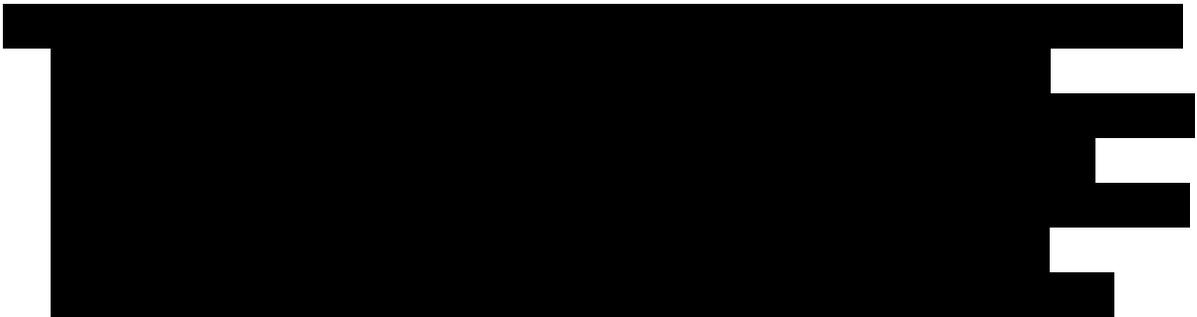
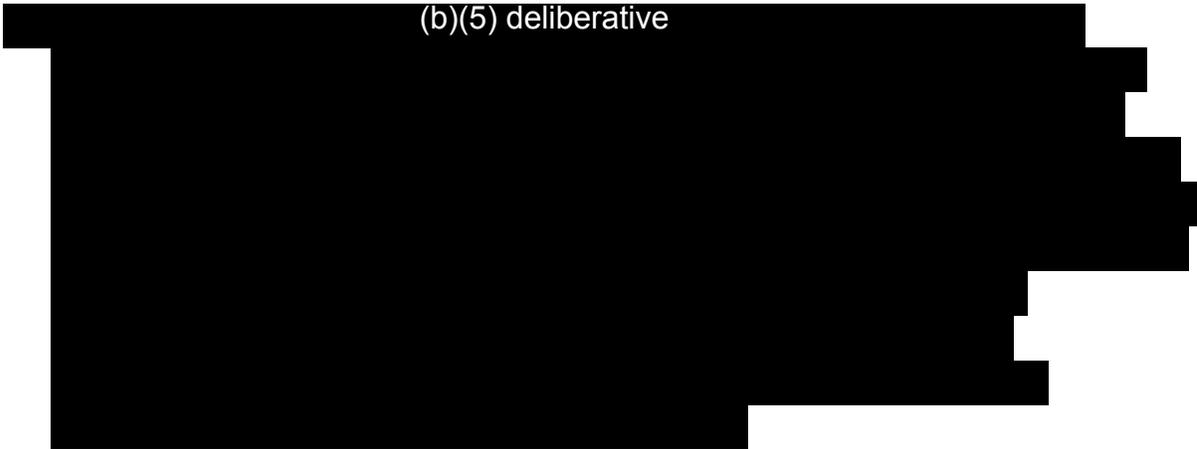
[Redacted]

[Redacted]

Ex. 5 - Deliberative



(b)(5) deliberative



Lisa

01268-EPA-501

Scott Fulton/DC/USEPA/US

To "Richard Windsor"

12/23/2009 04:03 PM

cc "Bob Perciasepe", "Diane Thompson"

bcc

Subject

Good note. I picked up a few typos, fixed in the version below.

Ex. 5 -

[Redacted]

[Redacted]

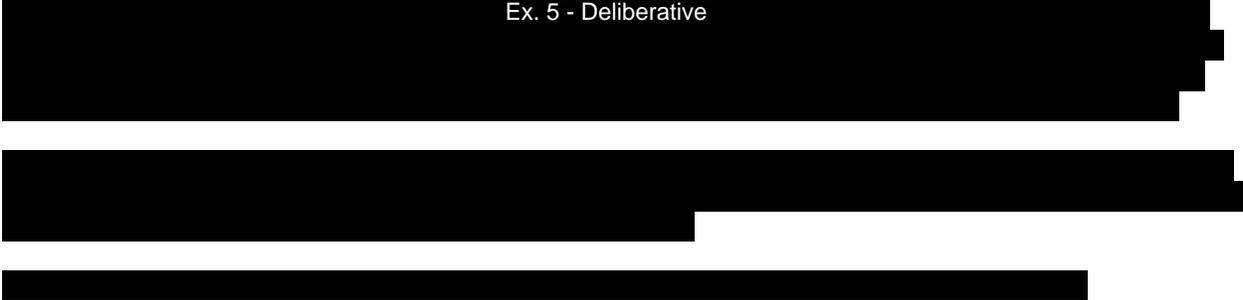
[Redacted]

[Redacted]

[Redacted]

[Redacted]

Ex. 5 - Deliberative



Lisa

01268-EPA-506

**Daniel  
Gerasimowicz/DC/USEPA/US**  
12/30/2009 12:13 PM

To  
cc  
bcc

Subject Coal Ash Meeting

**Meeting**

Date 01/06/2010  
Time 02:00:00 PM to 03:00:00 PM  
Chair Daniel Gerasimowicz  
Invitees  
Required  
Optional  
FYI  
Location Bullet Room

Ct: Georgia Bednar (OA) 564-9816

Ct: Lisa Evans (EarthJustice) **Ex.6 - Privacy**

Staff:

Bob Sussman, Bob Perciasepe, Diane Thompson (OA)  
Mathy Stanislaus, Lisa Feldt, Barry Breen, Matt Hale, Matt Straus (OSWER)  
Mary-Kay Lynch, Laurel Celeste (OGC)  
Stephanie Owens (OPA)

Attendees:

Lisa Evans, Senior Administrative Counsel - EarthJustice

Marty Hayden, Vice President of Policy and Litigation - EarthJustice

Eric Schaeffer, Executive Director - Environmental Integrity Project (EIP)

Jeffrey Stant, Director of the Coal Combustion Waste Program- EIP

Bruce Nilles, Director of the Beyond Coal Campaign - Sierra Club

Mary Anne Hitt, Deputy Director of the Beyond Coal Campaign - Sierra Club

Scott Slesinger, Legislative Director - Natural Resources Defense Council

Patrice Simms, Assistant Professor of Environmental Law - Howard University

Jackie Kruszewski, Legislative Associate - Southern Environmental Law Center (SELC)

01268-EPA-507

**Daniel**  
**Gerasimowicz/DC/USEPA/US**  
01/04/2010 10:14 AM

To  
cc  
bcc

Subject Call with Steve Lear of Arch Coal

**Meeting**

Date 01/04/2010  
Time 01:00:00 PM to 01:15:00 PM  
Chair Daniel Gerasimowicz

Invitees  
Required  
Optional  
FYI

Location Administrator's Office

Ct: Jonna (Lear's Office [REDACTED] Ex.6 - Privacy)

The Administrator will call Mr. Lear [REDACTED] Ex.6 - Privacy

01268-EPA-508

Arvin Ganesan/DC/USEPA/US

To Bob Sussman, Richard Windsor, Seth Oster

01/05/2010 07:28 AM

cc

bcc

Subject Re: Fw: Senator Byrd

Ex. 5 - Deliberative

Sent from my Blackberry Wireless Device  
Bob Sussman

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

**From:** Bob Sussman

**Sent:** 01/05/2010 06:56 AM EST

**To:** Richard Windsor; Arvin Ganesan; Seth Oster

**Subject:** Re: Fw: Senator Byrd

Ex. 5 - Deliberative

Richard Windsor

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

**From:** Richard Windsor

**Sent:** 01/05/2010 06:50 AM EST

**To:** Bob Sussman; Arvin Ganesan; Seth Oster

**Subject:** Re: Fw: Senator Byrd

Ex. 5 - Deliberative

Bob Sussman

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

**From:** Bob Sussman

**Sent:** 01/05/2010 06:41 AM EST

**To:** Richard Windsor; Arvin Ganesan; Seth Oster

**Subject:** Fw: Fw: Senator Byrd

Ex. 5 - Deliberative

Bob Sussman

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

**From:** Bob Sussman

**Sent:** 01/05/2010 06:36 AM EST

**To:** Shawn Garvin; Arvin Ganesan

**Cc:** Gregory Peck; Seth Oster

**Subject:** Re: Fw: Senator Byrd

Ex. 5 - Deliberative

Shawn Garvin

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

**From:** Shawn Garvin  
**Sent:** 01/04/2010 10:52 PM EST  
**To:** Bob Sussman; Arvin Ganesan  
**Cc:** Gregory Peck; Seth Oster  
**Subject:** Re: Fw: Senator Byrd

Ex. 5 - Deliberative  
[Redacted]

Sent by EPA Wireless E-Mail Services  
Bob Sussman

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

**From:** Bob Sussman  
**Sent:** 01/04/2010 06:57 PM EST  
**To:** Arvin Ganesan  
**Cc:** Gregory Peck; Seth Oster; Shawn Garvin  
**Subject:** Re: Fw: Senator Byrd

Ex. 5 - Deliberative  
[Redacted]

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

Arvin Ganesan Ex. 5 - Deliberative 01/04/2010 06:53:58 PM

**From:** Arvin Ganesan/DC/USEPA/US  
**To:** Bob Sussman/DC/USEPA/US@EPA  
**Cc:** Gregory Peck/DC/USEPA/US@EPA, "Seth Oster" <Oster.Seth@epamail.epa.gov>, Shawn Garvin/R3/USEPA/US@EPA  
**Date:** 01/04/2010 06:53 PM  
**Subject:** Re: Fw: Senator Byrd

Ex. 5 - Deliberative  
[Redacted]

-----  
ARVIN R. GANESAN  
Deputy Associate Administrator  
Congressional Affairs  
Office of the Administrator  
United States Environmental Protection Agency  
Ganesan.Arvin@epa.gov  
(p) 202.564.5200  
(f) 202.501.1519

Bob Sussman Ex. 5 - Deliberative 01/04/2010 06:49:57 PM

**From:** Bob Sussman/DC/USEPA/US  
**To:** Shawn Garvin/R3/USEPA/US@EPA  
**Cc:** "Arvin Ganesan" <Ganesan.Arvin@epamail.epa.gov>, "Seth Oster" <Oster.Seth@epamail.epa.gov>, Gregory Peck/DC/USEPA/US@EPA

Date: 01/04/2010 06:49 PM  
Subject: Re: Fw: Senator Byrd

Ex. 5 - Deliberative

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

Shawn Garvin Ex. 5 - Deliberative 01/04/2010 04:31:22 PM

From: Shawn Garvin/R3/USEPA/US  
To: "Arvin Ganesan" <Ganesan.Arvin@epamail.epa.gov>  
Cc: "Seth Oster" <Oster.Seth@epamail.epa.gov>, "Bob Sussman" <Sussman.Bob@epamail.epa.gov>  
Date: 01/04/2010 04:31 PM  
Subject: Fw: Senator Byrd

Ex. 5 - Deliberative

Thank you - Shawn

Sent by EPA Wireless E-Mail Services  
Jeffrey Lapp

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

**From:** Jeffrey Lapp  
**Sent:** 01/04/2010 04:27 PM EST  
**To:** Shawn Garvin  
**Cc:** Jessica Greathouse; John Pomponio  
**Subject:** Re: Senator Byrd

Shawn -  
As requested:

Ex. 5 - Deliberative

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Take Care,  
Jeff

Shawn Garvin

Ex. 5 - Deliberative

01/04/2010 04:09:01 PM

Shawn Garvin/R3/USEPA/US

01/04/2010 04:08 PM

To "Jeffrey Lapp" <Lapp.Jeffrey@epamail.epa.gov>, "Jessica Greathouse" <Greathouse.Jessica@epamail.epa.gov>

cc

Subject Senator Byrd

Ex. 5 - Deliberative

Sent by EPA Wireless E-Mail Services

01268-EPA-509

Seth Oster/DC/USEPA/US  
01/05/2010 07:47 PM

To Bob Sussman  
cc Arvin Ganesan, Richard Windsor  
bcc  
Subject Re: Fw: Environ Community PR

Ex. 5 - Deliberative  
[Redacted]

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

Bob Sussman

Ex. 5 - Deliberative

01/05/2010 07:42:23 PM

From: Bob Sussman/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA  
Cc: Seth Oster/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA  
Date: 01/05/2010 07:42 PM  
Subject: Fw: Environ Community PR

Ex. 5 - Deliberative  
[Redacted]

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency  
----- Forwarded by Bob Sussman/DC/USEPA/US on 01/05/2010 07:39 PM -----

From: Gregory Peck/DC/USEPA/US  
To: Bob Sussman/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Shawn Garvin/R3/USEPA/US@EPA, Early.William@epamail.epa.gov, Seth Oster/DC/USEPA/US@EPA, Adora Andy/DC/USEPA/US@EPA  
Date: 01/05/2010 04:35 PM  
Subject: Environ Community PR

**FOR IMMEDIATE RELEASE** – January 5, 2010

**Contacts:**

- Janet Keating, Ohio Valley Environmental Coalition, (304) 522-0246
- Judy Bonds, Coal River Mountain Watch, (304) 854-2182
- Cindy Rank, West Virginia Highlands Conservancy, (304) 924-5802
- Raviya Ismail, Earthjustice, (202) 667-4500 x221
- Joe Lovett, Appalachian Center for the Economy & the Environment, (304) 645-9006
- Oliver Bernstein, Sierra Club, (512) 477-2152

## **Environmental Protection Agency Approves Permit for Controversial WV Mountaintop Removal Coal Mine**

### **Decision opens the door for more destruction in Appalachia**

**Charleston, West Virginia** – Today the U.S. Environmental Protection Agency (EPA) announced that it would sign off on a Clean Water Act permit for Patriot Coal Corp.'s Hobet 45 mountaintop removal coal mine in Lincoln County, West Virginia. This controversial permit now goes to the Army Corps of Engineers, which issues such permits.

This decision highlights the urgent need for the U.S. EPA to protect streams from mining waste by revising Clean Water Act regulations gutted by the Bush Administration. The Sierra Club and other national and local environmental groups encourage the Obama Administration to begin a rulemaking to exclude mining waste from the definition of 'fill' as a material that can be dumped in waters of the United States.

This decision marks the first mountaintop removal mining permit to move forward of those mining permits the agency earlier identified in 2009 as needing additional attention.

"Sadly, the coal industry's undue influence over decision-makers has traded people's health, communities, and water for profit," said **Janet Keating, Executive Director of the Ohio Valley Environmental Coalition**. "We're shooting ourselves in the future. After all the coal has been mined, what kind of economic development can happen when the water is unfit to drink and people have been driven away?"

The permit would allow Patriot to mine through more than three miles of streams, and to add millions of cubic yards of fill to existing valley fills offsite.

"We, the affected citizens that are living with the impacts of this destructive mining practice, pray that this decision is not a preview of other destructive mining permits being approved," said **Judy Bonds with Coal River Mountain Watch**. "We certainly hope this is the last destructive permit approved that will allow the coal industry to continue to blast our homes and pollute our streams."

In 2009 the EPA announced that it would conduct an enhanced review of dozens of permits to fill and otherwise destroy streams for mountaintop removal coal mining, including the Hobet 45 permit.

"Allowing this newest addition to the over 25 square miles of devastation at the Hobet complex to proceed makes one seriously question if EPA is truly interested in making a real difference," said **Cindy Rank, chair of the mining committee at West Virginia Highlands Conservancy**.

"While we understand that this short term deal means more mining and destruction but also the extension of employment to mine workers, we know that mountaintop removal coal mining is not a long-term economic strategy for Appalachia," said **Bill Price, environmental justice organizer for the Sierra Club in West Virginia**. "As Senator Byrd of West Virginia said last month, it is mechanization and the demand for coal that have eliminated jobs in West Virginia, and it's time to adapt to change and to embrace clean energy solutions."

Even with these alterations, the Hobet 45 mine would still have unacceptable adverse impacts on local

waterways and therefore violates the Clean Water Act. Mining companies have already buried close to 2,000 miles of Appalachian streams beneath piles of toxic waste and debris. Entire communities have been permanently displaced by mines the size of Manhattan.

"The Obama administration rings in the new year by allowing coal companies to bury more miles of streams," said **Joan Mulhern, senior legislative counsel for Earthjustice**. "There is no excuse for approving this permit when the science is clear that mountaintop removal coal mining permanently destroys streams. The administration claims to be making progress on mountaintop removal, but in reality they are still following the flawed policies put in place by the Bush administration. It is time for them to make a commitment to ending this abominable practice."

---

Gregory E. Peck  
Chief of Staff  
Office of Water  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

202-564-5778

01268-EPA-510

**Daniel  
Gerasimowicz/DC/USEPA/US**  
01/06/2010 09:55 AM

To  
cc  
bcc

Subject Meeting with Teresa Ribera, Spanish Secretary of State for  
Climate Change

**Meeting**

Date 01/26/2010  
Time 03:00:00 PM to 03:45:00 PM  
Chair Daniel Gerasimowicz  
Invitees  
Required  
Optional  
FYI  
Location Bullet Room

Ct: Almudena Rodriguez Sanchez-Beato (Embassy of Spain) **Ex.6 - Privacy**

Topic: Climate Change

Staff:

Michelle DePass, Shalini Vajjhala, Gary Waxmonsky (OIA)  
Gina McCarthy, Janet McCabe, Joe Goffman, Brian McLean (OAR)

Attendees:

Secretary Ribera

Jorge Dezcallar. Ambassador of Spain

Angelos Pangratis. Acting Head of Delegation of the European Union to the USA

Pedro Huarte. Policy Advisor to Spanish Secretary of State for Climate Change.

01268-EPA-512

**Seth Oster/DC/USEPA/US**

01/07/2010 10:33 AM

To Richard Windsor

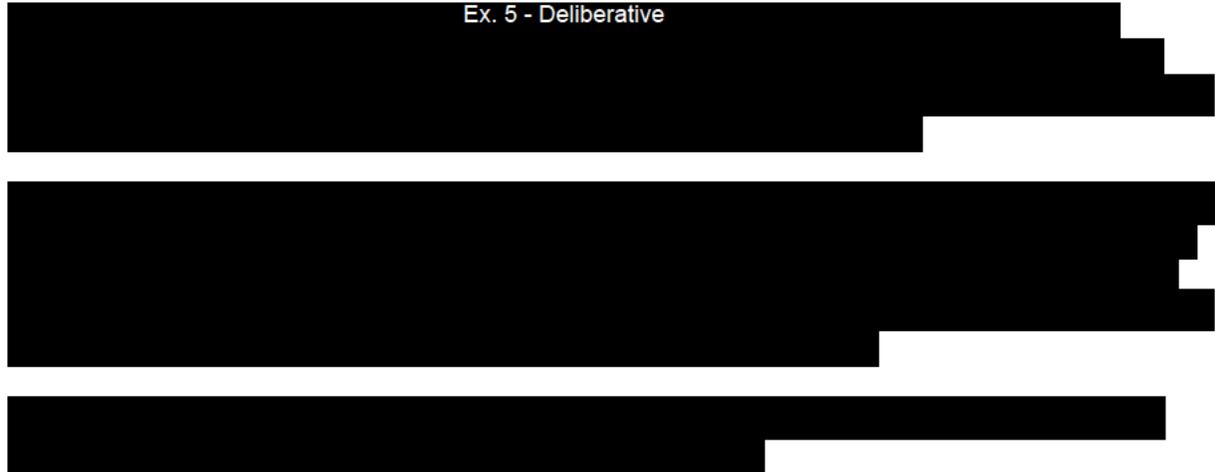
cc

bcc

Subject FOR APPROVAL -- Statement Reacting to West Virginia

**STATEMENT FROM EPA ADMINISTRATOR LISA P. JACKSON**

Ex. 5 - Deliberative



Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

01268-EPA-513

**Seth Oster/DC/USEPA/US**  
01/07/2010 10:59 AM

To Richard Windsor  
cc David McIntosh, Marcus McClendon  
bcc  
Subject AMENDED -- REVIEW THIS VERSION -- REACTION TO W.  
VIRGINIA ANNOUNCEMENT

Ex. 5 - Deliberative

[Redacted]

Seth

**STATEMENT FROM EPA ADMINISTRATOR LISA P. JACKSON**

Ex. 5 - Deliberative

[Redacted]

[Redacted]

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

01268-EPA-514

**Seth Oster/DC/USEPA/US**

To Richard Windsor

01/07/2010 12:33 PM

cc

bcc

Subject NEW DRAFT -- West Virginia

**STATEMENT FROM EPA ADMINISTATOR LISA P. JACKSON**

Ex. 5 - Deliberative



Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

01268-EPA-515

Seth Oster/DC/USEPA/US  
01/07/2010 12:33 PM

To Richard Windsor  
cc  
bcc

Subject Re: AMENDED -- REVIEW THIS VERSION -- REACTION TO W. VIRGINIA ANNOUNCEMENT

Ex. 5 - Deliberative

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

Richard Windsor

Ex. 5 - Deliberative

01/07/2010 12:32:17 PM

From: Richard Windsor/DC/USEPA/US  
To: Seth Oster/DC/USEPA/US@EPA  
Date: 01/07/2010 12:32 PM  
Subject: Re: AMENDED -- REVIEW THIS VERSION -- REACTION TO W. VIRGINIA ANNOUNCEMENT

Ex. 5 - Deliberative

[Redacted]

[Redacted]

Seth Oster

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

From: Seth Oster  
Sent: 01/07/2010 10:59 AM EST  
To: Richard Windsor  
Cc: David McIntosh; Marcus McClendon  
Subject: AMENDED -- REVIEW THIS VERSION -- REACTION TO W. VIRGINIA

Ex. 5 - Deliberative

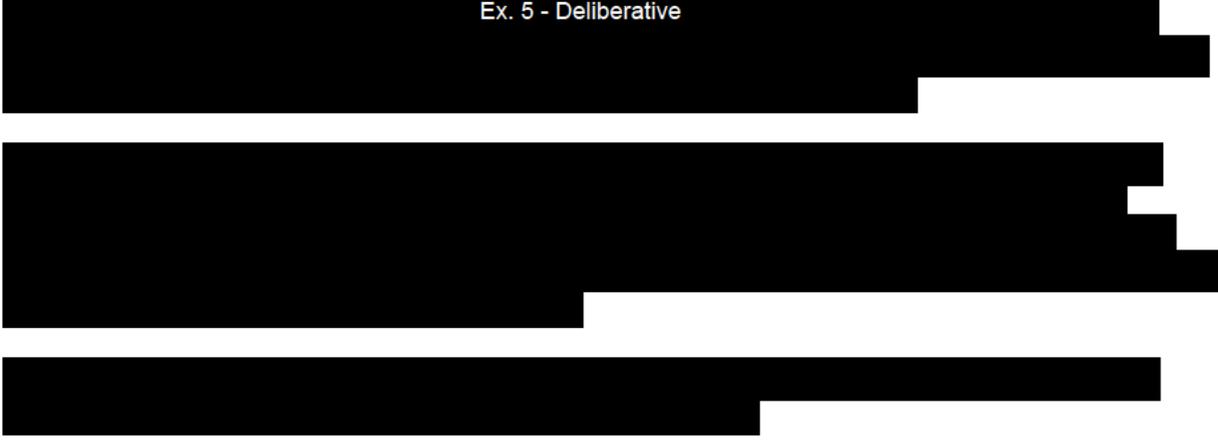
[Redacted]

Seth

STATEMENT FROM EPA ADMINISTRATOR LISA P. JACKSON

Ex. 5 - Deliberative

Ex. 5 - Deliberative



Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov

01268-EPA-516

**Seth Oster/DC/USEPA/US**  
01/07/2010 09:06 PM

To windsor.richard  
cc  
bcc

Subject MTM and West Virginia -- Draft Blog Posting or Op-ed

[Redacted] Ex. 5 - Deliberative

[Redacted]

[Redacted]

I have not shared this with others beyond my staff at this point. Wanted to get your reaction.

Seth

[Redacted] Ex. 5 - Deliberative

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Ex. 5 - Deliberative

[Redacted]

[Redacted]

[Redacted]

*Lisa P. Jackson is the Administrator of the Environmental Protection Agency*

01268-EPA-517

**Seth Oster/DC/USEPA/US**  
01/08/2010 10:05 AM

To Richard Windsor, Bob Sussman, Peter Silva, Arvin Ganesan,  
Shawn Garvin, Diane Thompson, Bob Perciasepe  
cc Allyn Brooks-LaSure, Michael Moats

bcc

Subject **MTM and Human Health - The Conclusions Reached by the  
Researcher**

Ex. 5 - Deliberative

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Seth

## **Scientists say mountaintop mining should be stopped**

By David A. Fahrenthold  
Washington Post Staff Writer  
Friday, January 8, 2010; A03

Mountaintop coal mining -- in which Appalachian peaks are blasted off and stream valleys buried under tons of rubble -- is so destructive that the government should stop giving out new permits to do it, a group of scientists said in a paper released Thursday.

The group, headed by a University of Maryland researcher, said it performed the most comprehensive study to date of the controversial practice, also known as "mountaintop removal."

Afterward, they did something that scientists usually don't: step beyond data-gathering to take a

political stand.

"The science is so overwhelming that the only conclusion that one can reach is that mountaintop mining needs to be stopped," said Margaret Palmer, a professor at the University of Maryland Center for Environmental Sciences and the study's lead author.

The group's paper, published in the journal *Science*, was released in the same week that the U.S. Environmental Protection Agency -- which has been scrutinizing these mines -- angered environmentalists by supporting a new mine permit. The EPA [said](#) the Hobet 45 mine, in West Virginia, had made changes that would eliminate nearly 50 percent of the environmental impacts and protect 460 union mining jobs.

Palmer said the group's work did not echo the idea implicit in this EPA decision: that there could be a "good" mountaintop mine, whose environmental consequences were acceptable.

"The science is clearly against that," she said. Later in the day, the EPA issued a statement saying that the report "underscores EPA's own scientific analysis regarding the substantial environmental, water and health impacts" of these mines.

Chris Hamilton of the West Virginia Coal Association disputed the report's conclusions.

"It's just flat-out wrong," Hamilton said, adding that the "so-called lead scientists have a history of activism against mining."

The scientists rejected that, saying that they brought no bias to the topic and that their conclusions had been rigorously reviewed by other researchers.

Hamilton said that after a mountaintop mine is finished, the damage to nearby streams is usually "very short-term" -- not lasting more than 18 months.

But in their report, the scientists said the damage could last hundreds or even thousands of years.

"It obliterates stream ecosystems," said Emily Bernhardt, a professor of biology at Duke University and a co-author of the study. She said 1,500 miles of streams had been destroyed so far. "They've been wiped from the landscape."

Mountaintop mining occurs mainly in West Virginia and Kentucky, though there also are mines in far-Southwest Virginia and in Tennessee. At these sites, peaks are sheared off with heavy machinery and explosives, exposing the coal seams inside. Excess rock is used to fill steep Appalachian valleys, some with streams at the bottom, to the brim.

That jumbled rock is the problem, the scientists said. When rainwater falls on the filled-in valley, it trickles through the rubble and picks up pollutants off rocks that came from deep underground. The water emerges, they said, imbued with pollutants such as metals and chemicals called sulfates, which can be toxic to the insects and fish in small Appalachian streams.

"To us, it's like smoking and cancer. It's just so clear-cut" that streams below mine sites are left damaged, Palmer said.

The study also linked mountaintop mining to threats to human health, citing potentially toxic dust in the air, well water contaminated with chemicals from mines and fish tainted with toxic metals.

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
oster.seth@epa.gov