

01268-EPA-3825

Richard Windsor/DC/USEPA/US
04/29/2010 09:26 PM

To Craig Hooks
cc
bcc

Subject Re: TIME 100: Lisa P. Jackson

Tx. It is cool!
Craig Hooks

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

From: Craig Hooks
Sent: 04/29/2010 09:25 PM EDT
To: "Richard Windsor" <windsor.richard@epa.gov>
Subject: Fw: TIME 100: Lisa P. Jackson

I'm so very happy and proud of you and to work for you. This is too cool!

(b) (6) Privacy

Betsaida Alcantara

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

From: Betsaida Alcantara
Sent: 04/29/2010 01:52 PM EDT
To: Betsaida Alcantara <alcantara.betsaida@epa.gov>
Subject: TIME 100: Lisa P. Jackson

Team,

As some of you may already know, today our boss was named by Time Magazine as one of the 100 Most Influential People in the world.

Below is the link to the article as well as a statement from the Administrator responding to the requests we've received for her feelings on this honor.

"Being one of Time's 100 Most Influential people is an incredible honor. More than anything else, it's an acknowledgement of the people at the Environmental Protection Agency and their contribution to the lives of 300 million Americans and counting. It's a special privilege to be at EPA 40 years after it was created to protect our health and our environment, and to build on the history of healthier families, cleaner communities and a stronger America. We're also called to address new challenges -- to expand our conversation and fight for environmental justice; to modernize laws that ensure the safety of the chemicals all around us; and to confront climate change with clean energy innovation. As always, our influence and our success will be measured by the difference we make for all Americans, today and in the generations to come."

THINKERS - TIME 100

http://www.time.com/time/specials/packages/article/0,28804,1984685_1984745_1985493,00.html

Lisa Jackson

By William D. Ruckelshaus

Thursday, Apr. 29, 2010



Lisa Jackson is doing exactly what an Environmental Protection Agency Administrator is supposed to do – thoughtfully and carefully but aggressively implementing our environmental laws to protect public health and our environment. The job of the EPA Administrator is not to make people happy but to make them and their environment healthier.

She arrives equipped with a rare combination of assets to help her do her job: in equal measure, experience, fairness, sure-footedness, determination and the ability to sound a credible and measured voice in defense of citizens' rights to fresh air, clean water and a stable climate.

A chemist by training, Jackson, 48, grew up in New Orleans, went to Tulane and Princeton and spent 16 years at the EPA before becoming New Jersey's environmental commissioner. She inherited an EPA suffering from a reputation as a political wind sock. It is tempting to conclude that the EPA's authority is drawn primarily from its regulatory power, as indeed much of it is. But Jackson has correctly sensed that restoring public trust in the agency is essential. In this era of growing public mistrust of government, that same public – as well as states, industry, small businesses and, importantly, EPA staff – must have confidence that decisions are being driven by science and an unbiased interpretation of the law, and not a political agenda. Jackson is inspiring this kind of confidence.

Ruckelshaus was the EPA Administrator from 1970 to '73 and 1983 to '85

Read more:

http://www.time.com/time/specials/packages/article/0,28804,1984685_1984745_1985493,00.html#ixzz0mUgfdlqy

01268-EPA-3826

Bob Sussman/DC/USEPA/US

To Richard Windsor, Bob Perciasepe

04/30/2010 03:58 PM

cc Seth Oster

bcc

Subject Fw: NRDC Earth Justice Sierra Club Release on Boilers

(b)(5) Deliberative

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

From: Andrea Drinkard/DC/USEPA/US
To: "Janet McCabe" <McCabe.Janet@epamail.epa.gov>, "Lisa Feldt" <Feldt.Lisa@epamail.epa.gov>
Date: 04/30/2010 02:59 PM
Subject: NRDC Earth Justice Sierra Club Release

EPA Cracks Down on Toxic Air Pollution

New rules will dramatically cut toxic air pollution, but potential exemptions leave many communities vulnerable

Washington, DC - Three years after environmental groups blocked the Bush administration's attempt to deregulate toxic emissions from industrial incinerators, boilers and process heaters, the Obama administration has proposed strong new replacement rules <<http://yosemite.epa.gov/opa/admpress.nsf/0/74EF19CE603F20548525771500507938>>today. The new rules will substantially reduce emissions of hazardous air pollutants and the risk of serious health effects like cancer, reproductive disorders, and birth defects in communities across the country.

The rules will require significant pollution reductions at an estimated 14,000 boilers at 1,600 facilities, and are expected to prevent between 2,000 and 5,000 premature deaths every year, 1,300 chronic bronchitis cases, 3,200 hospital emergency room visits, 33,000 cases of aggravated asthma and 70,000 missed days of work. The rules will cut hundreds of tons of toxic metals emitted by industrial boilers and process heaters including emissions of lead, arsenic, and chromium, all of which are associated with cancer and other serious adverse health effects. They will also reduce nationwide emissions of mercury - an extremely potent neurotoxin that can cause developmental defects in unborn babies and young children - by 8 tons per year, approximately 75 percent.

"These reductions are excellent news for communities across the country," said Earthjustice attorney James Pew. "The toxic pollution from these uncontrolled boilers has gone on for far too long, and EPA Administrator Lisa Jackson has shown a real commitment to public health by acting to clean them up at last."

"Emission reductions at boilers and incinerators are an important environmental justice victory because they will reduce toxic air pollution in communities where the impacts are most severe," said Jane Williams, chair of the Sierra Club's Air Toxics Taskforce.

"This is a positive development, especially for students at the more than 60 colleges that still have coal boilers on campus. The requirement to clean up these aging boilers provides even greater incentive for transitioning to cleaner energy options that will really benefit the students and the surrounding communities," said Kim Teplitzky who leads the Sierra Club's Campuses Beyond Coal Campaign.

EPA also proposed a related rule to define non-hazardous solid waste. Industry groups have long pushed

for a narrow definition rule that would allow thousands of facilities that burn spent chemicals and solvents, scrap tires, scrap plastics, industrial sludges, and used oil to avoid pollution control requirements. Although today's proposal would limit this loophole to facilities that burn their own wastes on site, it is likely that thousands of such facilities are currently operating. The proposal would allow these facilities to emit toxic pollution without limit and would prevent citizens from learning either the identity or quantity of the toxins to which they are exposed.

"We are deeply concerned that EPA has not scrapped this Bush-era loophole altogether," said Pew.

However, EPA left open the possibility that it will change course and close the loophole.

"EPA is now at a crossroads," said Eric Schaeffer, director of the Environmental Integrity Project. "The agency can move forward to protect all the communities that face toxic pollution from waste burning or it can return to a Bush-era policy of granting pollution control exemptions at the cost of families' safety. We know this Administrator understands communities' need for protection from toxic pollution and we are confident she will get the final decision right."

"Today's rules promise to be among the most protective, cost-effective clean air rules adopted by the Obama EPA," said John Walke, Clean Air Director for the Natural Resources Defense Council. "To be sure, the rules need strengthening in places to satisfy the law and public health needs; but EPA deserves credit for cutting dangerous air pollution and making us all safer."

###

01268-EPA-3827

**David
McIntosh/DC/USEPA/US**
05/04/2010 09:11 AM

To windsor.richard
cc ganesan.arvin, thompson.diane, ellis.heidi, dickerson.aaron
bcc
Subject Boxer would indeed like to hear from you at 10 today about
coal ash

Arvin and Aaron, the number to dial appears below.

----- Original Message -----
From: "Poirier, Bettina (EPW)" [Bettina_Poirier@epw.senate.gov]
Sent: 05/04/2010 09:07 AM AST
To: David McIntosh
Subject: Just talked to boxer-

She would like to try to talk to the administrator at 10. Try paul at
(b)(6) -she will try to be available at that time.

01268-EPA-3830

Bob Sussman/DC/USEPA/US

05/04/2010 02:16 PM

To Adora Andy, Richard Windsor, Seth Oster, Allyn Brooks-LaSure, Mathy Stanislaus, Lisa Feldt, Stephanie Owens, Diane Thompson, Bob Perciasepe
 cc Betsaida Alcantara, Brendan Gilfillan, Michael Moats, Alisha Johnson, Vicki Ekstrom, Dru Ealons
 bcc

Subject Re: KEN WARD BLOG: Obama EPA punts on coal ash regulations

(b)(5) Deliberative

Adora Andy

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

From: Adora Andy**Sent:** 05/04/2010 02:03 PM EDT**To:** Richard Windsor; Seth Oster; Allyn Brooks-LaSure; Bob Sussman; Mathy Stanislaus; Lisa Feldt; Stephanie Owens; Diane Thompson; Bob Perciasepe**Cc:** Betsaida Alcantara; Brendan Gilfillan; Michael Moats; Alisha Johnson; Michael Moats; Vicki Ekstrom; Dru Ealons**Subject:** KEN WARD BLOG: Obama EPA punts on coal ash regulations

Obama EPA punts on coal ash regulations

May 4, 2010 by Ken Ward Jr.

U.S. Environmental Protection Agency officials just finished their phone-in press conference to announce their [new rules](#) **from coal-fired power plants.**

In its [press release](#), EPA describes its action this way:

The U.S. Environmental Protection Agency today is proposing the first-ever national rules to ensure the safe disposal of coal ash from coal-fired power plants.

And it quotes EPA Administrator Lisa P. Jackson saying:

The time has come for common-sense national protections to ensure the safe disposal of coal ash. We're proposing stronger safeguards to reduce the risk of groundwater contamination and threats to drinking water and we're also putting in place stronger safeguards for coal ash impoundments. The health and the environment of all communities must be protected.

But after listening to the press conference, and as I read the [563-page document EPA just posted on its Web site](#), this is more than the Obama administration punting on making a decision.

As [Coal Tattoo](#) and many others in the media have reported, perhaps the most basic and important call for EPA is to use the Clean Air Act, the Clean Water Act, the Resource Conservation and Recovery Act the agency is going to use to regulate coal ash.

RCRA Subtitle D leaves many decisions to the states, while Subtitle C sets up a nationwide regulatory program. For a breakdown of the differences available online [here](#).

We're now more than 16 months since [the failure of a coal-ash impoundment at a TVA power plant in East Tennessee](#) disaster, and thrust coal-ash regulation back into the public eye. And we're five months into 2010, after EPA's [proposal by the end of 2009](#).

And in today's announcement EPA has put forth not an actual proposal ... they've put forth two proposals — one that would use Subtitle C.

Jackson told reporters that the two proposals involve “varying approaches to enforcement and oversight,” but that “at the national level.” EPA is going to accept public comment on the two approaches for 90 days, and then...

On the one hand, Jackson told reporters today's announcement is the start of “a national dialogue” on which other hand, she acknowledged there “has been lots of discussion already” and said, “EPA believes it is very important process.”

It will be interesting to see how environmental groups react now to this ... here's an initial comment from Lisa Jackson ([she prefers the tougher approach of Subtitle C](#)):

EPA's coal ash proposal is certainly a step forward. While EPA has published two options, the science and the regulation are sound. Only hazardous and only hazardous waste regulations can protect communities and safeguard our drinking water. EPA should be commended for this action.

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

01268-EPA-3831

David
McIntosh/DC/USEPA/US
05/04/2010 09:44 PM

To "Bob Perciasepe", Richard Windsor, Seth Oster, Gina
McCarthy
cc
bcc
Subject Re: LA Times - Oil Spill, Climate Bill

(b)(5) Deliberative

From: Bob Perciasepe (b) (6)]
Sent: 05/04/2010 09:27 PM AST
To: Richard Windsor; Seth Oster; Gina McCarthy; David McIntosh
Subject: LA Times - Oil Spill, Climate Bill

latimes.com

Oil spill seen as energy opportunity for Obama

The disaster in the Gulf of Mexico could give the president new momentum for his stalled climate bill, environmentalists say.

By Jim Tankersley, Tribune Washington Bureau

May 5, 2010

Reporting from Washington

Some environmentalists and liberal lawmakers believe the BP oil spill has handed President Obama a significant political opportunity to renew his stalled energy and climate bill, and are urging him to push for sweeping legislation to move the country away from reliance on oil and other fossil fuels.

"He needs a response which is as big as the spill is," said Wesley Warren, program director for the Natural Resources Defense Council in Washington.

The climate bill that White House officials have been negotiating called for limited greenhouse gas emissions from power plants, transportation fuels and eventually factories. It included large incentives for drilling offshore, nuclear power plant construction and so-called "clean-coal" technology. It also would have required set levels of renewable electricity use nationwide. The bill included several sweeteners to minimize the cost for industry.

But that bill has bogged down in the Senate. And while White House officials continue to call for an energy bill this year, Obama has not publicly linked the call to the gulf spill.

Many environmentalists believe it will now be politically easier now to strengthen the clean-energy provisions of the bill and jettison industry breaks. But many longtime energy analysts say Obama's options are limited for reducing the nation's reliance on oil.

"In the near term — near term being 20 years — there is no meaningful alternative to using oil in the transportation sector" on a wide scale, said Charles Ebinger, director of the energy security initiative at the Brookings Institution.

Still, the nation's reliance on gasoline means choosing between imported oil or increased domestic production — and there, the gulf spill may have an impact.

All signs from Capitol Hill suggest that Obama's expanded drilling plans will find little support in light of the BP leak.

Environmental groups want the administration to push for enhanced oil recovery on land, especially if gasoline prices spike again and public pressure mounts for more domestic production.

Some drilling advocates are pushing the administration to keep its response to the spill narrowly focused.

"Getting to the bottom of this, considering adding safeguards, things that could prevent this spill from happening again and things getting out of hand" — those should be Obama's focus, said Ben Lieberman, an energy expert at the free-market Heritage Foundation.

Many economists say Obama's best chance to reframe the energy debate — and dramatically cut oil use — could also be the least popular—a large gasoline tax on gasoline, with the proceeds dedicated to alternative fuel research, reducing the federal budget deficit, or even refunded to consumers.

White House officials pushed back against a modest proposed fee on gasoline in negotiations over a Senate climate bill.

In an interview Tuesday, one of Obama's top energy advisors, Carol Browner, said "There's no doubt that portions of the debate are going to change" because of the gulf spill.

She added: "We want to evaluate, at the end of the day, are we doing what we can to break our dependence on foreign oil... are we putting a cap on dangerous greenhouse-gas pollution? There's more than one way to get it done."

If Obama can't sell an energy transformation after this spill, Ebinger said, "He will miss a unique opportunity to point out to the people, 'This is a situation we got ourselves into... let's not be

sitting here five to 10 years from now and be saying, we didn't do anything to address it."

jtankersley@tribune.com

01268-EPA-3832

Richard Windsor/DC/USEPA/US
05/04/2010 10:36 PM

To David McIntosh, "Bob Perciasepe", Seth Oster, Gina McCarthy
cc
bcc

Subject Re: LA Times - Oil Spill, Climate Bill

(b)(5) Deliberative

From: David McIntosh
Sent: 05/04/2010 09:44 PM EDT
To: "Bob Perciasepe" <(b)(6)>; Richard Windsor; Seth Oster; Gina McCarthy
Subject: Re: LA Times - Oil Spill, Climate Bill

(b)(5) Deliberative

From: Bob Perciasepe <(b)(6)>
Sent: 05/04/2010 09:27 PM AST
To: Richard Windsor; Seth Oster; Gina McCarthy; David McIntosh
Subject: LA Times - Oil Spill, Climate Bill

latimes.com

Oil spill seen as energy opportunity for Obama

The disaster in the Gulf of Mexico could give the president new momentum for his stalled climate bill, environmentalists say.

By Jim Tankersley, Tribune Washington Bureau

May 5, 2010

Reporting from Washington

Some environmentalists and liberal lawmakers believe the BP oil spill has handed President Obama a significant political opportunity to renew his stalled energy and climate bill, and are urging him to push for sweeping legislation to move the country away from reliance on oil and other fossil fuels.

"He needs a response which is as big as the spill is," said Wesley Warren, program director for the Natural Resources Defense Council in Washington.

The climate bill that White House officials have been negotiating called for limited greenhouse gas emissions from power plants, transportation fuels and eventually factories. It included large incentives for drilling offshore, nuclear power plant construction and so-called "clean-coal" technology. It also would have required set levels of renewable electricity use nationwide. The bill included several sweeteners to minimize the cost for industry.

But that bill has bogged down in the Senate. And while White House officials continue to call for an energy bill this year, Obama has not publicly linked the call to the gulf spill.

Many environmentalists believe it will now be politically easier now to strengthen the clean-energy provisions of the bill and jettison industry breaks. But many longtime energy analysts say Obama's options are limited for reducing the nation's reliance on oil.

"In the near term — near term being 20 years — there is no meaningful alternative to using oil in the transportation sector" on a wide scale, said Charles Ebinger, director of the energy security initiative at the Brookings Institution.

Still, the nation's reliance on gasoline means choosing between imported oil or increased domestic production — and there, the gulf spill may have an impact.

All signs from Capitol Hill suggest that Obama's expanded drilling plans will find little support in light of the BP leak.

Environmental groups want the administration to push for enhanced oil recovery on land, especially if gasoline prices spike again and public pressure mounts for more domestic production.

Some drilling advocates are pushing the administration to keep its response to the spill narrowly focused.

"Getting to the bottom of this, considering adding safeguards, things that could prevent this spill from happening again and things getting out of hand" — those should be Obama's focus, said Ben Lieberman, an energy expert at the free-market Heritage Foundation.

Many economists say Obama's best chance to reframe the energy debate — and dramatically cut oil use — could also be the least popular—a large gasoline tax on gasoline, with the proceeds dedicated to alternative fuel research, reducing the federal budget deficit, or even refunded to consumers.

White House officials pushed back against a modest proposed fee on gasoline in negotiations over a Senate climate bill.

In an interview Tuesday, one of Obama's top energy advisors, Carol Browner, said "There's no doubt that portions of the debate are going to change" because of the gulf spill.

She added: "We want to evaluate, at the end of the day, are we doing what we can to break our dependence on foreign oil... are we putting a cap on dangerous greenhouse-gas pollution? There's more than one way to get it done."

If Obama can't sell an energy transformation after this spill, Ebinger said, "He will miss a unique opportunity to point out to the people, 'This is a situation we got ourselves into... let's not be sitting here five to 10 years from now and be saying, we didn't do anything to address it.'"

jtankersley@tribune.com

01268-EPA-3837

Richard Windsor/DC/USEPA/US
05/05/2010 06:50 PM

To Bob Sussman
cc
bcc

Subject Re: Fw: In Case You did Not See the latest from Sen. Byrd

Noble

Bob Sussman	Robert M. Sussman Senior Policy Cou...	05/05/2010 06:48:42 PM
-------------	--	------------------------

From: Bob Sussman/DC/USEPA/US
To: Richard Windsor/DC/USEPA/US@EPA
Date: 05/05/2010 06:48 PM
Subject: Fw: In Case You did Not See the latest from Sen. Byrd

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 05/05/2010 06:48 PM -----

From: Gregory Peck/DC/USEPA/US
To: Nancy Stoner/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA
Cc: Denise Keehner/DC/USEPA/US@EPA, Kevin Minoli, Karyn Wendelowski/DC/USEPA/US@EPA
Date: 05/05/2010 04:38 PM
Subject: In Case You did Not See the latest from Sen. Byrd

"Our Greatest Resource"

U.S. Senator Robert C. Byrd, D-W.Va.

The recent explosion at the Upper Big Branch coal mine in my home county of Raleigh, which killed 29 West Virginians and injured 2 others, has brought West Virginia statewide sorrow and worldwide attention.

Reflecting on President John F. Kennedy's death, Robert F. Kennedy once said, "A tragedy is a tool for the living to gain wisdom."

As we seek to understand how and why the Upper Big Branch disaster occurred, we might also re-examine conventional wisdom about the future of the coal industry in our state.

Americans depend mightily on our coal to meet their energy needs. Coal is the major source of electricity in 32 states, and produces roughly half of all the electricity consumed in the United States.

As West Virginians, our birthright is coal. The ancient fossil is abundant here, and is as emblematic of our heritage and cultural identity as the black bear, the cardinal, and the rhododendron.

Indeed, the coal severance tax codifies the philosophy that the coal belongs to all West Virginians, and that they deserve meaningful compensation for its extraction. This philosophy has also been embraced nationwide, through the Black Lung Excise Tax, the Abandoned Mine Reclamation Fee, and several other existing and proposed programs that provide additional compensation to the people and places that produce our coal, oil, gas, and other energy

resources.

Coal brings much needed jobs and revenue to our economy. But the industry has a larger footprint, including inherent responsibilities that must be acknowledged by the industry.

First and foremost, the coal industry must respect the miner and his family. A single miner's life is certainly worth the expense and effort required to enhance safety. West Virginia has some of the highest quality coal in the world, and mining it should be considered a privilege, not a right. Any company that establishes a pattern of negligence resulting in injuries and death should be replaced by a company that conducts business more responsibly. No doubt many energy companies are keen for a chance to produce West Virginia coal.

The industry of coal must also respect the land that yields the coal, as well as the people who live on the land. If the process of mining destroys nearby wells and foundations, if blasting and digging and relocating streams unearths harmful elements and releases them into the environment causing illness and death, that process should be halted and the resulting hazards to the community abated.

The sovereignty of West Virginia must also be respected. The monolithic power of industry should never dominate our politics to the detriment of local communities. Our coal mining communities do not have to be marked by a lack of economic diversity and development that can potentially squelch the voice of the people. People living in coal communities deserve to have a free hand in managing their own local affairs and public policies without undue political pressure to submit to the desires of industry.

We have coal companies in West Virginia which go out of their way to operate safely and with minimal impact on our environment. Those companies should be commended and rewarded. But the coal industry has an immensely powerful lobby in Washington and in Charleston. For nearly a hundred years they have come to our presidents, our members of Congress, our legislators, our mayors, and our county commissioners to demand their priorities. It is only right that the people of West Virginia speak up and make the coal industry understand what is expected of it in return.

The old chestnut that coal is West Virginia's greatest natural resource deserves revision. I believe that our people are West Virginia's most valuable resource. We must demand to be treated as such.

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-3846

**David
McIntosh/DC/USEPA/US**
05/07/2010 01:00 PM

To Richard Windsor
cc Arvin Ganesan, Bob Perciasepe, Gina McCarthy
bcc

Subject Re: Fw: AP: Graham says 'impossible' to pass climate bill
now

(b)(5) Deliberative

Richard Windsor

----- Forwarded by Richard Windsor/D...

05/07/2010 12:57:03 PM

From: Richard Windsor/DC/USEPA/US
To: David McIntosh/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA
Date: 05/07/2010 12:57 PM
Subject: Fw: AP: Graham says 'impossible' to pass climate bill now

----- Forwarded by Richard Windsor/DC/USEPA/US on 05/07/2010 12:56 PM -----

From: Seth Oster/DC/USEPA/US
To: "Lisa Jackson" <windsor.richard@epa.gov>
Date: 05/07/2010 12:31 PM
Subject: Fw: AP: Graham says 'impossible' to pass climate bill now

Betsaida Alcantara

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

From: Betsaida Alcantara
Sent: 05/07/2010 12:29 PM EDT
To: Seth Oster; Allyn Brooks-LaSure; Adora Andy; Brendan Gilfillan; Alisha Johnson; Michael Moats; Vicki Ekstrom
Subject: AP: Graham says 'impossible' to pass climate bill now
Graham says 'impossible' to pass climate bill now

FREDERIC J. FROMMER | May 7, 2010 12:20 PM EST |

WASHINGTON — A key Republican senator negotiating with Democrats on a climate change bill said Friday it's "become impossible" to pass the legislation now because of disagreements over offshore drilling and immigration reform.

Sen. Lindsey Graham of South Carolina said that Congress needs to move forward in a political climate that gives proponents the best chance for success.

"Regrettably, in my view, this has become impossible in the current environment," he said in a statement. "I believe there could be more than 60 votes for this bipartisan concept in the future. But there are not nearly 60 votes today and I do not see them materializing until we deal with the uncertainty of the immigration debate and the consequences of the oil spill."

Sixty votes are required in the Senate to overcome filibusters.

Last month, Graham threatened to withhold his support for the climate and energy legislation because he was angry that Democrats said they would take up a rewrite of immigration policy. That forced his partners, Sen. John Kerry, D-Mass., and Joe Lieberman, I-Conn., to postpone the long-awaited unveiling of the legislation, which aims to cut emissions of carbon dioxide and other greenhouse gases 17 percent below 2005 levels by 2020.

To win over Republicans, the bill calls for expansion of offshore drilling, which some Democrats have said they now oppose because of the Gulf spill.

"Some believe the oil spill has enhanced the chances energy legislation will succeed. I do not share their view," Graham said. While he respects the positions of Democrats who don't want to see more offshore drilling, he said he still believes that it's needed for the country to become energy independent.

"When it comes to getting 60 votes for legislation that includes additional oil and gas drilling with revenue sharing, the climb has gotten steeper because of the oil spill," the senator said.

He said it makes sense to find out what happened in the Gulf spill, take steps to prevent future accidents and build a consensus for expanded offshore drilling.

Just two days ago, Graham told The Associated Press that the oil spill does not necessarily rule out passage of a comprehensive energy bill this year – although he noted it's always difficult to round up 60 votes.

Neither Kerry nor Lieberman had an immediate comment on Graham's statement. But they aren't likely to agree that it's best to wait. Kerry told an environmental gathering Wednesday that this year is "perhaps our last, best chance to pass comprehensive climate and energy legislation."

And Senate Majority Leader Harry Reid, D-Nev., told reporters this week that the oil spill should be incentive to act on legislation. "We have to take care of this issue," he said.

01268-EPA-3847

Richard Windsor/DC/USEPA/US
05/07/2010 01:00 PM

To David McIntosh
cc
bcc

Subject Re: Fw: AP: Graham says 'impossible' to pass climate bill now

:)

David McIntosh

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

From: David McIntosh
Sent: 05/07/2010 01:00 PM EDT
To: Richard Windsor
Cc: Arvin Ganesan; Bob Perciasepe; Gina McCarthy
Subject: Re: Fw: AP: Graham says 'impossible' to pass climate bill now

(b)(5) Deliberative

Richard Windsor ----- Forwarded by Richard Windsor/D... 05/07/2010 12:57:03 PM

From: Richard Windsor/DC/USEPA/US
To: David McIntosh/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA
Date: 05/07/2010 12:57 PM
Subject: Fw: AP: Graham says 'impossible' to pass climate bill now

----- Forwarded by Richard Windsor/DC/USEPA/US on 05/07/2010 12:56 PM -----

From: Seth Oster/DC/USEPA/US
To: "Lisa Jackson" <windsor.richard@epa.gov>
Date: 05/07/2010 12:31 PM
Subject: Fw: AP: Graham says 'impossible' to pass climate bill now

Betsaida Alcantara

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

From: Betsaida Alcantara
Sent: 05/07/2010 12:29 PM EDT
To: Seth Oster; Allyn Brooks-LaSure; Adora Andy; Brendan Gilfillan; Alisha Johnson; Michael Moats; Vicki Ekstrom
Subject: AP: Graham says 'impossible' to pass climate bill now
Graham says 'impossible' to pass climate bill now

FREDERIC J. FROMMER | May 7, 2010 12:20 PM EST |

WASHINGTON — A key Republican senator negotiating with Democrats on a climate change bill said Friday it's "become impossible" to pass the legislation now because of disagreements over offshore drilling and immigration reform.

Sen. Lindsey Graham of South Carolina said that Congress needs to move forward in a political climate that gives proponents the best chance for success.

"Regrettably, in my view, this has become impossible in the current environment," he said in a statement. "I believe there could be more than 60 votes for this bipartisan concept in the future. But there are not nearly 60 votes today and I do not see them materializing until we deal with the uncertainty of the immigration debate and the consequences of the oil spill."

Sixty votes are required in the Senate to overcome filibusters.

Last month, Graham threatened to withhold his support for the climate and energy legislation because he was angry that Democrats said they would take up a rewrite of immigration policy. That forced his partners, Sen. John Kerry, D-Mass., and Joe Lieberman, I-Conn., to postpone the long-awaited unveiling of the legislation, which aims to cut emissions of carbon dioxide and other greenhouse gases 17 percent below 2005 levels by 2020.

To win over Republicans, the bill calls for expansion of offshore drilling, which some Democrats have said they now oppose because of the Gulf spill.

"Some believe the oil spill has enhanced the chances energy legislation will succeed. I do not share their view," Graham said. While he respects the positions of Democrats who don't want to see more offshore drilling, he said he still believes that it's needed for the country to become energy independent.

"When it comes to getting 60 votes for legislation that includes additional oil and gas drilling with revenue sharing, the climb has gotten steeper because of the oil spill," the senator said.

He said it makes sense to find out what happened in the Gulf spill, take steps to prevent future accidents and build a consensus for expanded offshore drilling.

Just two days ago, Graham told The Associated Press that the oil spill does not necessarily rule out passage of a comprehensive energy bill this year – although he noted it's always difficult to round up 60 votes.

Neither Kerry nor Lieberman had an immediate comment on Graham's statement. But they aren't likely to agree that it's best to wait. Kerry told an environmental gathering Wednesday that this year is "perhaps our last, best chance to pass comprehensive climate and energy legislation."

And Senate Majority Leader Harry Reid, D-Nev., told reporters this week that the oil spill should be incentive to act on legislation. "We have to take care of this issue," he said.

01268-EPA-3849

Richard Windsor/DC/USEPA/US
05/09/2010 05:25 PM

To Bob Sussman, Bob Perciasepe, Diane Thompson, Arvin Ganesan
cc
bcc

Subject Re: Tired Creek

(b)(5) Deliberative

Bob Sussman

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

From: Bob Sussman
Sent: 05/09/2010 05:23 PM EDT
To: Richard Windsor; Bob Perciasepe; Diane Thompson; Arvin Ganesan
Subject: Tired Creek

(b)(5) Deliberative

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

01268-EPA-3851

**Bob
Perciasepe/DC/USEPA/US**
05/09/2010 09:24 PM

To Bob Sussman, Lisa Heinzerling, Richard Windsor, Seth
Oster, Paul Anastas
cc
bcc

Subject National Academy and Climate Change

Hi Everyone

This is the month that the NAS will release it's science updates on climate change. (b)(5) Deliberative

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Bob Perciasepe
Deputy Administrator

(o) +1 202 564 4711
(c) +1 202 368 8193

01268-EPA-3852

Paul Anastas/DC/USEPA/US

05/09/2010 09:45 PM

To Bob Perciasepe

cc Bob Sussman, Lisa Heinzerling, Richard Windsor, Seth Oster
bcc

Subject Re: National Academy and Climate Change

Yes Bob. I'm not sure if everyone has seen the recent statement by over 200 NAS Members on the strength of the climate change science. (b)(5) Deliberative

[Redacted]

-----Bob Perciasepe/DC/USEPA/US wrote: -----

To: Bob Sussman/DC/USEPA/US@EPA, Lisa Heinzerling/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Paul Anastas/DC/USEPA/US@EPA
From: Bob Perciasepe/DC/USEPA/US
Date: 05/09/2010 09:24PM
Subject: National Academy and Climate Change

Hi Everyone

This is the month that the NAS will release it's science updates on climate change. (b)(5)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Bob Perciasepe
Deputy Administrator

(o) +1 202 564 4711

(c) +(b)(6)

01268-EPA-3853

Bob Perciasepe/DC/USEPA/US
05/09/2010 09:46 PM

To Paul Anastas
cc Bob Sussman, Lisa Heinzerling, Richard Windsor, Seth Oster
bcc
Subject Re: National Academy and Climate Change

I have not seen it but would love to.
Bob Perciasepe
Office of the Administrator
(o)202 564 4711
(b)(6)

From: Paul Anastas
Sent: 05/09/2010 09:45 PM EDT
To: Bob Perciasepe
Cc: Bob Sussman; Lisa Heinzerling; Richard Windsor; Seth Oster
Subject: Re: National Academy and Climate Change

Yes Bob. I'm not sure if everyone has seen the recent statement by over 200 NAS Members on the strength of the climate change science. (b)(5) Deliberative

[Redacted]

-----Bob Perciasepe/DC/USEPA/US wrote: -----

To: Bob Sussman/DC/USEPA/US@EPA, Lisa Heinzerling/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Paul Anastas/DC/USEPA/US@EPA
From: Bob Perciasepe/DC/USEPA/US
Date: 05/09/2010 09:24PM
Subject: National Academy and Climate Change

Hi Everyone

This is the month that the NAS will release it's science updates on climate change. (b)(5) Deliberative

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Bob Perciasepe
Deputy Administrator

(o) +1 202 564 4711

(b)(6)

01268-EPA-3854

Paul Anastas/DC/USEPA/US

05/09/2010 10:10 PM

To Bob Perciasepe

cc Bob Sussman, Lisa Heinzerling, Richard Windsor, Seth Oster

bcc

Subject Re: National Academy and Climate Change

Bob:

It was an open letter in Science magazine on May 7th. The url below will take you right to it.

PTA

<http://tiny.cc/xam7m>

-----Bob Perciasepe/DC/USEPA/US wrote: -----

To: Paul Anastas/DC/USEPA/US@EPA

From: Bob Perciasepe/DC/USEPA/US

Date: 05/09/2010 09:46PM

cc: Bob Sussman/DC/USEPA/US@EPA, Lisa Heinzerling/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA

Subject: Re: National Academy and Climate Change

I have not seen it but would love to.

Bob Perciasepe

Office of the Administrator

(o)202 564 4711

(c)(b)(6)

From: Paul Anastas

Sent: 05/09/2010 09:45 PM EDT

To: Bob Perciasepe

Cc: Bob Sussman; Lisa Heinzerling; Richard Windsor; Seth Oster

Subject: Re: National Academy and Climate Change

Yes Bob. I'm not sure if everyone has seen the recent statement by over 200 NAS Members on the strength of the climate change science. (b)(5) Deliberative

[Redacted]

-----Bob Perciasepe/DC/USEPA/US wrote: -----

To: Bob Sussman/DC/USEPA/US@EPA, Lisa Heinzerling/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Paul Anastas/DC/USEPA/US@EPA

From: Bob Perciasepe/DC/USEPA/US

Date: 05/09/2010 09:24PM

Subject: National Academy and Climate Change

Hi Everyone

This is the month that the NAS will release it's science updates on climate change. (b)(5)

(b)(5) Deliberative
[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Bob Perciasepe
Deputy Administrator

(o) +1 202 564 4711
(c) +(b)(6)

01268-EPA-3855

Paul Anastas/DC/USEPA/US

05/09/2010 10:14 PM

To Bob Perciasepe

cc Bob Sussman, Lisa Heinzerling, Richard Windsor, Seth Oster
bcc

Subject Re: National Academy and Climate Change

Bob:

If it is a pain to copy the url and paste into your address line, here is the article embedded below. Note, the signatories do make it clear that this is not an official statement of the NAS.

PTA

[Prev](#) | [Table of Contents](#) | [Next](#)

Science 7 May 2010:

Vol. 328. no. 5979,

pp. 689 - 690

DOI:

10.1126/science.328.5

979.689

Letters

Climate Change and the Integrity of Science

We are deeply disturbed by the recent escalation of political assaults on scientists in general and on climate scientists in particular. All citizens should understand some basic scientific facts. There is always some uncertainty associated with scientific conclusions; science never absolutely proves anything. When someone says that society should wait until scientists are absolutely certain before taking any action, it is the same as saying society should never take action. For a problem as potentially catastrophic as climate change, taking no action poses a dangerous risk for our planet.

Scientific conclusions derive from an understanding of basic laws supported by laboratory experiments, observations of nature, and mathematical and computer modeling. Like all human beings, scientists make mistakes, but the scientific process is designed to find and correct them. This process is inherently adversarial—scientists build reputations and gain recognition not only for supporting conventional wisdom, but even more so for demonstrating that the scientific consensus is wrong and that there is a better explanation. That's what Galileo, Pasteur, Darwin, and Einstein did. But when some conclusions have been thoroughly and deeply tested, questioned, and examined, they gain the status of "well-established theories" and are often spoken of as "facts."

For instance, there is compelling scientific evidence that our planet is about 4.5 billion years old (the theory of the origin of Earth), that our universe was born from a single event about

14 billion years ago (the Big Bang theory), and that today's organisms evolved from ones living in the past (the theory of evolution). Even as these are overwhelmingly accepted by the scientific community, fame still awaits anyone who could show these theories to be wrong. Climate change now falls into this category: There is compelling, comprehensive, and consistent objective evidence that humans are changing the climate in ways that threaten our societies and the ecosystems on which we depend.

CREDIT: ISTOCKPHOTO.COM

[\[Larger version of this image\]](#)

Many recent assaults on climate science and, more disturbingly, on climate scientists by climate change deniers are typically driven by special interests or dogma, not by an honest effort to provide an alternative theory that credibly satisfies the evidence. The Intergovernmental Panel on Climate Change (IPCC) and other scientific assessments of climate change, which involve thousands of scientists producing massive and comprehensive reports, have, quite expectedly and normally, made some mistakes. When errors are pointed out, they are corrected. But there is nothing remotely identified in the recent events that changes the fundamental conclusions about climate change:

(i) The planet is warming due to increased concentrations of heat-trapping gases in our atmosphere. A snowy winter in Washington does not alter this fact.

(ii) Most of the increase in the concentration of these gases over the last century is due to human activities, especially the burning of fossil fuels and deforestation.

(iii) Natural causes always play a role in changing Earth's climate, but are now being overwhelmed by human-induced changes.

(iv) Warming the planet will cause many other climatic patterns to change at speeds unprecedented in modern times, including increasing rates of sea-level rise and alterations in the hydrologic cycle. Rising concentrations of carbon dioxide are making the oceans more acidic.

(v) The combination of these complex climate changes threatens coastal communities and cities, our food and water supplies, marine and freshwater ecosystems, forests, high mountain environments, and far more.

Much more can be, and has been, said by the world's scientific societies, national

academies, and individuals, but these conclusions should be enough to indicate why scientists are concerned about what future generations will face from business-as-usual practices. We urge our policy-makers and the public to move forward immediately to address the causes of climate change, including the unrestrained burning of fossil fuels.

We also call for an end to McCarthy-like threats of criminal prosecution against our colleagues based on innuendo and guilt by association, the harassment of scientists by politicians seeking distractions to avoid taking action, and the outright lies being spread about them. Society has two choices: We can ignore the science and hide our heads in the sand and hope we are lucky, or we can act in the public interest to reduce the threat of global climate change quickly and substantively. The good news is that smart and effective actions are possible. But delay must not be an option.

P. H. Gleick, R. M. Adams, R. M. Amasino, E. Anders, D. J. Anderson, W. W. Anderson, L. E. Anselin, M. K. Arroyo, B. Asfaw, F. J. Ayala, A. Bax, A. J. Bebbington, G. Bell, M. V. L. Bennett, J. L. Bennetzen, M. R. Berenbaum, O. B. Berlin, P. J. Bjorkman, E. Blackburn, J. E. Blamont, M. R. Botchan, J. S. Boyer, E. A. Boyle, D. Branton, S. P. Briggs, W. R. Briggs, W. J. Brill, R. J. Britten, W. S. Broecker, J. H. Brown, P. O. Brown, A. T. Brunger, J. Cairns, Jr., D. E. Canfield, S. R. Carpenter, J. C. Carrington, A. R. Cashmore, J. C. Castilla, A. Cazenave, F. S. Chapin, III, A. J. Ciechanover, D. E. Clapham, W. C. Clark, R. N. Clayton, M. D. Coe, E. M. Conwell, E. B. Cowling, R. M. Cowling, C. S. Cox, R. B. Croteau, D. M. Crothers, P. J. Crutzen, G. C. Daily, G. B. Dalrymple, J. L. Dangl, S. A. Darst, D. R. Davies, M. B. Davis, P. V. de Camilli, C. Dean, R. S. Defries, J. Deisenhofer, D. P. Delmer, E. F. DeLong, D. J. Derosier, T. O. Diener, R. Dirzo, J. E. Dixon, M. J. Donoghue, R. F. Doolittle, T. Dunne, P. R. Ehrlich, S. N. Eisenstadt, T. Eisner, K. A. Emanuel, S. W. Englander, W. G. Ernst, P. G. Falkowski, G. Feher, J. A. Ferejohn, A. Fersht, E. H. Fischer, R. Fischer, K. V. Flannery, J. Frank, P. A. Frey, I. Fridovich, C. Frieden, D. J. Futuyma, W. R. Gardner, C. J. R. Garrett, W. Gilbert, R. B. Goldberg, W. H. Goodenough, C. S. Goodman, M. Goodman, P. Greengard, S. Hake, G. Hammel, S. Hanson, S. C. Harrison, S. R. Hart, D. L. Hartl, R. Haselkorn, K. Hawkes, J. M. Hayes, B. Hille, T. Hökfelt, J. S. House, M. Hout, D. M. Huntten, I. A. Izquierdo, A. T. Jagendorf, D. H. Janzen, R. Jeanloz, C. S. Jencks, W. A. Jury, H. R. Kaback, T. Kailath, P. Kay, S. A. Kay, D. Kennedy, A. Kerr, R. C. Kessler, G. S. Khush, S. W. Kieffer, P. V. Kirch, K. Kirk, M. G. Kivelson, J. P. Klinman, A. Klug, L. Knopoff, H. Kornberg, J. E. Kutzbach, J. C. Lagarias, K. Lambeck, A. Landy, C. H. Langmuir, B. A. Larkins, X. T. Le Pichon, R. E. Lenski, E. B. Leopold, S. A. Levin, M. Levitt, G. E. Likens, J. Lippincott-Schwartz, L. Lorand, C. O. Lovejoy, M. Lynch, A. L. Mabogunje, T. F. Malone, S. Manabe, J. Marcus, D. S. Massey, J. C. McWilliams, E. Medina, H. J. Melosh, D. J. Meltzer, C. D. Michener, E. L. Miles, H. A. Mooney, P. B. Moore, F. M. M. Morel, E. S. Mosley-Thompson, B. Moss, W. H. Munk, N. Myers, G. B. Nair, J. Nathans, E. W. Nester, R. A. Nicoll, R. P. Novick, J. F. O'Connell, P. E. Olsen, N. D. Opdyke, G. F. Oster, E. Ostrom, N. R. Pace, R. T. Paine, R. D. Palmiter, J. Pedlosky, G. A. Petsko, G. H. Pettengill, S. G. Philander, D. R. Piperno, T. D. Pollard, P. B. Price, Jr., P. A. Reichard, B. F. Reskin, R. E. Ricklefs, R. L. Rivest, J. D. Roberts, A. K. Romney, M. G. Rossmann, D. W. Russell, W. J. Rutter, J. A. Sabloff, R. Z. Sagdeev, M. D. Sahlins, A. Salmond, J. R. Sanes, R. Schekman, J. Schellnhuber, D. W. Schindler, J. Schmitt, S. H. Schneider, V. L. Schramm, R. R. Sederoff, C. J. Shatz, F. Sherman, R. L. Sidman, K. Sieh, E. L. Simons, B. H. Singer, M. F. Singer, B. Skyrms, N. H. Sleep, B. D. Smith, S. H. Snyder, R. R. Sokal, C. S. Spencer, T. A. Steitz, K. B. Strier, T. C. Südhof, S. S. Taylor, J. Terborgh, D. H. Thomas, L. G.

Thompson, R. T. Tjian, M. G. Turner, S. Uyeda, J. W. Valentine, J. S. Valentine, J. L. van Etten, K. E. van Holde, M. Vaughan, S. Verba, P. H. von Hippel, D. B. Wake, A. Walker, J. E. Walker, E. B. Watson, P. J. Watson, D. Weigel, S. R. Wessler, M. J. West-Eberhard, T. D. White, W. J. Wilson, R. V. Wolfenden, J. A. Wood, G. M. Woodwell, H. E. Wright, Jr., C. Wu, C. Wunsch, M. L. Zoback

* To whom correspondence should be addressed. E-mail: petergleick@pacinst.org

Notes

- 1. The signatories are all members of the U.S. National Academy of Sciences but are not speaking on its behalf.
- 2. Signatory affiliations are available as supporting material at www.science.org/cgi/content/full/328/5979/689/DC1.

-----Bob Perciasepe/DC/USEPA/US wrote: -----

To: Paul Anastas/DC/USEPA/US@EPA
From: Bob Perciasepe/DC/USEPA/US
Date: 05/09/2010 09:46PM
cc: Bob Sussman/DC/USEPA/US@EPA, Lisa Heinzerling/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA
Subject: Re: National Academy and Climate Change

I have not seen it but would love to.
Bob Perciasepe
Office of the Administrator
(o)202 564 4711
(c) (b)(6)

From: Paul Anastas
Sent: 05/09/2010 09:45 PM EDT
To: Bob Perciasepe
Cc: Bob Sussman; Lisa Heinzerling; Richard Windsor; Seth Oster
Subject: Re: National Academy and Climate Change

Yes Bob. I'm not sure if everyone has seen the recent statement by over 200 NAS Members on the strength of the climate change science. (b)(5) Deliberative

-----Bob Perciasepe/DC/USEPA/US wrote: -----

To: Bob Sussman/DC/USEPA/US@EPA, Lisa Heinzerling/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Paul Anastas/DC/USEPA/US@EPA
From: Bob Perciasepe/DC/USEPA/US
Date: 05/09/2010 09:24PM
Subject: National Academy and Climate Change

Hi Everyone

This is the month that the NAS will release it's science updates on climate change. I talked

(b)(5) Deliberative
[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Bob Perciasepe
Deputy Administrator

(o) +1 202 564 4711
(b)(6)

01268-EPA-3857

David
McIntosh/DC/USEPA/US
05/12/2010 05:51 PM

To Richard Windsor
cc
bcc

Subject Fw: Lung Association Statement on the Kerry-Lieberman Bill

(b)(5) Deliberative

----- Forwarded by David McIntosh/DC/USEPA/US on 05/12/2010 05:50 PM -----

From: David McIntosh/DC/USEPA/US
To: Joseph Goffman/DC/USEPA/US@EPA
Cc: Gina McCarthy/DC/USEPA/US@EPA
Date: 05/12/2010 05:47 PM
Subject: Fw: Lung Association Statement on the Kerry-Lieberman Bill

(b)(5) Deliberative

Thanks,
D

FOR IMMEDIATE RELEASE:
May 12, 2010

CONTACT: Catherine Sebold
202-715-3450
csebold@lungusa.org

Statement of Charles D. Connor, President and Chief Executive Officer, American Lung
Association
On the Kerry-Lieberman Bill, The American Power Act

Washington, DC. May 12, 2010. We at the American Lung Association were shocked to read language included in the draft American Power Act introduced today by Senators John Kerry and Joseph Lieberman that would unleash a dangerous process to attack life-saving rules on coal-fired power plants and threaten to permit much more air pollution around the nation. The outrageous proposal creates an open door through which millions of tons of life-threatening pollution could be allowed to flow. We oppose these provisions. The American Lung Association cannot support legislation that includes changes to the Clean Air Act that undermine the protection of public health. We urge the Senate to strip such unnecessary and objectionable language from any bill.

Burning coal creates particle pollution and key components of ozone. Both pollutants can kill. Pollution from these power plants is considered to cause nearly 24,000 early deaths each year through their toxic impact on the lungs and other parts of the body. Both pollutants cause wheezing, coughing, asthma attacks; both send children to the emergency room and people with lung disease to the hospital. Particle pollution causes heart attacks and strokes and may lead to lung cancer. These are lethal substances, recognized as such by repeated scientific review.

Particle pollution and ozone aren't the only pollutants targeted under the bill as proposed—just

the most widespread. The draft bill invites attack on safeguards applying to a horde of other noxious emissions, known under the Clean Air Act as hazardous air pollutants, which include mercury, arsenic, lead and other toxics.

Cleaning up the air pollution from coal-fired power plants has long been a priority for the American Lung Association—and for the U.S. Congress. In 1990 in the Clean Air Act, Congress gave the U.S. Environmental Protection Agency and the states clear mandates to require the cleanup of emissions from major sources like these power plants because of the enormous harm those emissions do to public health. In response, the electric utility industry has spent decades fighting those protections in court and in the regulatory process. We have urged EPA to clean up these plants and the agency has now begun to do so.

Provisions in this draft bill create an irresponsible process to roll back tools every community needs to protect its most vulnerable residents – children, seniors and those with chronic diseases – against dangerous air pollution. Specifically we are concerned about provisions that:

- Create a “study” group that would authorize the “review” and re-writing of rules currently in place that communities need to protect the lives and health of their citizens.
- Give the electric power industry a new venue to seek weakening of cleanup rules indefinitely based on claims of reliability and job loss, while conveniently ignoring the deaths and other health effects caused by their spewing smokestacks.

The American Lung Association will undertake a careful review of the draft legislation and we will communicate any additional concerns to the Senate.

We urge the Senate to reject any legislation that weakens the health protections of the Clean Air Act.

Janice E. Nolen
Assistant Vice President
National Policy and Advocacy
American Lung Association
jnolen@LungUSA.org
1301 Pennsylvania Ave NW, Suite 800
Washington, DC 20004-1725
P 202-785-3355
C 202-486-0285
F 202-452-1805



01268-EPA-3858

Richard Windsor/DC/USEPA/US
05/12/2010 05:59 PM

To David McIntosh, "Arvin Ganesan", "Bob Perciasepe", "Gina (Sheila) McCarthy"
cc
bcc

Subject Re: Lung Association Statement on the Kerry-Lieberman Bill

(b)(5) Deliberative
David McIntosh

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

From: David McIntosh
Sent: 05/12/2010 05:51 PM EDT
To: Richard Windsor
Subject: Fw: Lung Association Statement on the Kerry-Lieberman Bill

(b)(5) Deliberative

----- Forwarded by David McIntosh/DC/USEPA/US on 05/12/2010 05:50 PM -----

From: David McIntosh/DC/USEPA/US
To: Joseph Goffman/DC/USEPA/US@EPA
Cc: Gina McCarthy/DC/USEPA/US@EPA
Date: 05/12/2010 05:47 PM
Subject: Fw: Lung Association Statement on the Kerry-Lieberman Bill

(b)(5) Deliberative

Thanks,
D

FOR IMMEDIATE RELEASE:
Catherine Sebold
May 12, 2010
202-715-3450

CONTACT:

csebold@lungusa.org

Statement of Charles D. Connor, President and Chief Executive Officer,
American Lung Association
On the Kerry-Lieberman Bill, The American Power Act

Washington, DC. May 12, 2010. We at the American Lung Association were shocked to read language included in the draft American Power Act introduced today by Senators John Kerry and Joseph Lieberman that would unleash a dangerous process to attack life-saving rules on coal-fired power plants and threaten to permit much more air pollution around the nation. The outrageous proposal creates an open door through which millions of tons of life-threatening pollution could be allowed to flow. We oppose these provisions. The American Lung Association cannot support legislation that

includes changes to the Clean Air Act that undermine the protection of public health. We urge the Senate to strip such unnecessary and objectionable language from any bill.

Burning coal creates particle pollution and key components of ozone. Both pollutants can kill. Pollution from these power plants is considered to cause nearly 24,000 early deaths each year through their toxic impact on the lungs and other parts of the body. Both pollutants cause wheezing, coughing, asthma attacks; both send children to the emergency room and people with lung disease to the hospital. Particle pollution causes heart attacks and strokes and may lead to lung cancer. These are lethal substances, recognized as such by repeated scientific review.

Particle pollution and ozone aren't the only pollutants targeted under the bill as proposed—just the most widespread. The draft bill invites attack on safeguards applying to a horde of other noxious emissions, known under the Clean Air Act as hazardous air pollutants, which include mercury, arsenic, lead and other toxics.

Cleaning up the air pollution from coal-fired power plants has long been a priority for the American Lung Association—and for the U.S. Congress. In 1990 in the Clean Air Act, Congress gave the U.S. Environmental Protection Agency and the states clear mandates to require the cleanup of emissions from major sources like these power plants because of the enormous harm those emissions do to public health. In response, the electric utility industry has spent decades fighting those protections in court and in the regulatory process. We have urged EPA to clean up these plants and the agency has now begun to do so.

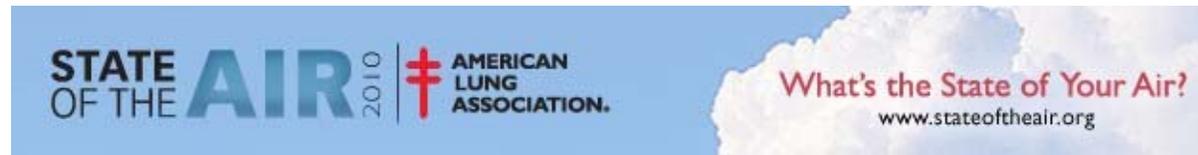
Provisions in this draft bill create an irresponsible process to roll back tools every community needs to protect its most vulnerable residents – children, seniors and those with chronic diseases – against dangerous air pollution. Specifically we are concerned about provisions that:

- Create a “study” group that would authorize the “review” and re-writing of rules currently in place that communities need to protect the lives and health of their citizens.
- Give the electric power industry a new venue to seek weakening of cleanup rules indefinitely based on claims of reliability and job loss, while conveniently ignoring the deaths and other health effects caused by their spewing smokestacks.

The American Lung Association will undertake a careful review of the draft legislation and we will communicate any additional concerns to the Senate.

We urge the Senate to reject any legislation that weakens the health protections of the Clean Air Act.

Θανιχε Ε. Νολεν
Ασσισταντ ριχε Πρεσιδεντ
Νατιοναλ Πολιχψ ανδ Αδποχαχψ
Αμεριχαν Λυγγ Ασσοχιατιον
φνολεν≡ΛυγγΥΣΑ.οργ
1301 Πεννσψλψανια Απε ΝΩ, Συιτε 800
Ωασηινγτον, ΔΧ 20004-1725
Π 202-785-3355
Χ 202-486-0285
Φ 202-452-1805



01268-EPA-3859

David McIntosh/DC/USEPA/US
05/12/2010 06:06 PM

To Richard Windsor, "Arvin Ganesan", "Bob Perciasepe", "Gina (Sheila) McCarthy"
cc
bcc

Subject Re: Lung Association Statement on the Kerry-Lieberman Bill

(b)(5) Deliberative

Richard Windsor

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

From: Richard Windsor
Sent: 05/12/2010 05:59 PM EDT
To: David McIntosh; "Arvin Ganesan" <ganesan.arvin@epa.gov>; "Bob Perciasepe" <perciasepe.bob@epa.gov>; "Gina (Sheila) McCarthy" <mccarthy.gina@epa.gov>
Subject: Re: Lung Association Statement on the Kerry-Lieberman Bill

(b)(5) Deliberative

David McIntosh

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

From: David McIntosh
Sent: 05/12/2010 05:51 PM EDT
To: Richard Windsor
Subject: Fw: Lung Association Statement on the Kerry-Lieberman Bill

(b)(5) Deliberative

----- Forwarded by David McIntosh/DC/USEPA/US on 05/12/2010 05:50 PM -----

From: David McIntosh/DC/USEPA/US
To: Joseph Goffman/DC/USEPA/US@EPA
Cc: Gina McCarthy/DC/USEPA/US@EPA
Date: 05/12/2010 05:47 PM
Subject: Fw: Lung Association Statement on the Kerry-Lieberman Bill

(b)(5) Deliberative

Thanks,
D

FOR IMMEDIATE RELEASE:

CONTACT:

Catherine Sebold
May 12, 2010
202-715-3450

csebold@lungusa.org

Statement of Charles D. Connor, President and Chief Executive Officer,
American Lung Association
On the Kerry-Lieberman Bill, The American Power Act

Washington, DC. May 12, 2010. We at the American Lung Association were shocked to read language included in the draft American Power Act introduced today by Senators John Kerry and Joseph Lieberman that would unleash a dangerous process to attack life-saving rules on coal-fired power plants and threaten to permit much more air pollution around the nation. The outrageous proposal creates an open door through which millions of tons of life-threatening pollution could be allowed to flow. We oppose these provisions. The American Lung Association cannot support legislation that includes changes to the Clean Air Act that undermine the protection of public health. We urge the Senate to strip such unnecessary and objectionable language from any bill.

Burning coal creates particle pollution and key components of ozone. Both pollutants can kill. Pollution from these power plants is considered to cause nearly 24,000 early deaths each year through their toxic impact on the lungs and other parts of the body. Both pollutants cause wheezing, coughing, asthma attacks; both send children to the emergency room and people with lung disease to the hospital. Particle pollution causes heart attacks and strokes and may lead to lung cancer. These are lethal substances, recognized as such by repeated scientific review.

Particle pollution and ozone aren't the only pollutants targeted under the bill as proposed—just the most widespread. The draft bill invites attack on safeguards applying to a horde of other noxious emissions, known under the Clean Air Act as hazardous air pollutants, which include mercury, arsenic, lead and other toxics.

Cleaning up the air pollution from coal-fired power plants has long been a priority for the American Lung Association—and for the U.S. Congress. In 1990 in the Clean Air Act, Congress gave the U.S. Environmental Protection Agency and the states clear mandates to require the cleanup of emissions from major sources like these power plants because of the enormous harm those emissions do to public health. In response, the electric utility industry has spent decades fighting those protections in court and in the regulatory process. We have urged EPA to clean up these plants and the agency has now begun to do so.

Provisions in this draft bill create an irresponsible process to roll back tools every community needs to protect its most vulnerable residents – children, seniors and those with chronic diseases – against dangerous air pollution. Specifically we are concerned about provisions that:

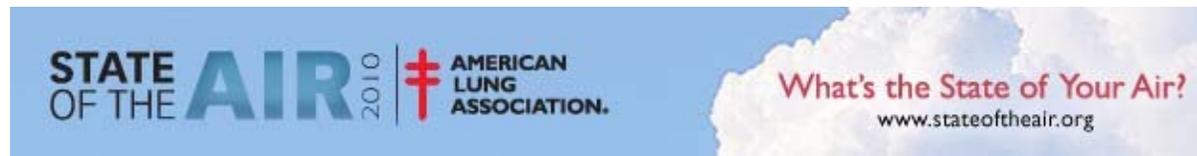
- Create a "study" group that would authorize the "review" and re-writing of rules currently in place that communities need to protect the lives and health of their citizens.
- Give the electric power industry a new venue to seek weakening of cleanup rules indefinitely based on claims of reliability and job loss, while conveniently ignoring the deaths

and other health effects caused by their spewing smokestacks.

The American Lung Association will undertake a careful review of the draft legislation and we will communicate any additional concerns to the Senate.

We urge the Senate to reject any legislation that weakens the health protections of the Clean Air Act.

Θανιχε Ε. Νολεν
Ασσισταντ ριχε Πρεσιδεντ
Νατιοναλ Πολιχψ ανδ Αδποχαχψ
Αμερικαν Λονγ Ασσοχιατιον
φνολενΞΛονγΥΣΑ.οργ
1301 Πεννσψλψανια Αψε ΝΩ, Συιτε 800
Ωασηινγτον, ΔΧ 20004-1725
Π 202-785-3355
Χ 202-486-0285
Φ 202-452-1805



01268-EPA-3861

David
McIntosh/DC/USEPA/US
05/12/2010 08:35 PM

To Gina McCarthy, Richard Windsor, "Bob Perciasepe", "David
McIntosh"
cc
bcc

Subject Re: Fw: Lung Association Statement on the Kerry-Lieberman
Bill

(b)(5) Deliberative
[Redacted]

Gina McCarthy

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

From: Gina McCarthy
Sent: 05/12/2010 08:08 PM EDT
To: Richard Windsor; "Bob Perciasepe" <perciasepe.bob@epa.gov>; "David
McIntosh" <McIntosh.David@EPA.GOV>
Subject: Fw: Fw: Lung Association Statement on the Kerry-Lieberman Bill

(b)(5) Deliberative
[Redacted]

Joseph Goffman

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

From: Joseph Goffman
Sent: 05/12/2010 07:57 PM EDT
To: Gina McCarthy
Subject: Fw: Fw: Lung Association Statement on the Kerry-Lieberman Bill

Jim Ketcham-Colwill

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

From: Jim Ketcham-Colwill
Sent: 05/12/2010 07:52 PM EDT
To: Joseph Goffman
Subject: Re: Fw: Lung Association Statement on the Kerry-Lieberman Bill
Here is summary of the 8-page provision of concern to ALA.

[attachment "Summary of language opposed by ALA in immediate press release.doc" deleted by David
McIntosh/DC/USEPA/US]

Joseph Goffman ----- Original Message ----- From:... 05/12/2010 05:50:49 PM

From: Joseph Goffman/DC/USEPA/US
To: "Jim Ketcham-Colwill" <Ketcham-Colwill.Jim@epamail.epa.gov>
Date: 05/12/2010 05:50 PM
Subject: Fw: Lung Association Statement on the Kerry-Lieberman Bill

David McIntosh

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

From: David McIntosh
Sent: 05/12/2010 05:47 PM EDT
To: Joseph Goffman
Cc: Gina McCarthy
Subject: Fw: Lung Association Statement on the Kerry-Lieberman Bill

(b)(5) Deliberative

Thanks,
D

----- Forwarded by David McIntosh/DC/USEPA/US on 05/12/2010 05:45 PM -----

From: Gina McCarthy/DC/USEPA/US
To: "David McIntosh" <McIntosh.David@EPA.GOV>, "John Millett" <Millett.John@EPA.GOV>
Date: 05/12/2010 05:40 PM
Subject: Fw: Lung Association Statement on the Kerry-Lieberman Bill

Fyi

From: Janice Nolen [JNolen@lungusa.org]
Sent: 05/12/2010 05:33 PM AST
To: Gina McCarthy; Janet McCabe; Rob Brenner; Joseph Goffman
Cc: Stephanie Owens; Bonnie Piper; Amy Dewey; John Larmett; Paul Billings <PBillings@lungusa.org>
Subject: Lung Association Statement on the Kerry-Lieberman Bill

We released this statement this afternoon. Let me know if you have questions.

FOR IMMEDIATE RELEASE:
May 12, 2010

CONTACT: Catherine Sebold
202-715-3450
csebold@lungusa.org

Statement of Charles D. Connor, President and Chief Executive Officer, American Lung Association
On the Kerry-Lieberman Bill, The American Power Act

Washington, DC. May 12, 2010. We at the American Lung Association were shocked to read language included in the draft American Power Act introduced today by Senators John Kerry and Joseph Lieberman that would unleash a dangerous process to attack life-saving rules on coal-fired power plants and threaten to permit much more air pollution around the nation. The outrageous proposal creates an open door through which millions of tons of life-threatening pollution could be allowed to flow. We oppose these provisions. The American Lung Association cannot support legislation that includes changes to the Clean Air Act that undermine the protection of public health. We urge the Senate to strip such unnecessary and objectionable language from any bill. Burning coal creates particle pollution and key components of ozone. Both pollutants can kill. Pollution from these power plants is considered to cause nearly 24,000 early deaths each year through their toxic impact on the lungs and other parts of the body.

Both pollutants cause wheezing, coughing, asthma attacks; both send children to the emergency room and people with lung disease to the hospital. Particle pollution causes heart attacks and strokes and may lead to lung cancer. These are lethal substances, recognized as such by repeated scientific review.

Particle pollution and ozone aren't the only pollutants targeted under the bill as proposed – just the most widespread. The draft bill invites attack on safeguards applying to a horde of other noxious emissions, known under the Clean Air Act as hazardous air pollutants, which include mercury, arsenic, lead and other toxics. Cleaning up the air pollution from coal-fired power plants has long been a priority for the American Lung Association – and for the U.S. Congress. In 1990 in the Clean Air Act, Congress gave the U.S. Environmental Protection Agency and the states clear mandates to require the cleanup of emissions from major sources like these power plants because of the enormous harm those emissions do to public health. In response, the electric utility industry has spent decades fighting those protections in court and in the regulatory process. We have urged EPA to clean up these plants and the agency has now begun to do so.

Provisions in this draft bill create an irresponsible process to roll back tools every community needs to protect its most vulnerable residents – children, seniors and those with chronic diseases – against dangerous air pollution. Specifically we are concerned about provisions that:

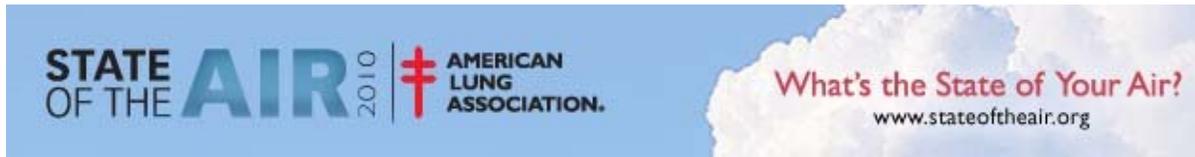
- Create a “study” group that would authorize the “review” and re-writing of rules currently in place that communities need to protect the lives and health of their citizens.
- Give the electric power industry a new venue to seek weakening of cleanup rules indefinitely based on claims of reliability and job loss, while conveniently ignoring the deaths and other health effects caused by their spewing smokestacks.

The American Lung Association will undertake a careful review of the draft legislation and we will communicate any additional concerns to the Senate.

We urge the Senate to reject any legislation that weakens the health protections of the Clean Air Act.

Janice E. Nolen
Assistant Vice President
National Policy and Advocacy
American Lung Association
jnolen@LungUSA.org
1301 Pennsylvania Ave NW, Suite 800
Washington, DC 20004-1725
P 202-785-3355
C 202-486-0285

F 202-452-1805



01268-EPA-3862

David
McIntosh/DC/USEPA/US
05/13/2010 08:33 AM

To Richard Windsor
cc
bcc

Subject From E&E Daily -- CLIMATE: Bill would create 'task force' to assess power plant rules

(b)(5) Deliberative

CLIMATE: Bill would create 'task force' to assess power plant rules (Thursday, May 13, 2010)

Robin Bravender, E&E reporter

A little-noticed provision within the Senate climate bill unveiled yesterday would create a "task force" to explore how federal and state environmental programs would affect the ability of coal-fired power plants to lower their greenhouse gas emissions.

The details of the task force -- laid out in the 987-page [climate bill](#) unveiled yesterday by Sens. John Kerry (D-Mass.) and Joe Lieberman (I-Conn.) -- caused alarm among some environmental and public health advocates, who warned that the language could lead to exemptions from federal air pollution programs. Kerry and industry representatives, meanwhile, said the panel would merely bring attention to overlapping power plant rules.

The task force would be composed of representatives from U.S. EPA, the Energy Department, the Treasury Department, state public utility commissions and other relevant agencies, as well as the electricity-generating sector and nongovernmental organizations.

The coalition would conduct a study of how existing federal and state environmental laws will affect the transition of the coal-fired power fleet to lower-emitting plants or on the retirement of existing plants. The panel would also assess how federal rules under development would affect power plant emissions and the transition of coal-fired plants to cleaner generation, among other things.

Within a year of the enactment of the bill, the task force would be required to submit the results of its study to Congress. After that, agency chiefs would be required to publish a response, including any proposed changes to regulations or guidance to implement the recommendations.

Environmental and public health advocates yesterday argued that the task force would allow the electric power industry to lobby for a wish list of changes to federal rules that they can argue impede their ability to switch to cleaner fuels.

"It would trade off more pollution today for the idea that some point in the future these plants would go away," said Clean Air Watch President Frank O'Donnell. This provision, he added, "is clearly right from the word processors of the electric power industry."

Paul Billings, vice president of national policy and advocacy at the American Lung Association, said he reads the provision as "a multi-pronged attack on the cleanup of power plants so controls like [New Source Review, Maximum Achievable Control Technology], even the Clean Air Interstate Rule, which EPA is working on, could be waived or repealed through this process."

But Kerry said yesterday that the bill would not block Clean Air Act requirements outside of limitations on regulating greenhouse gases under certain provisions of the act.

"It really was just an effort to kind of make sure we're looking at this," Kerry said. "But there's nothing that allows anybody to get out of it. There's nothing that allows anybody to sidestep that."

Kerry said that the details of the task force are still being worked out. **"That was a little something that got worked out between a couple of the environmental groups and the utilities,"** he said. "That's one of the things we've still got to kind of shape up a little bit."

Industry representatives, meanwhile, welcomed the prospect of studying overlapping regulations for greenhouse gases and conventional air pollutants.

"These provisions taken together will have some impact on the decisions that utilities make as they move forward with new plans to build or retrofit," said a source from the utility industry.

Jeff Holmstead, an attorney who represents electric utilities, said the task force "doesn't do anything except to maybe highlight an issue and make sure it gets attention."

"It doesn't do anything to give EPA authority that it doesn't already have to improve existing programs," added Holmstead, who served as EPA air chief during the George W. Bush administration.

01268-EPA-3863

Richard Windsor/DC/USEPA/US
05/13/2010 08:37 AM

To David McIntosh
cc
bcc

Subject Re: From E&E Daily -- CLIMATE: Bill would create 'task force' to assess power plant rules

(b)(5) Deliberative

David McIntosh

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

From: David McIntosh
Sent: 05/13/2010 08:33 AM EDT
To: Richard Windsor
Subject: From E&E Daily -- CLIMATE: Bill would create 'task force' to assess power plant rules

(b)(5) Deliberative

CLIMATE: Bill would create 'task force' to assess power plant rules

(Thursday, May 13, 2010)

Robin Bravender, E&E reporter

A little-noticed provision within the Senate climate bill unveiled yesterday would create a "task force" to explore how federal and state environmental programs would affect the ability of coal-fired power plants to lower their greenhouse gas emissions.

The details of the task force -- laid out in the 987-page [climate bill](#) unveiled yesterday by Sens. John Kerry (D-Mass.) and Joe Lieberman (I-Conn.) -- caused alarm among some environmental and public health advocates, who warned that the language could lead to exemptions from federal air pollution programs. Kerry and industry representatives, meanwhile, said the panel would merely bring attention to overlapping power plant rules.

The task force would be composed of representatives from U.S. EPA, the Energy Department, the Treasury Department, state public utility commissions and other relevant agencies, as well as the electricity-generating sector and nongovernmental organizations.

The coalition would conduct a study of how existing federal and state environmental laws will affect the transition of the coal-fired power fleet to lower-emitting plants or on the retirement of existing plants. The panel would also assess how federal rules under development would affect power plant emissions and the transition of coal-fired plants to cleaner generation, among other things.

Within a year of the enactment of the bill, the task force would be required to submit the results of its study to Congress. After that, agency chiefs would be required to publish a response, including any proposed changes to regulations or guidance to implement the recommendations.

Environmental and public health advocates yesterday argued that the task force would allow the electric power industry to lobby for a wish list of changes to federal rules that they can argue impede their ability to switch to cleaner fuels.

"It would trade off more pollution today for the idea that some point in the future these plants would go away," said Clean Air Watch President Frank O'Donnell. This provision, he added, "is clearly right from the word processors of the electric power industry."

Paul Billings, vice president of national policy and advocacy at the American Lung Association, said he reads the provision as "a multi-pronged attack on the cleanup of power plants so controls like [New Source Review, Maximum Achievable Control Technology], even the Clean Air Interstate Rule, which EPA is working on, could be waived or repealed through this process."

But Kerry said yesterday that the bill would not block Clean Air Act requirements outside of limitations on regulating greenhouse gases under certain provisions of the act.

"It really was just an effort to kind of make sure we're looking at this," Kerry said. "But there's nothing that allows anybody to get out of it. There's nothing that allows anybody to sidestep that."

Kerry said that the details of the task force are still being worked out. **"That was a little something that got worked out between a couple of the environmental groups and the utilities,"** he

said. "That's one of the things we've still got to kind of shape up a little bit."

Industry representatives, meanwhile, welcomed the prospect of studying overlapping regulations for greenhouse gases and conventional air pollutants.

"These provisions taken together will have some impact on the decisions that utilities make as they move forward with new plans to build or retrofit," said a source from the utility industry.

Jeff Holmstead, an attorney who represents electric utilities, said the task force "doesn't do anything except to maybe highlight an issue and make sure it gets attention."

"It doesn't do anything to give EPA authority that it doesn't already have to improve existing programs," added Holmstead, who served as EPA air chief during the George W. Bush administration.

01268-EPA-3864

David
McIntosh/DC/USEPA/US
05/13/2010 08:41 AM

To Richard Windsor
cc
bcc

Subject Re: From E&E Daily -- CLIMATE: Bill would create 'task force' to assess power plant rules

Wow. In the last Congress, Carl Pope publicly railed against the Lieberman-Warner bill for acts MUCH less sinful than this.

Richard Windsor

(b)(5) Deliberative

05/13/2010 08:37:27 AM

From: Richard Windsor/DC/USEPA/US
To: David McIntosh/DC/USEPA/US@EPA
Date: 05/13/2010 08:37 AM
Subject: Re: From E&E Daily -- CLIMATE: Bill would create 'task force' to assess power plant rules

(b)(5) Deliberative

David McIntosh

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

From: David McIntosh
Sent: 05/13/2010 08:33 AM EDT
To: Richard Windsor
Subject: From E&E Daily -- CLIMATE: Bill would create 'task force' to assess power plant rules

(b)(5) Deliberative

CLIMATE: Bill would create 'task force' to assess power plant rules (Thursday, May 13, 2010)

Robin Bravender, E&E reporter

A little-noticed provision within the Senate climate bill unveiled yesterday would create a "task force" to explore how federal and state environmental programs would affect the ability of coal-fired power plants to lower their greenhouse gas emissions.

The details of the task force -- laid out in the 987-page [climate bill](#) unveiled yesterday by Sens. John Kerry (D-Mass.) and Joe Lieberman (I-Conn.) -- caused alarm among some environmental and public health advocates, who warned that the language could lead to exemptions from federal air pollution programs. Kerry and industry representatives, meanwhile, said the panel would merely bring attention to overlapping power plant rules.

The task force would be composed of representatives from U.S. EPA, the Energy Department, the Treasury Department, state public utility commissions and other relevant agencies, as well as the electricity-generating sector and nongovernmental organizations.

The coalition would conduct a study of how existing federal and state environmental laws will affect the transition of the coal-fired power fleet to lower-emitting plants or on the retirement of existing plants. The panel would also assess how federal rules under development would affect power plant emissions and the transition of coal-fired plants to cleaner generation, among other things.

Within a year of the enactment of the bill, the task force would be required to submit the results of its study to Congress. After that, agency chiefs would be required to publish a response, including any proposed changes to regulations or guidance to implement the recommendations.

Environmental and public health advocates yesterday argued that the task force would allow the electric power industry to lobby for a wish list of changes to federal rules that they can argue impede their ability to switch to cleaner fuels.

"It would trade off more pollution today for the idea that some point in the future these plants would go away," said Clean Air Watch President Frank O'Donnell. This provision, he added, "is clearly right from the word processors of the electric power industry."

Paul Billings, vice president of national policy and advocacy at the American Lung Association, said he reads the

provision as "a multi-pronged attack on the cleanup of power plants so controls like [New Source Review, Maximum Achievable Control Technology], even the Clean Air Interstate Rule, which EPA is working on, could be waived or repealed through this process."

But Kerry said yesterday that the bill would not block Clean Air Act requirements outside of limitations on regulating greenhouse gases under certain provisions of the act.

"It really was just an effort to kind of make sure we're looking at this," Kerry said. "But there's nothing that allows anybody to get out of it. There's nothing that allows anybody to sidestep that."

Kerry said that the details of the task force are still being worked out. **"That was a little something that got worked out between a couple of the environmental groups and the utilities,"** he said. "That's one of the things we've still got to kind of shape up a little bit."

Industry representatives, meanwhile, welcomed the prospect of studying overlapping regulations for greenhouse gases and conventional air pollutants.

"These provisions taken together will have some impact on the decisions that utilities make as they move forward with new plans to build or retrofit," said a source from the utility industry.

Jeff Holmstead, an attorney who represents electric utilities, said the task force "doesn't do anything except to maybe highlight an issue and make sure it gets attention."

"It doesn't do anything to give EPA authority that it doesn't already have to improve existing programs," added Holmstead, who served as EPA air chief during the George W. Bush administration.

01268-EPA-3865

Bob Sussman/DC/USEPA/US

To Richard Windsor, Bob Perciasepe

05/13/2010 02:21 PM

cc

bcc

Subject Fw: WV Coal Association 'Call to Arms' on Spruce hearing- FYI

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 05/13/2010 02:21 PM -----

From: William Early/R3/USEPA/US
To: Bob Sussman/DC/USEPA/US@EPA, Peter Silva/DC/USEPA/US@EPA, Mike Shapiro/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Becky Barnes/DC/USEPA/US@EPA, Dave Evans <evans.david@epa.gov>, Gregory Peck/DC/USEPA/US@EPA
Date: 05/13/2010 02:11 PM
Subject: Fw: WV Coal Association 'Call to Arms' on Spruce hearing- FYI

Attached below is an announcement - "A Call to Arms" - from the WV Coal Association regarding the Spruce No. 1 hearing. We are expecting a full house - about 1,000. (b)(5) Deliberative

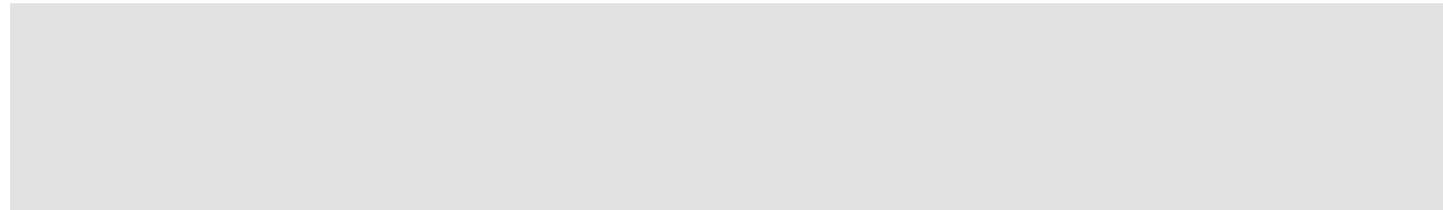


bill e.

William C. Early
Deputy Regional Administrator
Middle Atlantic Region
U. S. Environmental Protection Agency
215 814 2626
215 814 2901 (Fax)
Early.William@epa.gov

----- Forwarded by William Early/R3/USEPA/US on 05/13/2010 02:03 PM -----

From: Jessica Greathouse/R3/USEPA/US
To: Shawn Garvin/R3/USEPA/US@EPA, William Early/R3/USEPA/US, John Pomponio/R3/USEPA/US@EPA, Regina Poeske/R3/USEPA/US@EPA, Stefania Shamet/R3/USEPA/US@EPA, Michael Kulik/R3/USEPA/US@EPA, Catherine Libertz/R3/USEPA/US@EPA, David Dillon/R3/USEPA/US@EPA, Nicholas Gillispie/R3/USEPA/US, Brandon Foreman/DC/USEPA/US@EPA, Daniel Ryan/R3/USEPA/US@EPA, Michael Dunn/R3/USEPA/US@EPA
Cc: bobby.eggleson@charlestonwvpolice.org, adam.saslow@plexusli.com
Date: 05/13/2010 10:09 AM
Subject: WV Coal Association 'Call to Arms' on Spruce hearing- FYI





The Washington DC Senate Hearing bus trip scheduled for May 18 has been cancelled.

Members of the public are encouraged to attend the public hearing (registration begins at 5 p.m.; hearing begins at 6 p.m.)

[Charleston Civic Center \(South Hall\)](#)

200 Civic Center Drive
Charleston, West Virginia 25301
304-345-1500

The federal Environmental Protection Agency West Virginia's coal miners and our coal mining communities are under attack by the EPA. EPA has already issued Spruce permit of Arch Coal in Logan County. This is almost unbelievable in today's world, the federal government (EPA) is taking away jobs from working miners home when the country is trying to rebuild its economy. We must show EPA how much we care about our miners, our jobs and our communities. We ask you to call the following toll-free number to reserve a space at the hearing. The phone number is 1-877-368-3552. You will be asked for your name and phone number. It will let EPA know a large group plans to attend the May 18th hearing.

We ask your immediate attention be given to the Charleston West Virginia hearing that will be held at the Civic Center. EPA is holding the hearing on the already issued Spruce permit of Arch Coal in Logan County. This is almost unbelievable in today's world, the federal government (EPA) is taking away jobs from working miners home when the country is trying to rebuild its economy. We must show EPA how much we care about our miners, our jobs and our communities. We ask you to call the following toll-free number to reserve a space at the hearing. The phone number is 1-877-368-3552. You will be asked for your name and phone number. It will let EPA know a large group plans to attend the May 18th hearing.

We ask you to call the following toll-free number to reserve a space at the hearing. The phone number is 1-877-368-3552. You will be asked for your name and phone number. It will let EPA know a large group plans to attend the May 18th hearing.

You can also register online at <http://sprucehearing.eventbrite.com/>

Previous Statements



This federal bureaucracy is misleading, and is adding excessive red tape that is affecting people's livelihoods. Government should be a facilitator and partner, not a hindrance to Americans working to obtain the American Dream – and that is to have a good job, make a decent wage and provide for their family. - **Gov. Joe Manchin, West Virginia.**

"[A]t some point, a project must be deemed to have been studied enough to meet NEPA's requirements. This is the most heavily studied and scrutinized surface mining coal operation in the history of a state which has a long history with the coal mining industry." - **West Virginia Department of Environmental Protection**

"The WVDEP is committed to the application of the existing laws, rules and policies to protect the

Documents

1. [WV DEP Letter to EPA](#) regarding EPA claims and arguments that the permit was revoked.
2. [Corps of Engineers Letter to EPA](#) regarding Spruce Mine
3. [Senate Concurrent Resolution](#) regarding regular session, unamended
4. [Letter from Senator Manchin](#) regarding the Spruce Mine
5. [Statement from Coal Industry](#) regarding decision to revoke permit
6. [Statement from Coal Industry](#) regarding Mine Permit
7. [Chart from EPA](#)—h

The Facts

environment. ... It does not support retroactive, ad hoc departures from existing laws rules and guidelines." - **West Virginia Department of Environmental Protection**

"There are 250 jobs at risk in that mine. The Spruce #1 permit has been in operation over two years and Arch has worked hard to comply with every request from the EPA. If this veto is allowed to stand then any mine permit is at risk. There is a possible \$150 million in taxes, miners wages and payments to suppliers and area businesses at stake if this permit is allowed to be stopped permanently," - **Sen. Ron D. Stollings, (D-Boone, Logan, Lincoln)**

"This decision by EPA is reckless and arbitrary. It establishes a dangerous precedent in that it reneges on an already approved permit --- something that has never been done previously. In doing so, it brings into question the reliability of the entire permitting process and shows an arrogant disregard for the impacts this will have on the state's economy and its people." - **Bill Raney, president, West Virginia Coal Association**

History



As the most carefully scrutinized and fully considered mine permit in West Virginia's history, the Spruce No. 1 permit was legally issued in 2007. The nearly 10-year permitting process included the preparation of a full environmental impact statement. The EPA was intimately involved in the preparation and approval of the Spruce permit, making today's news even more difficult to understand. - **Arch Coal**

Questions About Spruce No. 1 Mine Public Hearing



Q: When and where is the Public Hearing for the Spruce No. 1 Surface Mine Proposed Determination?

A: EPA Region 3 will hold a public hearing at 7 p.m. on Tuesday, May 18, 2010 at the Charleston Civic Center (South Hall) in Charleston, West Virginia.

Q: Where is the Civic Center located?

A: The Charleston Civic Center is located at 200 Civic Center Drive, Charleston, West Virginia. Their phone number is 304-345-1500.

Q: What is the purpose of the Public Hearing?



- At full production the mine will create 300 indirect and induced jobs.
- The jobs created by the mine will provide employment opportunities for \$70,000 annually with a total economic impact of \$150 million annually.
- The Spruce operation is the largest coal mine in West Virginia or the Appalachian region.
- During the permit's 10-year production levels were approved by the EPA -- for example, the mine will produce 100 percent and the fill place will be recoverable reserves of coal.
- The Spruce mine permit was issued and commenced and the mine is producing coal.
- EPA participated along with the company's efforts to re-evaluate the permit.
- If the EPA revokes the permit, the action has been taken and the EPA has exercised that authority.
- It is an unprecedented decision issued and production, which will have a significant impact on the industry.
- A decision by the EPA to revoke the permit over the validity of any permit in any industry -- not just coal.
- The EPA has continued to delay the permit ... It has had to delay any long-term plan for the EPA to pocket veto the permit.
- EPA's concerns regarding the permit. The State of West Virginia has a long history of coal production and the EPA continues to disregard the agency's concerns. The agency has no respect for the sovereignty of the Legislature and the standards.

A: EPA is holding the public hearing to obtain public testimony or comment on EPA's proposed 404(c) action on the Spruce No. 1 Mine project.

Q: Is the Public Hearing open to anyone?

A: Anyone may appear at the hearing and submit oral and/or written statements or data. On-site registration to speak will begin at 5 p.m.

Q: What about people who have special needs?

A: For those who have special needs and require auxiliary aids and/or services to fully participate in the public hearing, please call 215-814-2760.

Q: Are advanced sign-ups being accepted?

A: Yes. In anticipation of the large turnout for the hearing, advanced sign-up is recommended due to time and capacity limitations, especially for those planning to make oral comments.

Q: How do I sign up?

A: To sign up go to <http://www.epa.gov/region3/mtn/top/spruce1hearing.html> and click on the link which reads "Registering ahead of time is recommended." You may also sign-up by phone at 877-368-3552.

Q: How do I submit my comments?

A: Submit your comments, identified by Docket ID No EPA-R03-OW-2009-0985, by one of the following methods:

Federal eRulemaking Portal (recommended method of comment submission): <http://www.regulations.gov>. Follow the online instructions for submitting comments. Or, go directly to the comments page for this action.

E-mail: ow-docket@epamail.epa.gov This e-mail address is being protected from spambots. You need JavaScript enabled to view it . Include the docket number, EPA-R03-OW-2009-0985, in the subject line of the message.

Mail:

"EPA-R03-OW-2009-0985, Spruce No. 1 Surface Mine"
U.S. Environmental Protection Agency
EPA Docket Center Water Docket, Mail Code 28221T
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Hand Delivery or Courier:
Director, Office of Environmental Programs
Environmental Assessment and Innovation Division (3EA30)
U.S. Environmental Protection Agency, Region 3
1650 Arch Street
Philadelphia, PA 19103

Such deliveries are only accepted during the Regional Office's normal hours of operation, which are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding federal holidays.

Submit at the Public Hearing: Written comments may also be presented at the hearing.

Jessica H. Greathouse
State and Congressional Liaison
U.S. Environmental Protection Agency
(304) 224-3181

01268-EPA-3867

Richard Windsor/DC/USEPA/US
05/13/2010 09:41 PM

To "Seth Oster"
cc
bcc

Subject Fw: Google Alert - lisa jackson epa

(b)(5) Deliberative

From: Google Alerts [googlealerts-noreply@google.com]
Sent: 05/14/2010 01:28 AM GMT
To: Richard Windsor
Subject: Google Alert - lisa jackson epa

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

[Climate Change's Secret Weapon](#)

Mother Jones

No doubt **Lisa Jackson's** trying to avoid a hostile reception from senators like **Lisa** Murkowski, who has been insisting that **EPA** rules would throttle the ...

[See all stories on this topic](#)

Tip: Use quotes ("like this") around a set of words in your query to match them exactly. [Learn more](#).

[Remove](#) this alert.
[Create](#) another alert.
[Manage](#) your alerts.

01268-EPA-3868

**David
McIntosh/DC/USEPA/US**
05/14/2010 07:43 AM

To Richard Windsor, Gina McCarthy
cc
bcc

Subject Fw: Thanks and a heads up

----- Forwarded by David McIntosh/DC/USEPA/US on 05/14/2010 07:42 AM -----

From: David McIntosh/DC/USEPA/US
To: "Doniger, David" <ddoniger@nrdc.org>
Date: 05/14/2010 07:42 AM
Subject: Re: Thanks and a heads up

Thanks David. If there is anyone in the environmental community whom Frank O'Donnell listens to anymore, then that person might want to have a conversation with Frank about this quote in the Washington Post this morning: Frank O'Donnell of the advocacy group Clean Air Watch said the announcement's timing "does raise one eyebrow: Surely this isn't designed to nudge some EPA-hating senators to embrace the Senate legislation?"

"Doniger, David" Thank you all for the good work in get... 05/13/2010 10:15:48 PM

From: "Doniger, David" <ddoniger@nrdc.org>
To: LisaP.Jackson/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA
Date: 05/13/2010 10:15 PM
Subject: Thanks and a heads up

Thank you all for the good work in getting the tailoring rule out. Good timing in relation to the possibility that Senator Murkowski will move her resolution next week. My own small effort to help explain and publicize is here:

EPA Carbon Pollution Rule Clears Up "Murky" Problem

http://switchboard.nrdc.org/blogs/ddoniger/epa_carbon_pollution_rule_clea.html

Here's the heads up:

I'm concerned, and I am sure you will be, about these paragraphs in the NY Times story now on the web. The second para is way off and a call to the reporter this evening might be enough to get it changed.

<http://www.nytimes.com/2010/05/14/science/earth/14permit.html?hp>

Last year the agency issued a finding that carbon dioxide and other climate-altering gases posed a threat to human health and welfare. Under the Clean Air Act, that gave it the authority to issue regulatory measures like the one announced Thursday.

The Obama administration made clear last year that the finding was intended to goad Congress into superseding the agency and adopting emissions limits of its own. The E.P.A.'s regulatory move faces stiff opposition from industry groups.

David D. Doniger
Policy Director, Climate Center
Natural Resources Defense Council
1200 New York Ave., NW
Washington, DC 20005
Phone: (202) 289-2403
Cell: (202) 321-3435
Fax: (202) 789-0859
ddoniger@nrdc.org
on the web at www.nrdc.org
read my blog: <http://switchboard.nrdc.org/blogs/ddoniger/>

01268-EPA-3869

Richard Windsor/DC/USEPA/US
05/14/2010 08:21 AM

To Bob Sussman, Bob Perciasepe
cc "Seth Oster", "Allyn Brooks-Lasure", "Dan Ryan"
bcc
Subject Re: WV Coal Association 'Call to Arms' on Spruce hearing- FYI

(b)(5) Deliberative

Bob Sussman

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

From: Bob Sussman
Sent: 05/13/2010 02:21 PM EDT
To: Richard Windsor; Bob Perciasepe
Subject: Fw: WV Coal Association 'Call to Arms' on Spruce hearing- FYI

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 05/13/2010 02:21 PM -----

From: William Early/R3/USEPA/US
To: Bob Sussman/DC/USEPA/US@EPA, Peter Silva/DC/USEPA/US@EPA, Mike Shapiro/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Becky Barnes/DC/USEPA/US@EPA, Dave Evans <evans.david@epa.gov>, Gregory Peck/DC/USEPA/US@EPA
Date: 05/13/2010 02:11 PM
Subject: Fw: WV Coal Association 'Call to Arms' on Spruce hearing- FYI

Attached below is an announcement - "A Call to Arms" - from the WV Coal Association regarding the Spruce No. 1 hearing. We are expecting a full house - about 1,000. (b)(5) Deliberative

[Redacted]

bill e.

William C. Early
Deputy Regional Administrator
Middle Atlantic Region
U. S. Environmental Protection Agency
215 814 2626
215 814 2901 (Fax)
Early.William@epa.gov

----- Forwarded by William Early/R3/USEPA/US on 05/13/2010 02:03 PM -----

From: Jessica Greathouse/R3/USEPA/US
To: Shawn Garvin/R3/USEPA/US@EPA, William Early/R3/USEPA/US, John Pomponio/R3/USEPA/US@EPA, Regina Poeske/R3/USEPA/US@EPA, Stefania Shamet/R3/USEPA/US@EPA, Michael Kulik/R3/USEPA/US@EPA, Catherine Libertz/R3/USEPA/US@EPA, David Dillon/R3/USEPA/US@EPA, Nicholas Gillispie/R3/USEPA/US, Brandon Foreman/DC/USEPA/US@EPA, Daniel Ryan/R3/USEPA/US@EPA, Michael Dunn/R3/USEPA/US@EPA
Cc: bobby.eggleton@charlestonwvpolice.org, adam.saslow@plexusli.com
Date: 05/13/2010 10:09 AM
Subject: WV Coal Association 'Call to Arms' on Spruce hearing- FYI



The Washington DC Senate Hearing bus trip scheduled for May 18 has been cancelled.

Members of the public are encouraged to attend the public hearing (registration begins at 5 p.m.; hearing begins at 6 p.m.) on the following date and location:

**[Charleston Civic Center \(South Hall\)](#)
200 Civic Center Drive
Charleston, West Virginia 25301
304-345-1500**

The federal Environmental Protection Agency West Virginia's coal miners and our coal mining communities are under attack by opponents in Congress and scheduled two hearings on the same day (May 18th) for bills and actions that will do away with our people's jobs. We're convinced the opponents to West Virginia coal teamed up to make it very difficult for our people to live in Washington and the other in Charleston. We must prove them wrong!

We ask your immediate attention be given to the Charleston West Virginia hearing that will be held at the Civic Center on May 18th. This hearing threatens to "veto" the already issued Spruce permit of Arch Coal in Logan County. This is almost unbelievable in today's economy. Confiscating a legally-issued permit and sending working miners home when the country is trying to rebuild its economy is about our miners, our jobs and our state.

We ask you to call the following toll-free number to reserve a space at the hearing. The phone number is 1-877-368-3683. Please provide your address, email address and phone number. It will let EPA know a large group plans to attend the May 18th hearing.

You can also register online at <http://sprucehearing.eventbrite.com/>

Previous Statements



This federal bureaucracy is misleading, and is adding excessive red tape that is affecting people's livelihoods. Government should be a facilitator and partner, not a hindrance to Americans working to obtain the American Dream – and that is to have a good job, make a decent wage and provide for their family. - **Gov. Joe Manchin, West Virginia.**

Documents

1. [WV DEP Letter to EPA responding to EPA's decision that the Spruce permit should be revoked.](#)
2. [Corps of Engineers' decision to deny the permit to the Spruce Mine.](#)
3. [Senate Concurrence on the bill during the regular session of the West Virginia Legislature on Spruce Mine.](#)
4. [Letter from Sen. Manchin to EPA Administrator Lisa Jackson regarding the Spruce Mine permit.](#)
5. [Statement from Gov. Manchin regarding EPA's decision to revoke the Spruce Mine permit.](#)
6. [Statement from Gov. Manchin regarding the Spruce Mine permit.](#)

"[A]t some point, a project must be deemed to have been studied enough to meet NEPA's requirements. This is the most heavily studied and scrutinized surface mining coal operation in the history of a state which has a long history with the coal mining industry." - **West Virginia Department of Environmental Protection**

"The WVDEP is committed to the application of the existing laws, rules and policies to protect the environment. ... It does not support retroactive, ad hoc departures from existing laws rules and guidelines." - **West Virginia Department of Environmental Protection**

"There are 250 jobs at risk in that mine. The Spruce #1 permit has been in operation over two years and Arch has worked hard to comply with every request from the EPA. If this veto is allowed to stand then any mine permit is at risk. There is a possible \$150 million in taxes, miners wages and payments to suppliers and area businesses at stake if this permit is allowed to be stopped permanently," - **Sen. Ron D. Stollings, (D-Boone, Logan, Lincoln)**

"This decision by EPA is reckless and arbitrary. It establishes a dangerous precedent in that it reneges on an already approved permit --- something that has never been done previously. In doing so, it brings into question the reliability of the entire permitting process and shows an arrogant disregard for the impacts this will have on the state's economy and its people." - **Bill Raney, president, West Virginia Coal Association**

History



As the most carefully scrutinized and fully considered mine permit in West Virginia's history, the Spruce No. 1 permit was legally issued in 2007. The nearly 10-year permitting process included the preparation of a full environmental impact statement. The EPA was intimately involved in the preparation and approval of the Spruce permit, making today's news even more difficult to understand. - **Arch Coal**

Questions About Spruce No. 1 Mine Public Hearing



Q: When and where is the Public Hearing for the Spruce No. 1 Surface Mine Proposed Determination?

Spruce No. 1 Mine
7. Chart from EPA-works.

The Facts



- At full production the mine will create another 300 jobs
- The jobs created by the mine are long-term employment opportunities worth approximately \$70,000 per year
- Total economic impact of the mine is approximately \$150 million per year
- The Spruce operation is the largest coal producer in West Virginia
- The permit is the most expensive in West Virginia or the country
- During the permit's preparation and production level concerns of the EPA were reduced by 27 percent and by 57 percent. Total production by 10.6 million tons per year
- The Spruce mine permit has been in production for over 10 years and has hired and is working on hiring more workers
- EPA participated along the way during the permitting process and praised the company's efforts
- If the EPA revokes the permit, such an action has been taken 14th time the EPA has been created in 1972
- It is an unprecedented action that has already been issued and investment has been made
- A decision by the EPA would cast doubt over the future of coal in West Virginia for any mine
- The EPA has continued to delay to revoke the permit ... make its decision and delay on an official decision permit by doing nothing
- EPA's concerns regarding the mine are addressed by the State of West Virginia's environmental programs. The fact that the EPA's conclusions is further

A: EPA Region 3 will hold a public hearing at 7 p.m. on Tuesday, May 18, 2010 at the Charleston Civic Center (South Hall) in Charleston, West Virginia.

for the state's environment
the Legislature to promulgate
standards.

Q: Where is the Civic Center located?

A: The Charleston Civic Center is located at 200 Civic Center Drive, Charleston, West Virginia. Their phone number is 304-345-1500.

Q: What is the purpose of the Public Hearing?

A: EPA is holding the public hearing to obtain public testimony or comment on EPA's proposed 404(c) action on the Spruce No. 1 Mine project.

Q: Is the Public Hearing open to anyone?

A: Anyone may appear at the hearing and submit oral and/or written statements or data. On-site registration to speak will begin at 5 p.m.

Q: What about people who have special needs?

A: For those who have special needs and require auxiliary aids and/or services to fully participate in the public hearing, please call 215-814-2760.

Q: Are advanced sign-ups being accepted?

A: Yes. In anticipation of the large turnout for the hearing, advanced sign-up is recommended due to time and capacity limitations, especially for those planning to make oral comments.

Q: How do I sign up?

A: To sign up go to <http://www.epa.gov/region3/mtntop/spruce1hearing.html> and click on the link which reads "Registering ahead of time is recommended." You may also sign-up by phone at 877-368-3552.

Q: How do I submit my comments?

A: Submit your comments, identified by Docket ID No EPA-R03-OW-2009-0985, by one of the following methods:

Federal eRulemaking Portal (recommended method of comment submission):
<http://www.regulations.gov>. Follow the online instructions for submitting comments. Or, go directly to the comments page for this action.

E-mail: ow-docket@epamail.epa.gov This e-mail address is being protected from spambots. You need JavaScript enabled to view it . Include the docket number, EPA-R03-OW-2009-0985, in the subject line of the message.

Mail:

"EPA-R03-OW-2009-0985, Spruce No. 1 Surface Mine"
U.S. Environmental Protection Agency
EPA Docket Center Water Docket, Mail Code 28221T
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Hand Delivery or Courier:
Director, Office of Environmental Programs
Environmental Assessment and Innovation Division (3EA30)

U.S. Environmental Protection Agency, Region 3
1650 Arch Street
Philadelphia, PA 19103

Such deliveries are only accepted during the Regional Office's normal hours of operation, which are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding federal holidays.

Submit at the Public Hearing: Written comments may also be presented at the hearing.

Jessica H. Greathouse
State and Congressional Liaison
U.S. Environmental Protection Agency
(304) 224-3181

01268-EPA-3870

Bob Sussman/DC/USEPA/US

To Richard Windsor

05/14/2010 08:29 AM

cc Bob Perciasepe, "Allyn Brooks-Lasure", "Seth Oster", "Dan Ryan", Shawn Garvin

bcc

Subject Re: WV Coal Association 'Call to Arms' on Spruce hearing- FYI

(b)(5) Deliberative

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

Richard Windsor (b)(5) Deliberative 05/14/2010 08:21:42 AM

From: Richard Windsor/DC/USEPA/US
To: Bob Sussman/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA
Cc: "Seth Oster" <oster.seth@epa.gov>, "Allyn Brooks-Lasure" <Brooks-lasure.allyn@epa.gov>, "Dan Ryan" <ryan.daniel@epa.gov>
Date: 05/14/2010 08:21 AM
Subject: Re: WV Coal Association 'Call to Arms' on Spruce hearing- FYI

(b)(5) Deliberative

Bob Sussman

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

From: Bob Sussman
Sent: 05/13/2010 02:21 PM EDT
To: Richard Windsor; Bob Perciasepe
Subject: Fw: WV Coal Association 'Call to Arms' on Spruce hearing- FYI

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 05/13/2010 02:21 PM -----

From: William Early/R3/USEPA/US
To: Bob Sussman/DC/USEPA/US@EPA, Peter Silva/DC/USEPA/US@EPA, Mike Shapiro/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Becky Barnes/DC/USEPA/US@EPA, Dave Evans <evans.david@epa.gov>, Gregory Peck/DC/USEPA/US@EPA
Date: 05/13/2010 02:11 PM
Subject: Fw: WV Coal Association 'Call to Arms' on Spruce hearing- FYI

Attached below is an announcement - "A Call to Arms" - from the WV Coal Association regarding the Spruce No. 1 hearing. We are expecting a full house - about 1,000. (b)(5) Deliberative

(b)(5) Deliberative

bill e.

William C. Early
Deputy Regional Administrator
Middle Atlantic Region
U. S. Environmental Protection Agency
215 814 2626
215 814 2901 (Fax)
Early.William@epa.gov

----- Forwarded by William Early/R3/USEPA/US on 05/13/2010 02:03 PM -----

From: Jessica Greathouse/R3/USEPA/US
To: Shawn Garvin/R3/USEPA/US@EPA, William Early/R3/USEPA/US, John Pomponio/R3/USEPA/US@EPA, Regina Poeske/R3/USEPA/US@EPA, Stefania Shamet/R3/USEPA/US@EPA, Michael Kulik/R3/USEPA/US@EPA, Catherine Libertz/R3/USEPA/US@EPA, David Dillon/R3/USEPA/US@EPA, Nicholas Gillispie/R3/USEPA/US, Brandon Foreman/DC/USEPA/US@EPA, Daniel Ryan/R3/USEPA/US@EPA, Michael Dunn/R3/USEPA/US@EPA
Cc: bobby.eggleton@charlestonwvpolice.org, adam.saslow@plexusli.com
Date: 05/13/2010 10:09 AM
Subject: WV Coal Association 'Call to Arms' on Spruce hearing- FYI



The Washington DC Senate Hearing bus trip scheduled for May 18 has been cancelled.

Members of the public are encouraged to attend the public hearing (registration begins at 5 p.m.; hearing begins at 6 p.m.)

**[Charleston Civic Center \(South Hall\)](#)
200 Civic Center Drive
Charleston, West Virginia 25301
304-345-1500**

The federal Environmental Protection Agency West Virginia's coal miners and our coal mining communities are under attack by the EPA. EPA has already issued Spruce permit of Arch Coal in Logan County. This is almost unbelievable in today's world, the federal government (EPA) is taking away working miners home when the country is trying to rebuild its economy. We must show EPA how much we care about our miners, our jobs, and our communities.

We ask your immediate attention be given to the Charleston West Virginia hearing that will be held at the Civic Center. EPA is holding the hearing on the already issued Spruce permit of Arch Coal in Logan County. This is almost unbelievable in today's world, the federal government (EPA) is taking away working miners home when the country is trying to rebuild its economy. We must show EPA how much we care about our miners, our jobs, and our communities.

We ask you to call the following toll-free number to reserve a space at the hearing. The phone number is 1-877-368-3552. You will be given a phone number. It will let EPA know a large group plans to attend the May 18th hearing.

You can also register online at <http://sprucehearing.eventbrite.com/>

Previous Statements



This federal bureaucracy is misleading, and is adding excessive red tape that is affecting people's livelihoods. Government should be a facilitator and partner, not a hindrance to Americans working to obtain the American Dream – and that is to have a good job, make a decent wage and provide for their family.” - Gov. Joe Manchin, West Virginia.

“[A]t some point, a project must be deemed to have been studied enough to meet NEPA's requirements. This is the most heavily studied and scrutinized surface mining coal operation in the history of a state which has a long history with the coal mining industry.” - West Virginia Department of Environmental Protection

“The WVDEP is committed to the application of the existing laws, rules and policies to protect the environment. ... It does not support retroactive, ad hoc departures from existing laws rules and guidelines.” - West Virginia Department of Environmental Protection

“There are 250 jobs at risk in that mine. The Spruce #1 permit has been in operation over two years and Arch has worked hard to comply with every request from the EPA. If this veto is allowed to stand then any mine permit is at risk. There is a possible \$150 million in taxes, miners wages and payments to suppliers and area businesses at stake if this permit is allowed to be stopped permanently,” - Sen. Ron D. Stollings, (D-Boone, Logan, Lincoln)

“This decision by EPA is reckless and arbitrary. It establishes a dangerous precedent in that it reneges on an already approved permit --- something that has never been done previously. In doing so, it brings into question the reliability of the entire permitting process and shows an arrogant disregard for the impacts this will have on the state's economy and its people.” - Bill Raney, president, West Virginia Coal Association

History



As the most carefully scrutinized and fully considered mine permit in West Virginia's history, the Spruce No. 1 permit was legally issued in 2007. The nearly 10-year permitting process included the preparation of a full environmental impact statement. The EPA was intimately involved in the preparation and approval of the Spruce permit, making today's news even more difficult to understand. - Arch Coal

Documents

1. [WV DEP Letter to EPA claims and are revoked.](#)
2. [Corps of Engineers Spruce Mine](#)
3. [Senate Concurrent regular session, un](#)
4. [Letter from Senate regarding the Spru](#)
5. [Statement from Co decision to revoke](#)
6. [Statement from Co Mine Permit](#)
7. [Chart from EPA—h](#)

The Facts



- At full production the m 300 indirect and induce
- The jobs created by the employment opportunity \$70,000 annually with
- Total economic impact \$15 0 million annually.
- The Spruce operation is
- The permit is the most Virginia or the Appalac
- During the permit's 10 production levels were the EPA -- for example, percent and the fill plac recoverable reserves of result.
- The Spruce mine perm commenced and the in
- EPA participated along during the permit's 10 company's efforts to re
- If the EPA revokes the action has been taken EPA has exercised that
- It is an unprecedented issued and production,
- A decision by the EPA t

Questions About Spruce No. 1 Mine Public Hearing



Q: When and where is the Public Hearing for the Spruce No. 1 Surface Mine Proposed Determination?

A: EPA Region 3 will hold a public hearing at 7 p.m. on Tuesday, May 18, 2010 at the Charleston Civic Center (South Hall) in Charleston, West Virginia.

Q: Where is the Civic Center located?

A: The Charleston Civic Center is located at 200 Civic Center Drive, Charleston, West Virginia. Their phone number is 304-345-1500.

Q: What is the purpose of the Public Hearing?

A: EPA is holding the public hearing to obtain public testimony or comment on EPA's proposed 404(c) action on the Spruce No. 1 Mine project.

Q: Is the Public Hearing open to anyone?

A: Anyone may appear at the hearing and submit oral and/or written statements or data. On-site registration to speak will begin at 5 p.m.

Q: What about people who have special needs?

A: For those who have special needs and require auxiliary aids and/or services to fully participate in the public hearing, please call 215-814-2760.

Q: Are advanced sign-ups being accepted?

A: Yes. In anticipation of the large turnout for the hearing, advanced sign-up is recommended due to time and capacity limitations, especially for those planning to make oral comments.

Q: How do I sign up?

A: To sign up go to <http://www.epa.gov/region3/mtn/top/spruce1hearing.html> and click on the link which reads "Registering ahead of time is recommended." You may also sign-up by phone at 877-368-3552.

Q: How do I submit my comments?

A: Submit your comments, identified by Docket ID No EPA-R03-OW-2009-0985, by one of the following methods:

Federal eRulemaking Portal (recommended method of comment submission): <http://www.regulations.gov>. Follow the online instructions for submitting comments. Or, go directly to the comments page for this action.

E-mail: ow-docket@epamail.epa.gov This e-mail address is being protected from spambots. You need JavaScript enabled to view it . Include the docket number, EPA-R03-OW-2009-0985, in the subject line of the message.

over the validity of any
any industry -- not just
the permit ... It has ha
should not delay any lo
the EPA to pocket veto
● EPA's concerns regardi
State of West Virginia t
EPA continues to disrege
agency has no respect
sovereignty of the Legi
standards.

Mail:

"EPA-R03-OW-2009-0985, Spruce No. 1 Surface Mine"
U.S. Environmental Protection Agency
EPA Docket Center Water Docket, Mail Code 28221T
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Hand Delivery or Courier:
Director, Office of Environmental Programs
Environmental Assessment and Innovation Division (3EA30)
U.S. Environmental Protection Agency, Region 3
1650 Arch Street
Philadelphia, PA 19103

Such deliveries are only accepted during the Regional Office's normal hours of operation, which are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding federal holidays.

Submit at the Public Hearing: Written comments may also be presented at the hearing.

Jessica H. Greathouse
State and Congressional Liaison
U.S. Environmental Protection Agency
(304) 224-3181

01268-EPA-3871

Richard Windsor/DC/USEPA/US
05/14/2010 08:34 AM

To Bob Sussman
cc Bob Perciasepe, "Allyn Brooks-Lasure", "Seth Oster", "Dan Ryan", Shawn Garvin, "Heidi Ellis", "Diane Thompson", (b)
bcc [REDACTED]
Subject Re: WV Coal Association 'Call to Arms' on Spruce hearing- FYI

(b)(5) Deliberative

(b)(5) Deliberative

Bob Sussman

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

From: Bob Sussman
Sent: 05/14/2010 08:29 AM EDT
To: Richard Windsor
Cc: Bob Perciasepe; "Allyn Brooks-Lasure" <Brooks-lasure.allyn@epa.gov>; "Seth Oster" <oster.seth@epa.gov>; "Dan Ryan" <ryan.daniel@epa.gov>; Shawn Garvin
Subject: Re: WV Coal Association 'Call to Arms' on Spruce hearing- FYI

(b)(5) Deliberative

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

Richard Windsor (b)(5) Deliberative 05/14/2010 08:21:42 AM

From: Richard Windsor/DC/USEPA/US
To: Bob Sussman/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA
Cc: "Seth Oster" <oster.seth@epa.gov>, "Allyn Brooks-Lasure" <Brooks-lasure.allyn@epa.gov>, "Dan Ryan" <ryan.daniel@epa.gov>
Date: 05/14/2010 08:21 AM
Subject: Re: WV Coal Association 'Call to Arms' on Spruce hearing- FYI

(b)(5) Deliberative

Bob Sussman

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

From: Bob Sussman
Sent: 05/13/2010 02:21 PM EDT
To: Richard Windsor; Bob Perciasepe
Subject: Fw: WV Coal Association 'Call to Arms' on Spruce hearing- FYI

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 05/13/2010 02:21 PM -----

From: William Early/R3/USEPA/US
 To: Bob Sussman/DC/USEPA/US@EPA, Peter Silva/DC/USEPA/US@EPA, Mike Shapiro/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Becky Barnes/DC/USEPA/US@EPA, Dave Evans <evans.david@epa.gov>, Gregory Peck/DC/USEPA/US@EPA
 Date: 05/13/2010 02:11 PM
 Subject: Fw: WV Coal Association 'Call to Arms' on Spruce hearing- FYI

Attached below is an announcement - "A Call to Arms" - from the WV Coal Association regarding the Spruce No. 1 hearing. We are expecting a full house - about 1,000. (b)(5) Deliberative

bill e.

William C. Early
 Deputy Regional Administrator
 Middle Atlantic Region
 U. S. Environmental Protection Agency
 215 814 2626
 215 814 2901 (Fax)
 Early.William@epa.gov

----- Forwarded by William Early/R3/USEPA/US on 05/13/2010 02:03 PM -----

From: Jessica Greathouse/R3/USEPA/US
 To: Shawn Garvin/R3/USEPA/US@EPA, William Early/R3/USEPA/US, John Pomponio/R3/USEPA/US@EPA, Regina Poeske/R3/USEPA/US@EPA, Stefania Shamet/R3/USEPA/US@EPA, Michael Kulik/R3/USEPA/US@EPA, Catherine Libertz/R3/USEPA/US@EPA, David Dillon/R3/USEPA/US@EPA, Nicholas Gillispie/R3/USEPA/US, Brandon Foreman/DC/USEPA/US@EPA, Daniel Ryan/R3/USEPA/US@EPA, Michael Dunn/R3/USEPA/US@EPA
 Cc: bobby.eggleton@charlestonwvpolice.org, adam.saslow@plexusli.com
 Date: 05/13/2010 10:09 AM
 Subject: WV Coal Association 'Call to Arms' on Spruce hearing- FYI



The Washington DC Senate Hearing bus trip scheduled for May 18 has been cancelled.

Members of the public are encouraged to attend the public hearing (registration begins at 5 p.m.; hearing begins at 6 p.m.) at the following location:

[Charleston Civic Center \(South Hall\)](#)
 200 Civic Center Drive
 Charleston, West Virginia 25301
 304-345-1500

The federal Environmental Protection Agency West Virginia's coal miners and our coal mining communities are under attack by opponents in Congress and scheduled two hearings on the same day (May 18th) for bills and actions that will do away with people's jobs. We're convinced the opponents to West Virginia coal teamed up to make it very difficult for our people in Washington and the other in Charleston. We must prove them wrong!

We ask your immediate attention be given to the Charleston West Virginia hearing that will be held at the Civic Center that threatens to "veto" the already issued Spruce permit of Arch Coal in Logan County. This is almost unbelievable in today's world confiscating a legally-issued permit and sending working miners home when the country is trying to rebuild its economy about our miners, our jobs and our state.

We ask you to call the following toll-free number to reserve a space at the hearing. The phone number is 1-877-368-3683 address, email address and phone number. It will let EPA know a large group plans to attend the May 18th hearing.

You can also register online at <http://sprucehearing.eventbrite.com/>

Previous Statements



This federal bureaucracy is misleading, and is adding excessive red tape that is affecting people's livelihoods. Government should be a facilitator and partner, not a hindrance to Americans working to obtain the American Dream – and that is to have a good job, make a decent wage and provide for their family. - **Gov. Joe Manchin, West Virginia.**

"[A]t some point, a project must be deemed to have been studied enough to meet NEPA's requirements. This is the most heavily studied and scrutinized surface mining coal operation in the history of a state which has a long history with the coal mining industry." - **West Virginia Department of Environmental Protection**

"The WVDEP is committed to the application of the existing laws, rules and policies to protect the environment. ... It does not support retroactive, ad hoc departures from existing laws rules and guidelines." - **West Virginia Department of Environmental Protection**

"There are 250 jobs at risk in that mine. The Spruce #1 permit has been in operation over two years and Arch has worked hard to comply with every request from the EPA. If this veto is allowed to stand then any mine permit is at risk. There is a possible \$150 million in taxes, miners wages and payments to suppliers and area businesses at stake if this permit is allowed to be stopped permanently," - **Sen. Ron D. Stollings, (D-Boone, Logan, Lincoln)**

"This decision by EPA is reckless and arbitrary. It establishes a dangerous precedent in that it reneges on an already approved permit --- something that has never been done previously. In doing so, it brings into question the reliability of the entire permitting process and shows an arrogant disregard for the impacts this will have on the state's economy and its people." - **Bill Raney, president, West Virginia Coal Association**

Documents

1. [WV DEP Letter to EPA responding to EPA's decision that the Spruce permit should be denied](#)
2. [Corps of Engineers Letter to the Spruce Mine](#)
3. [Senate Concurrence on the Spruce Mine during the regular session](#)
4. [Letter from Sen. Stollings to EPA Administrator Jackson regarding the Spruce Mine](#)
5. [Statement from Sen. Stollings on EPA's decision to deny the Spruce No. 1 Mine permit](#)
6. [Statement from Sen. Stollings on the Spruce No. 1 Mine permit](#)
7. [Chart from EPA-Region 4 on the Spruce Mine works.](#)

The Facts



- At full production the mine will create another 300 jobs
- The jobs created by the mine will be long-term employment with an average salary of approximately \$70,000
- Total economic impact of the mine will be approximately \$150 million

History



As the most carefully scrutinized and fully considered mine permit in West Virginia's history, the Spruce No. 1 permit was legally issued in 2007. The nearly 10-year permitting process included the preparation of a full environmental impact statement. The EPA was intimately involved in the preparation and approval of the Spruce permit, making today's news even more difficult to understand. - **Arch Coal**

Questions About Spruce No. 1 Mine Public Hearing



Q: When and where is the Public Hearing for the Spruce No. 1 Surface Mine Proposed Determination?

A: EPA Region 3 will hold a public hearing at 7 p.m. on Tuesday, May 18, 2010 at the Charleston Civic Center (South Hall) in Charleston, West Virginia.

Q: Where is the Civic Center located?

A: The Charleston Civic Center is located at 200 Civic Center Drive, Charleston, West Virginia. Their phone number is 304-345-1500.

Q: What is the purpose of the Public Hearing?

A: EPA is holding the public hearing to obtain public testimony or comment on EPA's proposed 404(c) action on the Spruce No. 1 Mine project.

Q: Is the Public Hearing open to anyone?

A: Anyone may appear at the hearing and submit oral and/or written statements or data. On-site registration to speak will begin at 5 p.m.

Q: What about people who have special needs?

A: For those who have special needs and require auxiliary aids and/or services to fully participate in the public hearing, please call 215-814-2760.

Q: Are advanced sign-ups being accepted?

- approximately \$15 C
- The Spruce operatio
-
- The permit is the mo
- West Virginia or the
- During the permit's
- and production level
- concerns of the EPA
- was reduced by 27 p
- by 57 percent. Total
- by 10.6 million tons
- The Spruce mine pe
- production has come
- hired and is working
- EPA participated alo
- way during the perm
- praised the company
- If the EPA revokes t
- such an action has b
- 14th time the EPA h
- was created in 1972
- It is an unprecedent
- already been issued
- investment has been
- A decision by the EP
- cast doubt over the
- West Virginia for any
- The EPA has continu
- revoke the permit ..
- make its decision an
- delay on an official o
- permit by doing not
- EPA's concerns rega
- by the State of West
- programs. The fact t
- conclusions is furthe
- for the state's enviro
- the Legislature to pr
- standards.

A: Yes. In anticipation of the large turnout for the hearing, advanced sign-up is recommended due to time and capacity limitations, especially for those planning to make oral comments.

Q: How do I sign up?

A: To sign up go to <http://www.epa.gov/region3/mtntop/spruce1hearing.html> and click on the link which reads "Registering ahead of time is recommended." You may also sign-up by phone at 877-368-3552.

Q: How do I submit my comments?

A: Submit your comments, identified by Docket ID No EPA-R03-OW-2009-0985, by one of the following methods:

Federal eRulemaking Portal (recommended method of comment submission): <http://www.regulations.gov>. Follow the online instructions for submitting comments. Or, go directly to the comments page for this action.

E-mail: ow-docket@epamail.epa.gov This e-mail address is being protected from spambots. You need JavaScript enabled to view it . Include the docket number, EPA-R03-OW-2009-0985, in the subject line of the message.

Mail:

"EPA-R03-OW-2009-0985, Spruce No. 1 Surface Mine"
U.S. Environmental Protection Agency
EPA Docket Center Water Docket, Mail Code 28221T
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Hand Delivery or Courier:
Director, Office of Environmental Programs
Environmental Assessment and Innovation Division (3EA30)
U.S. Environmental Protection Agency, Region 3
1650 Arch Street
Philadelphia, PA 19103

Such deliveries are only accepted during the Regional Office's normal hours of operation, which are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding federal holidays.

Submit at the Public Hearing: Written comments may also be presented at the hearing.

Jessica H. Greathouse
State and Congressional Liaison
U.S. Environmental Protection Agency
(304) 224-3181

01268-EPA-3872

Richard Windsor/DC/USEPA/US
05/14/2010 09:14 AM

To "Seth Oster", "Bob Sussman", "Dan Ryan", "Bob Perciasepe", "Diane Thompson"
cc
bcc

Subject Fw: WV Coal Association 'Call to Arms' on Spruce hearing- FYI

(b)(6)

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

From: (b)(6)
Sent: 05/14/2010 09:11 AM EDT
To: Richard Windsor
Subject: Re: WV Coal Association 'Call to Arms' on Spruce hearing- FYI

Hi Administrator,

(b)(5) Deliberative

[Redacted]

[Redacted]

John
to -----\Sent by EPA Wireless E-Mail Services.
Richard Windsor

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

From: Richard Windsor
Sent: 05/14/2010 08:34 AM EDT
To: Bob Sussman
Cc: Bob Perciasepe; "Allyn Brooks-Lasure" <Brooks-lasure.allyn@epa.gov>; "Seth Oster" <oster.seth@epa.gov>; "Dan Ryan" <ryan.daniel@epa.gov>; Shawn Garvin; Heidi Ellis; "Diane Thompson" <thompson.diane@epa.gov>; (b)(6)
(b)(6) >

Subject: Re: WV Coal Association 'Call to Arms' on Spruce hearing- FYI

(b)(5) Deliberative

[Redacted]

Bob Sussman

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

From: Bob Sussman
Sent: 05/14/2010 08:29 AM EDT
To: Richard Windsor
Cc: Bob Perciasepe; "Allyn Brooks-Lasure" <Brooks-lasure.allyn@epa.gov>; "Seth Oster" <oster.seth@epa.gov>; "Dan Ryan" <ryan.daniel@epa.gov>; Shawn Garvin

Subject: Re: WV Coal Association 'Call to Arms' on Spruce hearing- FYI

(b)(5) Deliberative

(b)(5) Deliberative

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

Richard Windsor

(b)(5) Deliberative

05/14/2010 08:21:42 AM

From: Richard Windsor/DC/USEPA/US
 To: Bob Sussman/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA
 Cc: "Seth Oster" <oster.seth@epa.gov>, "Allyn Brooks-Lasure" <Brooks-lasure.allyn@epa.gov>, "Dan Ryan" <ryan.daniel@epa.gov>
 Date: 05/14/2010 08:21 AM
 Subject: Re: WV Coal Association 'Call to Arms' on Spruce hearing- FYI

(b)(5) Deliberative

Bob Sussman

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

From: Bob Sussman
Sent: 05/13/2010 02:21 PM EDT
To: Richard Windsor; Bob Perciasepe
Subject: Fw: WV Coal Association 'Call to Arms' on Spruce hearing- FYI

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 05/13/2010 02:21 PM -----

From: William Early/R3/USEPA/US
 To: Bob Sussman/DC/USEPA/US@EPA, Peter Silva/DC/USEPA/US@EPA, Mike Shapiro/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Becky Barnes/DC/USEPA/US@EPA, Dave Evans <evans.david@epa.gov>, Gregory Peck/DC/USEPA/US@EPA
 Date: 05/13/2010 02:11 PM
 Subject: Fw: WV Coal Association 'Call to Arms' on Spruce hearing- FYI

Attached below is an announcement - "A Call to Arms" - from the WV Coal Association regarding the Spruce No. 1 hearing. We are expecting a full house - about 1,000. (b)(5) Deliberative

bill e.

William C. Early
 Deputy Regional Administrator
 Middle Atlantic Region
 U. S. Environmental Protection Agency
 215 814 2626
 215 814 2901 (Fax)
 Early.William@epa.gov

----- Forwarded by William Early/R3/USEPA/US on 05/13/2010 02:03 PM -----

From: Jessica Greathouse/R3/USEPA/US

To: Shawn Garvin/R3/USEPA/US@EPA, William Early/R3/USEPA/US, John Pomponio/R3/USEPA/US@EPA, Regina Poeske/R3/USEPA/US@EPA, Stefania Shamet/R3/USEPA/US@EPA, Michael Kulik/R3/USEPA/US@EPA, Catherine Libertz/R3/USEPA/US@EPA, David Dillon/R3/USEPA/US@EPA, Nicholas Gillispie/R3/USEPA/US, Brandon Foreman/DC/USEPA/US@EPA, Daniel Ryan/R3/USEPA/US@EPA, Michael Dunn/R3/USEPA/US@EPA

Cc: bobby.eggleton@charlestonwvpolice.org, adam.saslow@plexusli.com

Date: 05/13/2010 10:09 AM

Subject: WV Coal Association 'Call to Arms' on Spruce hearing- FYI



The Washington DC Senate Hearing bus trip scheduled for May 18 has been cancelled.

Members of the public are encouraged to attend the public hearing (registration begins at 5 p.m.; hearing begins at 6 p.m.) on the following dates and times:

Charleston Civic Center (South Hall)
200 Civic Center Drive
Charleston, West Virginia 25301
304-345-1500

The federal Environmental Protection Agency West Virginia's coal miners and our coal mining communities are under attack by opponents in Congress and scheduled two hearings on the same day (May 18th) for bills and actions that will do away with our people's jobs. We're convinced the opponents to West Virginia coal teamed up to make it very difficult for our people to attend the hearing in Washington and the other in Charleston. We must prove them wrong!

We ask your immediate attention be given to the Charleston West Virginia hearing that will be held at the Civic Center in Charleston. This hearing threatens to "veto" the already issued Spruce permit of Arch Coal in Logan County. This is almost unbelievable in today's economy. EPA is confiscating a legally-issued permit and sending working miners home when the country is trying to rebuild its economy. We must stand up for our miners, our jobs and our state.

We ask you to call the following toll-free number to reserve a space at the hearing. The phone number is 1-877-368-3683. Please provide your address, email address and phone number. It will let EPA know a large group plans to attend the May 18th hearing.

You can also register online at <http://sprucehearing.eventbrite.com/>

Previous Statements

Documents

1. [WV DEP Letter to EPA regarding to EPA permit should be](#)



This federal bureaucracy is misleading, and is adding excessive red tape that is affecting people's livelihoods. Government should be a facilitator and partner, not a hindrance to Americans working to obtain the American Dream – and that is to have a good job, make a decent wage and provide for their family. - **Gov. Joe Manchin, West Virginia.**

"[A]t some point, a project must be deemed to have been studied enough to meet NEPA's requirements. This is the most heavily studied and scrutinized surface mining coal operation in the history of a state which has a long history with the coal mining industry." - **West Virginia Department of Environmental Protection**

"The WVDEP is committed to the application of the existing laws, rules and policies to protect the environment. ... It does not support retroactive, ad hoc departures from existing laws rules and guidelines." - **West Virginia Department of Environmental Protection**

"There are 250 jobs at risk in that mine. The Spruce #1 permit has been in operation over two years and Arch has worked hard to comply with every request from the EPA. If this veto is allowed to stand then any mine permit is at risk. There is a possible \$150 million in taxes, miners wages and payments to suppliers and area businesses at stake if this permit is allowed to be stopped permanently," - **Sen. Ron D. Stollings, (D-Boone, Logan, Lincoln)**

"This decision by EPA is reckless and arbitrary. It establishes a dangerous precedent in that it reneges on an already approved permit --- something that has never been done previously. In doing so, it brings into question the reliability of the entire permitting process and shows an arrogant disregard for the impacts this will have on the state's economy and its people." - **Bill Raney, president, West Virginia Coal Association**

History



As the most carefully scrutinized and fully considered mine permit in West Virginia's history, the Spruce No. 1 permit was legally issued in 2007. The nearly 10-year permitting process included the preparation of a full environmental impact statement. The EPA was intimately involved in the preparation and approval of the Spruce permit, making today's news even more difficult to understand. - **Arch Coal**

Questions About Spruce No. 1 Mine Public Hearing

2. [Corps of Engineers to the Spruce Mine](#)
3. [Senate Concurrence during the regular Spruce Mine.](#)
4. [Letter from Sen. Jackson regarding](#)
5. [Statement from EPA's decision to](#)
6. [Statement from Spruce No. 1 Mine](#)
7. [Chart from EPA-works.](#)

The Facts



- At full production the create another 300 i
- The jobs created by long-term employment approximately \$70,0
- Total economic impact approximately \$15 0
- The Spruce operation
-
- The permit is the mo West Virginia or the
- During the permit's and production level concerns of the EPA was reduced by 27 p by 57 percent. Total by 10.6 million tons
- The Spruce mine pe production has com hired and is working
- EPA participated alo way during the perm praised the company
- If the EPA revokes t such an action has b 14th time the EPA h was created in 1972
- It is an unprecedented



Q: When and where is the Public Hearing for the Spruce No. 1 Surface Mine Proposed Determination?

A: EPA Region 3 will hold a public hearing at 7 p.m. on Tuesday, May 18, 2010 at the Charleston Civic Center (South Hall) in Charleston, West Virginia.

Q: Where is the Civic Center located?

A: The Charleston Civic Center is located at 200 Civic Center Drive, Charleston, West Virginia. Their phone number is 304-345-1500.

Q: What is the purpose of the Public Hearing?

A: EPA is holding the public hearing to obtain public testimony or comment on EPA's proposed 404(c) action on the Spruce No. 1 Mine project.

Q: Is the Public Hearing open to anyone?

A: Anyone may appear at the hearing and submit oral and/or written statements or data. On-site registration to speak will begin at 5 p.m.

Q: What about people who have special needs?

A: For those who have special needs and require auxiliary aids and/or services to fully participate in the public hearing, please call 215-814-2760.

Q: Are advanced sign-ups being accepted?

A: Yes. In anticipation of the large turnout for the hearing, advanced sign-up is recommended due to time and capacity limitations, especially for those planning to make oral comments.

Q: How do I sign up?

A: To sign up go to <http://www.epa.gov/region3/mtntop/spruce1hearing.html> and click on the link which reads "Registering ahead of time is recommended." You may also sign-up by phone at 877-368-3552.

Q: How do I submit my comments?

A: Submit your comments, identified by Docket ID No EPA-R03-OW-2009-0985, by one of the following methods:

Federal eRulemaking Portal (recommended method of comment submission): <http://www.regulations.gov>. Follow the online instructions for submitting comments. Or, go directly to the comments page for this action.

E-mail: ow-docket@epamail.epa.gov This e-mail address is being protected from spambots. You need JavaScript enabled to view it . Include the docket number,

- already been issued
investment has been
- A decision by the EP
cast doubt over the
West Virginia for any
 - The EPA has continu
revoke the permit ..
make its decision an
delay on an official o
permit by doing not
 - EPA's concerns rega
by the State of West
programs. The fact t
conclusions is furthe
for the state's enviro
the Legislature to pr
standards.

EPA-R03-OW-2009-0985, in the subject line of the message.

Mail:

"EPA-R03-OW-2009-0985, Spruce No. 1 Surface Mine"
U.S. Environmental Protection Agency
EPA Docket Center Water Docket, Mail Code 28221T
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Hand Delivery or Courier:
Director, Office of Environmental Programs
Environmental Assessment and Innovation Division (3EA30)
U.S. Environmental Protection Agency, Region 3
1650 Arch Street
Philadelphia, PA 19103

Such deliveries are only accepted during the Regional Office's normal hours of operation, which are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding federal holidays.

Submit at the Public Hearing: Written comments may also be presented at the hearing.

Jessica H. Greathouse
State and Congressional Liaison
U.S. Environmental Protection Agency
(304) 224-3181

01268-EPA-3873

Bob Sussman/DC/USEPA/US

To Richard Windsor

05/14/2010 09:48 AM

cc Seth Oster, Diane Thompson, Arvin Ganesan

bcc

Subject Fw: Hill Mining Letter

(b)(5) Deliberative

COAL: Reps push back on new mountaintop permit regs (05/14/2010)

Patrick Reis, E&E reporter

Twenty-three House representatives wrote U.S. EPA yesterday asking the agency to rescind new requirements on permits for mountaintop removal coal mining in Central Appalachia.

Last month, EPA issued permitting guidelines that included the first-ever limit on the amount of salt that mines would be allowed to release into surrounding streams. To obtain permits under the Clean Water Act, operators will have to demonstrate that their projects will not cause salt levels in surrounding streams to rise more than five times the normal level. The limit would ban filling streams with mining waste in nearly all cases, according to EPA Administrator Lisa Jackson ([E&ENews PM](#), April 1).

In a letter to Jackson, the representatives protested that the agency did not go through a full rulemaking process. The rules, which became effective immediately after being issued, should have been subject to a public comment period and outside scientific review before being implemented, they said.

"EPA has jeopardized the future of mining operations, the sustenance of local communities, and ultimately, access to a reliable domestic source of energy within Central Appalachia and the entire country," the lawmakers said.

EPA has said the limits are necessary in light of a growing body of evidence that surface coal mining is causing severe damage to the region's environment and public health. The agency's goal is not to end coal mining but to end coal mining pollution, Jackson said in April.

The majority of the letter's signatories are Republicans, but Virginia Democrat Rick Boucher signed on as well. Boucher was one of a trio of Democrats who sent a similar letter to EPA criticizing the surface coal mining regulations earlier this month ([E&ENews PM](#), May 6).

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-3874

Richard Windsor/DC/USEPA/US
05/14/2010 01:26 PM

To Seth Oster
cc
bcc

Subject Re: Womens Conservation Forum

Sure. Sounds cool.
Seth Oster

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

From: Seth Oster
Sent: 05/14/2010 09:32 AM EDT
To: Richard Windsor
Subject: Fw: Womens Conservation Forum

Hi. Below is an email from Tom Friedman's wife, Ann. He mentioned this to me back around the time he did the speakers series. I actually think this sounds interesting -- and that you should do it. But if nothing else, we do owe him one. Thoughts?

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 05/14/2010 09:32 AM -----

From: Ann Friedman <(b) (6)>
To: Seth Oster/DC/USEPA/US@EPA
Date: 05/14/2010 07:37 AM
Subject: Womens Conservation Forum

Dear Seth,

I am following up on my husband's email to you. Four years ago I and 5 other women founded the Women's Conservation Forum through Conservation International, where I am a board member. The purpose was to organize a true forum where women could come together to hear speakers and freely discuss the complex issues relating to conservation and the environment, issues that we all cared deeply about but about which we probably didn't have more than a superficial understanding.

We usually hold three events, usually lunches, per year, and they have been very successful, attracting some 80 or so high-powered Washington-area women each time. Our events have ranged from a book discussion with E.O Wilson to an interview with Jody Freeman to a panel on corporate

sustainability (with four women corporate sustainability officers from major corporations, such as WalMart) to a panel on ecotourism to a speaker on the carbon footprint of food. We have decided to group this year's events under the theme of "Women Speaking Out" or something to that effect, and we're tying the events to CI's new mission, which includes ensuring water security, food security and combating climate change.

We would be absolutely honored if Administrator Jackson were willing to speak to us. The Embassy of Finland has offered to host our first luncheon of next season, and I understand that she has spoken there before. The wife of the ambassador, Laurel Colless, is one of our founders. We are looking at the first week of October or the last week of September. Our lunches start promptly at noon and are over at 2:00. The speaker usually talks for about 20 minutes and then we leave time for Q&A to make sure we have a true dialogue. Tom said he would be happy to interview Lisa if she preferred that format – he interviewed Jody last year (who was a last-minute replacement for Carol Browner), and it was very successful.

Thank you for passing along this request. I know it's very far ahead of time, but we would really love to kick off our fifth year with such a powerful woman in the conservation field. If the suggested dates don't work but you can suggest another, please do.

Thank you,

Ann Friedman

(b) (6)

home phone)

01268-EPA-3880

Bob Sussman/DC/USEPA/US

To Lisa Feldt, Richard Windsor

05/16/2010 12:31 PM

cc "Mathy Stanislaus"

bcc

Subject Re: Fw: Answers to TVA questions

(b)(5) Deliberative

[Redacted]

[Redacted]

[Redacted]

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

Lisa Feldt ----- Original Message ----- From: F... 05/16/2010 11:47:34 AM

From: Lisa Feldt/DC/USEPA/US
To: "Bob Sussman" <Sussman.Bob@epamail.epa.gov>
Cc: "Mathy Stanislaus" <Stanislaus.Mathy@epamail.epa.gov>
Date: 05/16/2010 11:47 AM
Subject: Fw: Answers to TVA questions

Franklin Hill

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

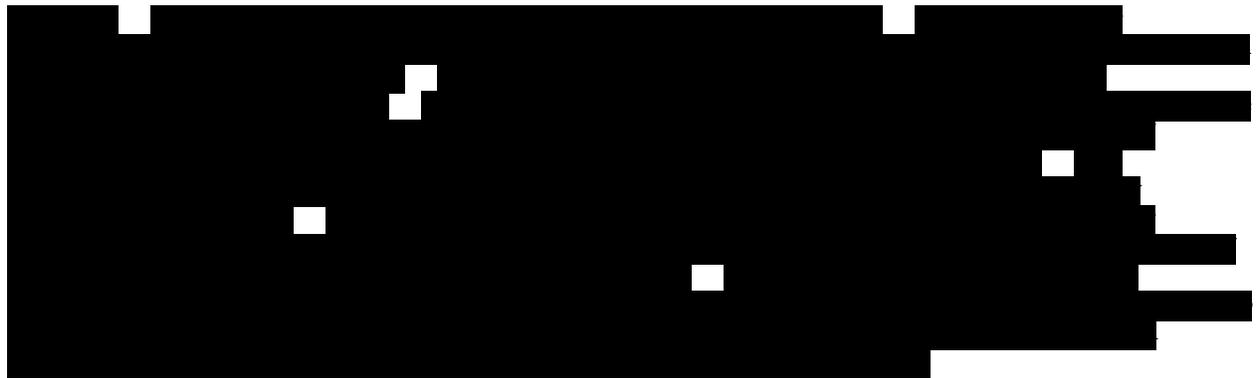
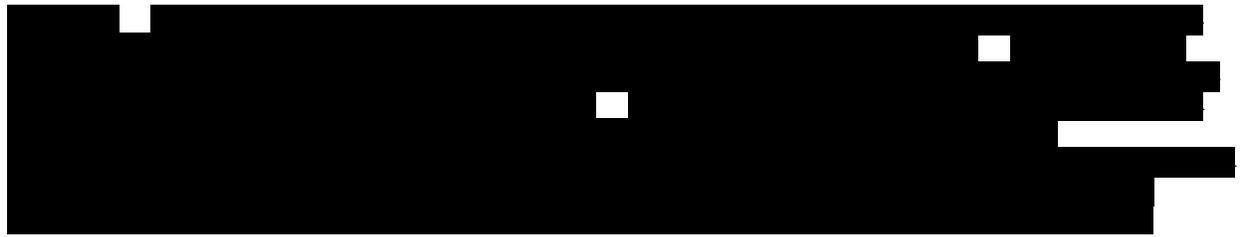
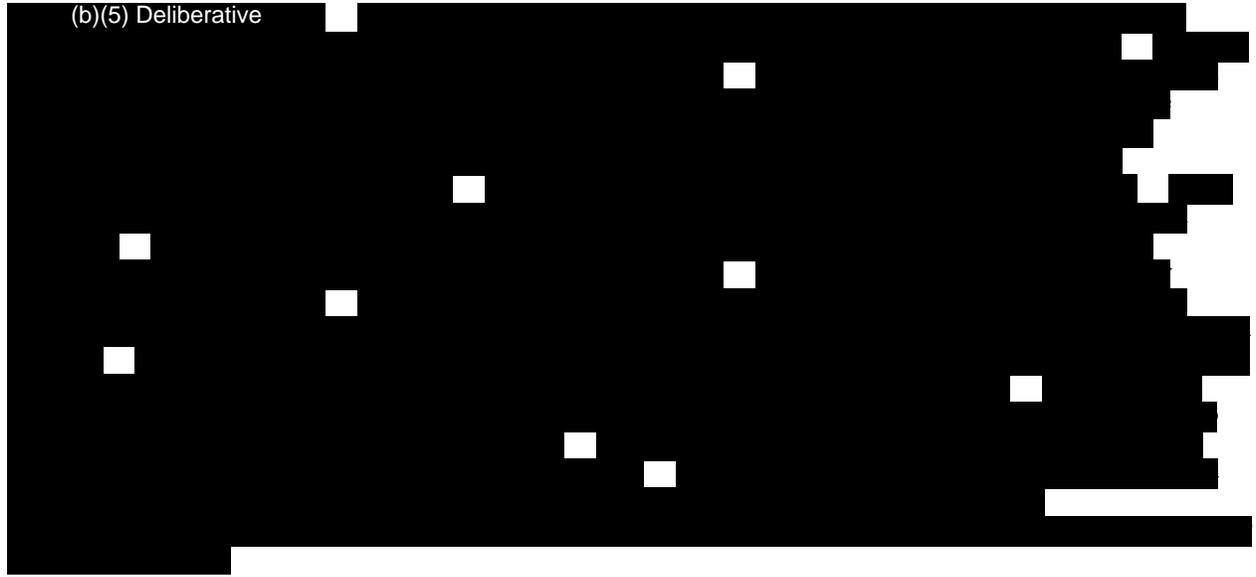
From: Franklin Hill
Sent: 05/15/2010 09:22 PM EDT
To: Lisa Feldt; Stan Meiburg; Beverly Banister; Scott Gordon; Randall Chaffins; Don Rigger
Cc: hill.franklin@epa.gov
Subject: Answers to TVA questions

Lisa below are answers to Bob's questions:

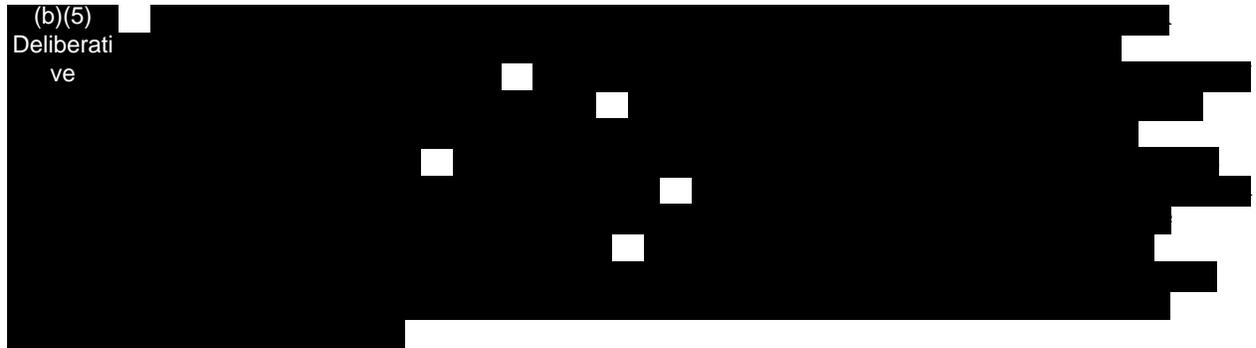
questions:

(b)(5) Deliberative

(b)(5) Deliberative



(b)(5)
Deliberati
ve



01268-EPA-3881

**Mathy
Stanislaus/DC/USEPA/US**
05/16/2010 03:33 PM

To Bob Sussman, Richard Windsor
cc Bob Perciasepe, "Lisa Feldt"
bcc
Subject Re: Fw: TVA/Kingston

(b)(5) Deliberative

[Redacted]

[Redacted]

From: Bob Sussman
Sent: 05/16/2010 02:39 PM EDT
To: Lisa Feldt; Richard Windsor
Cc: Mathy Stanislaus; Bob Perciasepe
Subject: Re: Fw: TVA/Kingston

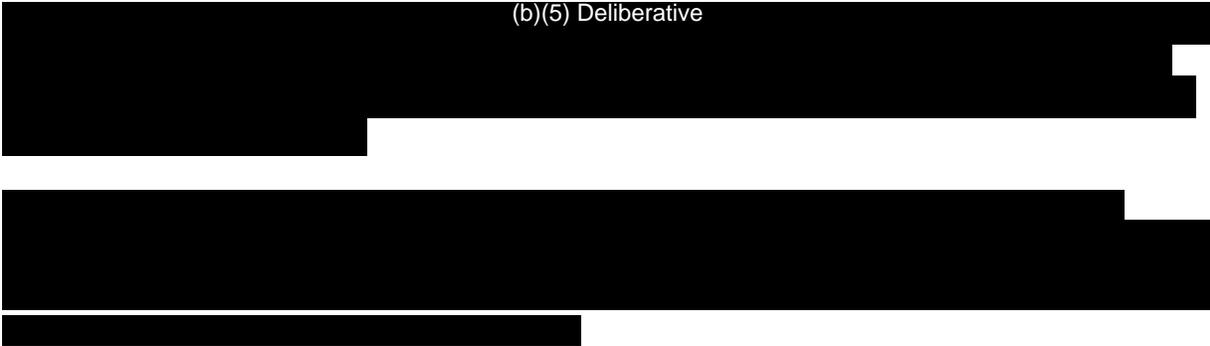
(b)(5) Deliberative

[Redacted]

[Redacted]

[Redacted]

(b)(5) Deliberative



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

From: Lisa Feldt/DC/USEPA/US
To: "Bob Sussman" <Sussman.Bob@epamail.epa.gov>, "Mathy Stanislaus" <Stanislaus.Mathy@epamail.epa.gov>
Date: 05/16/2010 12:48 PM
Subject: Fw: TVA/Kingston

Here are the Q and A's I mentioned in my e-mail.

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

From: Randy Deitz
Sent: 05/14/2010 07:24 PM EDT
To: Betsaida Alcantara
Cc: Lisa Feldt; George Hull; Becky Brooks
Subject: Re: TVA/Kingston

Betsaida, here are a number of revisions to both the internal and external Q and A. The attachments are in track changes format. Thank you.

From: Betsaida Alcantara/DC/USEPA/US
To: Randy Deitz/DC/USEPA/US@EPA
Cc: George Hull/DC/USEPA/US@EPA
Date: 05/14/2010 06:11 PM
Subject: Re: TVA/Kingston

thank you. please track those revisions!

From: Randy Deitz/DC/USEPA/US
To: Betsaida Alcantara/DC/USEPA/US@EPA
Cc: George Hull/DC/USEPA/US@EPA
Date: 05/14/2010 06:07 PM
Subject: TVA/Kingston

Betsaida, I am working on some revisions to the Q and A for Lisa Feldt that I will get to you as soon as possible. I wanted to make sure you knew that some revisions were on the way. Thank you.

01268-EPA-3886

Richard Windsor/DC/USEPA/US
05/18/2010 11:45 AM

To Bob Sussman
cc
bcc

Subject Re: Charleston Gazette editorial on Spruce 1 hearing -- You'll like this

Editorial or op-ed? Nice.
Bob Sussman

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

From: Bob Sussman
Sent: 05/18/2010 11:43 AM EDT
To: Richard Windsor
Cc: Bob Perciasepe; Arvin Ganesan; Seth Oster; Shawn Garvin
Subject: Charleston Gazette editorial on Spruce 1 hearing -- You'll like this

Hearing: Vital Tuesday session (*Charleston Gazette*)

May 17, 2010

CHARLESTON, W.Va. -- Today, the U.S. Environmental Protection Agency plans a public hearing on its possible veto of Arch Coal's Spruce Mine, the largest mountaintop-removal permit in West Virginia history. Registration to speak begins at 5 p.m. for the 7 p.m. hearing at the Charleston Civic Center.

The last time the Army Corps of Engineers had a hearing on a proposal to tighten permit requirements, only strip mining supporters were allowed to speak. Each time others tried to talk, they were drowned out by heckling and shouting. The Corps did not remove the disruptive people.

But this is the EPA's hearing, and the EPA seems to be taking environmental protection more seriously than in the past, and more seriously than some other regulating agencies. We hope they take civil discourse seriously, too.

Mine operators are required to get permits from the Corps of Engineers for mountaintop-removal sites. The EPA, if it finds that an operation would cause too much damage, has authority to veto the permit and stop the mine, a power it has rarely used.

That's the possible action facing the Spruce Mine near Blair, Logan County. The Corps of Engineers permit would let the mine bury seven miles of streams. EPA officials are concerned that the mine as currently authorized would

severely damage Coal River valley fish, wildlife and forest resources and water quality.

This action by the EPA is part of a recent effort to take its regulatory job seriously.

In an April 1 memo to regional administrators, EPA staff spelled out concerns about the health of waterways downstream from mountaintop-removal sites:

"Recent studies, as well as the experiences of Appalachian coalfield communities, point to new environmental and health challenges that were largely unknown even 10 years ago. Since 1992, nearly 2,000 miles of Appalachian streams have been filled at a rate of 120 miles per year by surface mining practices. A recent EPA study found that nine out of every 10 streams downstream from surface mining operations were impaired based on a genus-level assessment of aquatic life."

One concern is electrical conductivity. Just as salty seawater conducts electricity more easily than fresh water, streams with increased levels of various compounds dissolved in them become increasingly conductive. That is a problem in itself, but also higher amounts of substances such as selenium are toxic to aquatic life. Surface mine deforestation in Appalachia adds up to an area the size of Delaware and is affecting storm water runoff, accelerating sediment and nutrients being washed away, and changing water temperatures.

Both EPA Director Lisa Jackson and state Environmental Protection director Randy Huffman have said that few West Virginia valley fills could meet the new conductivity limit.

"As scientific evidence grows, EPA has a legal responsibility to address the environmental consequences of Appalachian surface coal mining," the EPA memo says.

No one disputes that coal is an important source of energy and a component of the state economy. But EPA Director Jackson is right when she says, "The people of Appalachia shouldn't have to choose between a clean, healthy environment in which to raise their families and the jobs they need to support them. This is not about ending coal mining. This is about ending coal mining pollution."

Sen. Robert C. Byrd was also correct when he warned back in December that the coal industry must embrace the future.

Nothing is going to replace coal in the near future. It provides more than 40 percent of the nation's energy. But it is on the decline, and Central Appalachian production is expected to decline during the next two decades. Americans are growing less complacent about the damage caused by mountaintop removal.

"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," Byrd said then.

Whether West Virginians mine coal for another 20 years or another 200 years, responsible people today must take care to get their fuel in a way that doesn't wreck the place for those who will come later.

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

01268-EPA-3887

Bob Sussman/DC/USEPA/US

To Richard Windsor

05/18/2010 11:47 AM

cc

bcc

Subject Re: Charleston Gazette editorial on Spruce 1 hearing -- You'll like this

editorial i believe but will check. .

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

Richard Windsor

Editorial or op-ed? Nice.

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

05/18/2010 11:45:02 AM

From: Richard Windsor/DC/USEPA/US
 To: Bob Sussman/DC/USEPA/US@EPA
 Date: 05/18/2010 11:45 AM
 Subject: Re: Charleston Gazette editorial on Spruce 1 hearing -- You'll like this

Editorial or op-ed? Nice.

Bob Sussman

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

From: Bob Sussman**Sent:** 05/18/2010 11:43 AM EDT**To:** Richard Windsor**Cc:** Bob Perciasepe; Arvin Ganesan; Seth Oster; Shawn Garvin**Subject:** Charleston Gazette editorial on Spruce 1 hearing -- You'll like this

Hearing: Vital Tuesday session (*Charleston Gazette*)

May 17, 2010

CHARLESTON, W.Va. -- Today, the U.S. Environmental Protection Agency plans a public hearing on its possible veto of Arch Coal's Spruce Mine, the largest mountaintop-removal permit in West Virginia history. Registration to speak begins at 5 p.m. for the 7 p.m. hearing at the Charleston Civic Center.

The last time the Army Corps of Engineers had a hearing on a proposal to tighten permit requirements, only strip mining supporters were allowed to speak. Each time others tried to talk, they were drowned out by heckling and shouting. The Corps did not remove the disruptive people.

But this is the EPA's hearing, and the EPA seems to be taking environmental protection more seriously

than in the past, and more seriously than some other regulating agencies. We hope they take civil discourse seriously, too.

Mine operators are required to get permits from the Corps of Engineers for mountaintop-removal sites. The EPA, if it finds that an operation would cause too much damage, has authority to veto the permit and stop the mine, a power it has rarely used.

That's the possible action facing the Spruce Mine near Blair, Logan County. The Corps of Engineers permit would let the mine bury seven miles of streams. EPA officials are concerned that the mine as currently authorized would severely damage Coal River valley fish, wildlife and forest resources and water quality.

This action by the EPA is part of a recent effort to take its regulatory job seriously.

In an April 1 memo to regional administrators, EPA staff spelled out concerns about the health of waterways downstream from mountaintop-removal sites:

"Recent studies, as well as the experiences of Appalachian coalfield communities, point to new environmental and health challenges that were largely unknown even 10 years ago. Since 1992, nearly 2,000 miles of Appalachian streams have been filled at a rate of 120 miles per year by surface mining practices. A recent EPA study found that nine out of every 10 streams downstream from surface mining operations were impaired based on a genus-level assessment of aquatic life."

One concern is electrical conductivity. Just as salty seawater conducts electricity more easily than fresh water, streams with increased levels of various compounds dissolved in them become increasingly conductive. That is a problem in itself, but also higher amounts of substances such as selenium are toxic to aquatic life. Surface mine deforestation in Appalachia adds up to an area the size of Delaware and is affecting storm water runoff, accelerating sediment and nutrients being washed away, and changing water temperatures.

Both EPA Director Lisa Jackson and state Environmental Protection director Randy Huffman have said that few West Virginia valley fills could meet the new conductivity limit.

"As scientific evidence grows, EPA has a legal responsibility to address the environmental consequences of Appalachian surface coal mining," the EPA memo says.

No one disputes that coal is an important source of energy and a component of the state economy. But

EPA Director Jackson is right when she says, "The people of Appalachia shouldn't have to choose between a clean, healthy environment in which to raise their families and the jobs they need to support them. This is not about ending coal mining. This is about ending coal mining pollution."

Sen. Robert C. Byrd was also correct when he warned back in December that the coal industry must embrace the future.

Nothing is going to replace coal in the near future. It provides more than 40 percent of the nation's energy. But it is on the decline, and Central Appalachian production is expected to decline during the next two decades. Americans are growing less complacent about the damage caused by mountaintop removal.

"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," Byrd said then.

Whether West Virginians mine coal for another 20 years or another 200 years, responsible people today must take care to get their fuel in a way that doesn't wreck the place for those who will come later.

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

01268-EPA-3888

Bob Sussman/DC/USEPA/US

To Richard Windsor

05/20/2010 01:44 PM

cc

bcc

Subject Fw: Positive feedback from Enviros on Spruce hearing

This is really nice -- a credit to R3.

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 05/20/2010 01:44 PM -----

From: Ann Campbell/DC/USEPA/US
To: Bob Sussman/DC/USEPA/US@EPA
Date: 05/20/2010 01:42 PM
Subject: Positive feedback from Enviros on Spruce hearing

Thought you may like to see this....

Ann Campbell
Special Assistant
Office of the Administrator
U.S. Environmental Protection Agency
Mail Code: 1101

P: (202) 566-1370
C: (202) 657-3117
F: (202) 501-1428

----- Forwarded by John Pomponio/R3/USEPA/US on 05/20/2010 12:20 PM -----

From: Jessica Greathouse/R3/USEPA/US
To: Shawn Garvin/R3/USEPA/US@EPA, William Early/R3/USEPA/US, John Pomponio/R3/USEPA/US@EPA, Catherine Libertz/R3/USEPA/US@EPA, Michael Kulik/R3/USEPA/US@EPA, Samantha Beers/R3/USEPA/US@EPA, Regina Poeske/R3/USEPA/US@EPA, Michael Dunn/R3/USEPA/US@EPA, Stefania Shamet/R3/USEPA/US@EPA, David Dillon/R3/USEPA/US@EPA, Brandon Foreman/DC/USEPA/US@EPA, Nicholas Gillispie/R3/USEPA/US, David Evans/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Daniel Ryan/R3/USEPA/US@EPA
Date: 05/20/2010 12:10 PM
Subject: call from enviros- FYI

I had a call from Stephanie Tyree today, a representative from the Ohio Valley Environmental Coalition, Coal River Mountain Watch and SludgeSafety.org. I worked with Stephanie prior to the Spruce hearing to hear her concerns about safety and how speakers would be heard and treated at the event. The groups she represents had had a bad experience at the Corps' Nationwide 21 hearing in October 2009, and they did not want a repeat of that type of hearing behavior, and had created a safety committee just for the purpose of this hearing.

She was calling to express the group's appreciation for EPA's handling of the event, in particular the strong security showing, easy registration, the manner in which speakers were prepped and called up to the microphone, the speaker timer that was easily visible everywhere in the room and the overall

professional and safe feeling at the hearing itself. She was also very pleased with the fact that the hearing was webcast, and she acknowledged that many people that were unable to travel from their groups tuned in from home.

She also noted that her groups' membership felt safe and none were threatened in or around the Civic Center premises. As a final word, she also said that her groups were thankful that the regional administrator took the time to travel to Charleston and hear everyone's viewpoints. She hopes that for future hearings, the Spruce hearing is used as template of how to conduct a hearing right.

Jessica H. Greathouse
State and Congressional Liaison
U.S. Environmental Protection Agency
(304) 224-3181

01268-EPA-3891

Richard Windsor/DC/USEPA/US
05/25/2010 08:31 AM

To Seth Oster
cc
bcc

Subject Re: Latest News From InsideEPA.com

(b)(5) Deliberative

From: Seth Oster
Sent: 05/25/2010 07:38 AM EDT
To: "Lisa Jackson" <windsor.richard@epa.gov>
Cc: "Allyn Brooks-LaSure" <brooks-lasure.allyn@epa.gov>
Subject: Fw: Latest News From InsideEPA.com

Note the Christie story below if you have some free moments.

Seth

From: "InsideEPA.com" [epa-alerts@iwpnews.com]
Sent: 05/25/2010 05:19 AM AST
To: Seth Oster
Subject: Latest News From InsideEPA.com

Latest News - 5/25/2010

[EPA Eyes New Rule, Permit Process To Assess Climate Benefit Of Biomass](#)

EPA has rejected a forest and paper industry push to exempt carbon dioxide (CO2) from biomass combustion from greenhouse (GHG) permit requirements, but is considering a new rule or permit provisions that could account for biomass possible climate benefits -- an approach that could include controversial lifecycle assessments for the fuel.

[Other Agencies Skewer EPA's Original Plan For Hazardous Coal Ash Rule](#)

EPA was harshly criticized by other federal agencies for its original draft proposal to regulate coal ash and other coal combustion residues (CCR) as hazardous under federal waste law, according to a compendium of comments posted in the docket for EPA's proposal that eventually included both a less stringent non-hazardous option as well as hazardous waste rules for handling coal wastes.

[House Lawmakers Urge EPA To Withdraw Mountaintop Mining Guidelines](#)

House lawmakers are urging EPA to withdraw its water quality guidance for mountaintop mining operations, citing long-running industry concerns that the guide inappropriately uses conductivity as a metric to determine water quality, that the guide could be applied to sectors other than mining, and that

it unfairly targets only Appalachia.

[EPA Quietly Crafts Guide On CAFOs Duty To Seek Permits, Riling Industry](#)

As part of an upcoming legal settlement with environmentalists, EPA has crafted draft guidance on when concentrated animal feeding operations (CAFOs) have a duty to seek clean water act discharge permits, a controversial topic that industry says is moot because a federal appellate court ruled in 2005 that CAFOs have no duty to seek permits.

[Industry Rejects Suit Seeking CAFO Liability For Contractors Discharges](#)

A major poultry company is pushing a federal district court to dismiss a novel case where environmentalists are seeking to hold large livestock integrators liable for violations of their contractors Clean Water Act (CWA) discharge permits, arguing that its contractual relationship with a farm is not enough to make it a defendant under the water act.

The Inside Story

[EPA Tells BP To Cut Dispersants](#)

EPA and other agencies have ordered BP to scale back its use of oil dispersants -- by as much as 75 percent -- after the company rejected an earlier directive from the agency to identify a less toxic brand of dispersant to use in response to the ongoing spill in the Gulf of Mexico, Administrator Lisa Jackson said.

[New Environmental Conservatism](#)

NEW YORK -- Recently elected New Jersey Gov. Chris Christie (R) is restructuring his state's outlook on environmental regulation, embracing an industry-backed approach that will give companies more flexibility in meeting air, water and waste requirements while scaling back the role of state regulators, a top state official told a recent environmental policy conference here.

[The Cost Of Oil Spills](#)

Resources for the Future (RFF), the environmental think tank, estimates that the economic and environmental costs of the continuing BP oil spill in the Gulf of Mexico could easily exceed \$15 billion - \$20 billion if its average costs approach those of the massive Exxon Valdez spill.

[EAB Accelerates Shell Permit Review](#)

EPA's Environmental Appeals Board (EAB) has set an accelerated schedule for briefing and oral argument in environmentalists' appeal of EPA Region X air permits issued to Shell that allow the company to conduct exploratory oil drilling off the Alaska coast beginning in July.

About this message

This message has been provided as a service of the EPA Desktop Library by the EPA National Library Network to share the latest in news and information with Agency staff. Please note, these materials may be copyrighted and should not be forwarded outside of the U.S. EPA. If you have any questions or no longer wish to receive these messages, please contact Kathleen Dougherty at 202-566-0579 or send an e-mail to dougherty.kathleen@epa.gov.

01268-EPA-3892

Richard Windsor/DC/USEPA/US
05/25/2010 03:49 PM

To Eric Wachter
cc Aaron Dickerson
bcc

Subject Re: New blog post on clean car and truck announcements

Please say cool and tx.
Eric Wachter

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

From: Eric Wachter
Sent: 05/24/2010 01:52 PM EDT
To: Richard Windsor
Cc: Aaron Dickerson
Subject: Fw: New blog post on clean car and truck announcements

----- Forwarded by Eric Wachter/DC/USEPA/US on 05/24/2010 01:51 PM -----

Message Information

Date 05/21/2010 03:17 PM05/25/2010 03:49:35 PM
From "Doniger, David" <ddoniger@nrdc.org>
To LisaP Jackson/DC/USEPA/US@EPA
cc
Subject FW: New blog post on clean car and truck announcements

Message Body

Thank you, Lisa, for these big new steps.

White House Announces New Clean Car and Truck Peace Treaty

http://switchboard.nrdc.org/blogs/ddoniger/white_house_announces_new_clea.htm
!



David D. Doniger
Policy Director, Climate Center
Natural Resources Defense Council
1200 New York Ave., NW
Washington, DC 20005
Phone: (202) 289-2403
Cell: (202) 321-3435
Fax: (202) 789-0859
ddoniger@nrdc.org
on the web at www.nrdc.org
read my blog: <http://switchboard.nrdc.org/blogs/ddoniger/>

OEX Processing Information

Processed Date:

Processed By

PO Office

Category:

Message Count

01268-EPA-3893

Bob Perciasepe/DC/USEPA/US
05/25/2010 08:43 PM

To "Seth Oster", Cynthia Giles-AA
cc Adora Andy, Diane Thompson, Richard Windsor
bcc
Subject Re: Huff Post: "BP Can Be Fined \$4K Per Barrel Spilled.. Will EPA Pursue It?"

Looping in Cynthia [redacted] (b)(5) Deliberative

Bob Perciasepe
Deputy Administrator

(o) +1 202 564 4711
(c) +1 (b)(6) Privacy

"Seth Oster" [redacted] (b)(5) Deliberative 05/25/2010 08:42:08 PM

From: "Seth Oster" <[redacted] (b)(6) Privacy >
To: Richard Windsor/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Adora Andy/DC/USEPA/US@EPA
Date: 05/25/2010 08:42 PM
Subject: Huff Post: "BP Can Be Fined \$4K Per Barrel Spilled.. Will EPA Pursue It?"

[redacted] (b)(5) Deliberative

Seth

SPECIAL REPORT-Civil fine in Gulf spill could be \$4,300 barrel

7:45pm EDT

- * Clean Water Act allows per-barrel fines for oil spillers
- * Civil fines may raise liability, not subject to cap
- * Extent of fine depends on whether there was negligence
- * Liability, including fines, may top \$10 billion

By Joshua Schneyer

NEW YORK, May 25 (Reuters) - Just how many barrels of oil are gushing into the Gulf of

Mexico from the Deepwater Horizon spill is a billion dollar question with implications that go beyond the environment. It could also help determine how much BP <BP.L> and others end up paying for the disaster.

A clause buried deep in the U.S. Clean Water Act may expose BP and others to civil fines that aren't limited to any finite cap -- unlike a \$75 million limit on compensation for economic damages. The Act allows the government to seek civil penalties in court for every drop of oil that spills into U.S. navigable waters, including the area of BP's leaking well.

As a result, the U.S. government could seek to fine BP or others up to \$4,300 for every barrel leaked into the U.S. Gulf, according to legal experts and official documents.

So far, analysts and experts calculating potential oil spill liabilities have mostly concentrated on the cost of the clean-up and compensation for economic damages to affected parties. Some have also discussed criminal liabilities.

But the potential for civil fines has received scant attention -- and they could add up very quickly, depending on how aggressive the U.S. government is in pursuing them.

The threat of hefty fines underscores the importance of quantifying how much oil is pouring into the Gulf. As BP seeks to staunch the leak that has now been gushing for at least 33 days, it has estimated a spill rate of 5,000 barrels per day. But some experts say the volume -- and hence the fines -- could be more than 10 times higher.

The little-known, seldom applied clause in the Clean Water Act was added in 1990 after the Exxon Valdez disaster in Alaska, and was intended to beef up the arsenal of penalties the government can apply to oil spillers to deter future disasters.

"These civil penalties could be staggeringly high, possibly running into the billions," said Professor David Uhlmann, director of the Environmental Law program at University of Michigan.

Total liability -- including civil fines as well as the cost of clean-up, economic damages and potential criminal liability -- "will run into the billions and may be in the tens of billions," Uhlmann said.

Under the Clean Water Act, the Environmental Protection Agency can seek in federal court to fine any party whose negligence results in an oil spill in U.S. federal waters.

Other companies involved at the Horizon platform and the oilfield could share liability with BP, experts said. They include rig-owner Transocean Ltd <RIGN.S>, cementing contractor Halliburton Co. <HAL.N>, blowout preventer manufacturer Cameron <CAM.N>, and Anadarko <APC.N> and Mitsui <8031.T>, which also hold stakes in the oilfield.

SHARP RISE IN FINES

The basic fine, according to the act, is \$1,100 per barrel spilled. But the penalty can rise to \$4,300 a barrel if a federal court rules the spill resulted from gross negligence. The fines were originally set at \$1,000 to \$3,000 but that was raised in 2004 to keep up with inflation, according to Tracy Hester, head of the Environmental Law and Policy program at the University of Houston.

(To see an EPA memo on 2004 revisions to penalties outlined in the Clean Water Act, click here: [here](#))

It is unclear, however, that the EPA would try to apply the fines, or seek maximum penalty levels. EPA officials did not respond to several calls and e-mails requesting comment.

If the agency does act, the per-barrel fines could push oil companies' liability well beyond the cost of cleaning up the spill and paying legitimate claims for economic damages it causes, experts told Reuters.

"There are civil fines that could be quite substantial. I think BP's exposure to this is far greater than people initially thought," said Harvard Law School professor Jody Freeman, who recently served in the White House as Counselor for Energy and Climate Change.

BP has already said it will voluntarily exceed a \$75 million cap on liability for economic damages, pledging to pay any "legitimate claim" it receives. But the civil fines are another wild card.

BP spokesman Mark Salt said the company had nothing further to add to what it has said about the costs of the oil spill response.

Cash raised from such fines would be funnelled to government pollution funds, which provide economic aid for hazardous material spills.

BP or other parties facing fines could appeal them, or try to settle with the government for a lesser amount. Another option would be for BP or other responsible parties to seek a far-ranging settlement covering various areas of liability.

"The amount of barrels being released from the well is going to be critical," said Hester of the University of Houston.

Under pressure over the government's response to the disaster, President Barack Obama last Friday created a bi-partisan commission on the spill, and the administration has pledged to independently verify the volume of oil leaking into the Gulf. "We're not depending on what BP is telling us," Interior Secretary Ken Salazar told CNN last week.

© Thomson Reuters 2010. All rights reserved. Users may download and print extracts of content from this website for their own personal and non-commercial use only. Republication or redistribution of Thomson Reuters content, including by framing or similar means, is expressly prohibited without the prior written consent of Thomson Reuters. Thomson Reuters and its logo

are registered trademarks or trademarks of the Thomson Reuters group of companies around the world.

Thomson Reuters journalists are subject to an Editorial Handbook which requires fair presentation and disclosure of relevant interests.

This copy is for your personal, non-commercial use only. To order presentation-ready copies for distribution to colleagues, clients or customers, use the Reprints tool at the top of any article or visit: www.reutersreprints.com.

01268-EPA-3894

Richard Windsor/DC/USEPA/US
05/25/2010 09:02 PM

To Bob Perciasepe, "Seth Oster", Cynthia Giles-AA
cc Adora Andy, Diane Thompson
bcc
Subject Re: Huff Post: "BP Can Be Fined \$4K Per Barrel Spilled.. Will EPA Pursue It?"

(b)(5) Deliberative

Bob Perciasepe

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

From: Bob Perciasepe
Sent: 05/25/2010 08:43 PM EDT
To: "Seth Oster" <(b)(6) Privacy> Cynthia Giles-AA
Cc: Adora Andy; Diane Thompson; Richard Windsor
Subject: Re: Huff Post: "BP Can Be Fined \$4K Per Barrel Spilled.. Will EPA Pursue It?"

Looping in Cynthia (b)(5) Deliberative

Bob Perciasepe
Deputy Administrator

(o) +1 202 564 4711
(c) +1 (b)(6) Privacy

"Seth Oster" (b)(5) Deliberative 05/25/2010 08:42:08 PM

From: "Seth Oster" <(b)(6) Privacy>
To: Richard Windsor/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Adora Andy/DC/USEPA/US@EPA
Date: 05/25/2010 08:42 PM
Subject: Huff Post: "BP Can Be Fined \$4K Per Barrel Spilled.. Will EPA Pursue It?"

(b)(5) Deliberative

Seth

SPECIAL REPORT-Civil fine in Gulf spill could be \$4,300 barrel

7:45pm EDT

* Clean Water Act allows per-barrel fines for oil spillers

- * Civil fines may raise liability, not subject to cap
- * Extent of fine depends on whether there was negligence
- * Liability, including fines, may top \$10 billion

By Joshua Schneyer

NEW YORK, May 25 (Reuters) - Just how many barrels of oil are gushing into the Gulf of Mexico from the Deepwater Horizon spill is a billion dollar question with implications that go beyond the environment. It could also help determine how much BP <BP.L> and others end up paying for the disaster.

A clause buried deep in the U.S. Clean Water Act may expose BP and others to civil fines that aren't limited to any finite cap -- unlike a \$75 million limit on compensation for economic damages. The Act allows the government to seek civil penalties in court for every drop of oil that spills into U.S. navigable waters, including the area of BP's leaking well.

As a result, the U.S. government could seek to fine BP or others up to \$4,300 for every barrel leaked into the U.S. Gulf, according to legal experts and official documents.

So far, analysts and experts calculating potential oil spill liabilities have mostly concentrated on the cost of the clean-up and compensation for economic damages to affected parties. Some have also discussed criminal liabilities.

But the potential for civil fines has received scant attention -- and they could add up very quickly, depending on how aggressive the U.S. government is in pursuing them.

The threat of hefty fines underscores the importance of quantifying how much oil is pouring into the Gulf. As BP seeks to staunch the leak that has now been gushing for at least 33 days, it has estimated a spill rate of 5,000 barrels per day. But some experts say the volume -- and hence the fines -- could be more than 10 times higher.

The little-known, seldom applied clause in the Clean Water Act was added in 1990 after the Exxon Valdez disaster in Alaska, and was intended to beef up the arsenal of penalties the government can apply to oil spillers to deter future disasters.

"These civil penalties could be staggeringly high, possibly running into the billions," said Professor David Uhlmann, director of the Environmental Law program at University of Michigan.

Total liability -- including civil fines as well as the cost of clean-up, economic damages and potential criminal liability -- "will run into the billions and may be in the tens of billions," Uhlmann said.

Under the Clean Water Act, the Environmental Protection Agency can seek in federal court to fine any party whose negligence results in an oil spill in U.S. federal waters.

Other companies involved at the Horizon platform and the oilfield could share liability with BP, experts said. They include rig-owner Transocean Ltd <RIGN.S>, cementing contractor Halliburton Co. <HAL.N>, blowout preventer manufacturer Cameron <CAM.N>, and Anadarko <APC.N> and Mitsui <8031.T>, which also hold stakes in the oilfield.

SHARP RISE IN FINES

The basic fine, according to the act, is \$1,100 per barrel spilled. But the penalty can rise to \$4,300 a barrel if a federal court rules the spill resulted from gross negligence. The fines were originally set at \$1,000 to \$3,000 but that was raised in 2004 to keep up with inflation, according to Tracy Hester, head of the Environmental Law and Policy program at the University of Houston.

(To see an EPA memo on 2004 revisions to penalties outlined in the Clean Water Act, click here: [here](#))

It is unclear, however, that the EPA would try to apply the fines, or seek maximum penalty levels. EPA officials did not respond to several calls and e-mails requesting comment.

If the agency does act, the per-barrel fines could push oil companies' liability well beyond the cost of cleaning up the spill and paying legitimate claims for economic damages it causes, experts told Reuters.

"There are civil fines that could be quite substantial. I think BP's exposure to this is far greater than people initially thought," said Harvard Law School professor Jody Freeman, who recently served in the White House as Counselor for Energy and Climate Change.

BP has already said it will voluntarily exceed a \$75 million cap on liability for economic damages, pledging to pay any "legitimate claim" it receives. But the civil fines are another wild card.

BP spokesman Mark Salt said the company had nothing further to add to what it has said about the costs of the oil spill response.

Cash raised from such fines would be funnelled to government pollution funds, which provide economic aid for hazardous material spills.

BP or other parties facing fines could appeal them, or try to settle with the government for a lesser amount. Another option would be for BP or other responsible parties to seek a far-ranging settlement covering various areas of liability.

"The amount of barrels being released from the well is going to be critical," said Hester of the University of Houston.

Under pressure over the government's response to the disaster, President Barack Obama last Friday created a bi-partisan commission on the spill, and the administration has pledged to independently verify the volume of oil leaking into the Gulf. "We're not depending on what BP is telling us," Interior Secretary Ken Salazar told CNN last week.

© Thomson Reuters 2010. All rights reserved. Users may download and print extracts of content from this website for their own personal and non-commercial use only. Republication or redistribution of Thomson Reuters content, including by framing or similar means, is expressly prohibited without the prior written consent of Thomson Reuters. Thomson Reuters and its logo are registered trademarks or trademarks of the Thomson Reuters group of companies around the world.

Thomson Reuters journalists are subject to an Editorial Handbook which requires fair presentation and disclosure of relevant interests.

This copy is for your personal, non-commercial use only. To order presentation-ready copies for distribution to colleagues, clients or customers, use the Reprints tool at the top of any article or visit: www.reutersreprints.com.

01268-EPA-3895

Bob Perciasepe/DC/USEPA/US
05/25/2010 10:17 PM

To Richard Windsor, "Seth Oster", Cynthia Giles-AA
cc Adora Andy, Diane Thompson
bcc
Subject Re: Huff Post: "BP Can Be Fined \$4K Per Barrel Spilled.. Will EPA Pursue It?"

(b)(5) Deliberative

[Redacted]

[Redacted]

Bob Perciasepe
Office of the Administrator
(o)202 564 4711
(c) (b)(6) Privacy
Richard Windsor

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

From: Richard Windsor
Sent: 05/25/2010 09:02 PM EDT
To: Bob Perciasepe; "Seth Oster" <(b)(6) Privacy> Cynthia Giles-AA
Cc: Adora Andy; Diane Thompson
Subject: Re: Huff Post: "BP Can Be Fined \$4K Per Barrel Spilled.. Will EPA Pursue It?"

(b)(5) Deliberative

Bob Perciasepe

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

From: Bob Perciasepe
Sent: 05/25/2010 08:43 PM EDT
To: "Seth Oster" <(b)(6) Privacy> Cynthia Giles-AA
Cc: Adora Andy; Diane Thompson; Richard Windsor
Subject: Re: Huff Post: "BP Can Be Fined \$4K Per Barrel Spilled.. Will EPA Pursue It?"

Looping in Cynthia. (b)(5) Deliberative

Bob Perciasepe
Deputy Administrator

(o) +1 202 564 4711
(c) +1 (b)(6) Privacy

"Seth Oster" (b)(5) Deliberative 05/25/2010 08:42:08 PM

From: "Seth Oster" <(b)(6) Privacy>
To: Richard Windsor/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Adora Andy/DC/USEPA/US@EPA
Date: 05/25/2010 08:42 PM
Subject: Huff Post: "BP Can Be Fined \$4K Per Barrel Spilled.. Will EPA Pursue It?"

(b)(5) Deliberative

Seth

SPECIAL REPORT-Civil fine in Gulf spill could be \$4,300 barrel

7:45pm EDT

- * Clean Water Act allows per-barrel fines for oil spillers
- * Civil fines may raise liability, not subject to cap
- * Extent of fine depends on whether there was negligence
- * Liability, including fines, may top \$10 billion

By Joshua Schneyer

NEW YORK, May 25 (Reuters) - Just how many barrels of oil are gushing into the Gulf of Mexico from the Deepwater Horizon spill is a billion dollar question with implications that go beyond the environment. It could also help determine how much BP <BP.L> and others end up paying for the disaster.

A clause buried deep in the U.S. Clean Water Act may expose BP and others to civil fines that aren't limited to any finite cap -- unlike a \$75 million limit on compensation for economic damages. The Act allows the government to seek civil penalties in court for every drop of oil that spills into U.S. navigable waters, including the area of BP's leaking well.

As a result, the U.S. government could seek to fine BP or others up to \$4,300 for every barrel leaked into the U.S. Gulf, according to legal experts and official documents.

So far, analysts and experts calculating potential oil spill liabilities have mostly concentrated on the cost of the clean-up and compensation for economic damages to affected parties. Some have also discussed criminal liabilities.

But the potential for civil fines has received scant attention -- and they could add up very quickly, depending on how aggressive the U.S. government is in pursuing them.

The threat of hefty fines underscores the importance of quantifying how much oil is pouring into the Gulf. As BP seeks to staunch the leak that has now been gushing for at least 33 days, it has estimated a spill rate of 5,000 barrels per day. But some experts say the volume -- and hence the fines -- could be more than 10 times higher.

The little-known, seldom applied clause in the Clean Water Act was added in 1990 after the Exxon Valdez disaster in Alaska, and was intended to beef up the arsenal of penalties the government can apply to oil spillers to deter future disasters.

"These civil penalties could be staggeringly high, possibly running into the billions," said Professor David Uhlmann, director of the Environmental Law program at University of Michigan.

Total liability -- including civil fines as well as the cost of clean-up, economic damages and potential criminal liability -- "will run into the billions and may be in the tens of billions," Uhlmann said.

Under the Clean Water Act, the Environmental Protection Agency can seek in federal court to fine any party whose negligence results in an oil spill in U.S. federal waters.

Other companies involved at the Horizon platform and the oilfield could share liability with BP, experts said. They include rig-owner Transocean Ltd <RIGN.S>, cementing contractor Halliburton Co. <HAL.N>, blowout preventer manufacturer Cameron <CAM.N>, and Anadarko <APC.N> and Mitsui <8031.T>, which also hold stakes in the oilfield.

SHARP RISE IN FINES

The basic fine, according to the act, is \$1,100 per barrel spilled. But the penalty can rise to \$4,300 a barrel if a federal court rules the spill resulted from gross negligence. The fines were originally set at \$1,000 to \$3,000 but that was raised in 2004 to keep up with inflation, according to Tracy Hester, head of the Environmental Law and Policy program at the University of Houston.

(To see an EPA memo on 2004 revisions to penalties outlined in the Clean

Water Act, click here: [here](#))

It is unclear, however, that the EPA would try to apply the fines, or seek maximum penalty levels. EPA officials did not respond to several calls and e-mails requesting comment.

If the agency does act, the per-barrel fines could push oil companies' liability well beyond the cost of cleaning up the spill and paying legitimate claims for economic damages it causes, experts told Reuters.

"There are civil fines that could be quite substantial. I think BP's exposure to this is far greater than people initially thought," said Harvard Law School professor Jody Freeman, who recently served in the White House as Counselor for Energy and Climate Change.

BP has already said it will voluntarily exceed a \$75 million cap on liability for economic damages, pledging to pay any "legitimate claim" it receives. But the civil fines are another wild card.

BP spokesman Mark Salt said the company had nothing further to add to what it has said about the costs of the oil spill response.

Cash raised from such fines would be funnelled to government pollution funds, which provide economic aid for hazardous material spills.

BP or other parties facing fines could appeal them, or try to settle with the government for a lesser amount. Another option would be for BP or other responsible parties to seek a far-ranging settlement covering various areas of liability.

"The amount of barrels being released from the well is going to be critical," said Hester of the University of Houston.

Under pressure over the government's response to the disaster, President Barack Obama last Friday created a bi-partisan commission on the spill, and the administration has pledged to independently verify the volume of oil leaking into the Gulf. "We're not depending on what BP is telling us," Interior Secretary Ken Salazar told CNN last week.

© Thomson Reuters 2010. All rights reserved. Users may download and print extracts of content from this website for their own personal and non-commercial use only. Republication or redistribution of Thomson Reuters content, including by framing or similar means, is expressly prohibited without the prior written consent of Thomson Reuters. Thomson

Reuters and its logo are registered trademarks or trademarks of the Thomson Reuters group of companies around the world.

Thomson Reuters journalists are subject to an Editorial Handbook which requires fair presentation and disclosure of relevant interests.

This copy is for your personal, non-commercial use only. To order presentation-ready copies for distribution to colleagues, clients or customers, use the Reprints tool at the top of any article or visit: www.reutersreprints.com.

01268-EPA-3896

Richard Windsor/DC/USEPA/US
05/25/2010 10:34 PM

To Bob Perciasepe, "Seth Oster", Cynthia Giles-AA
cc Adora Andy, Diane Thompson
bcc
Subject Re: Huff Post: "BP Can Be Fined \$4K Per Barrel Spilled.. Will EPA Pursue It?"

(b)(5) Deliberative

Bob Perciasepe

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

From: Bob Perciasepe
Sent: 05/25/2010 10:17 PM EDT
To: Richard Windsor; "Seth Oster" <(b)(6) Privacy> Cynthia Giles-AA
Cc: Adora Andy; Diane Thompson
Subject: Re: Huff Post: "BP Can Be Fined \$4K Per Barrel Spilled.. Will EPA Pursue It?"

(b)(5) Deliberative

[Redacted]

[Redacted]

Bob Perciasepe
Office of the Administrator
(o)202 564 4711
(c) (b)(6) Privacy
Richard Windsor

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

From: Richard Windsor
Sent: 05/25/2010 09:02 PM EDT
To: Bob Perciasepe; "Seth Oster" <(b)(6) Privacy> Cynthia Giles-AA
Cc: Adora Andy; Diane Thompson
Subject: Re: Huff Post: "BP Can Be Fined \$4K Per Barrel Spilled.. Will EPA Pursue It?"

(b)(5) Deliberative

Bob Perciasepe

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

From: Bob Perciasepe
Sent: 05/25/2010 08:43 PM EDT
To: "Seth Oster" <(b)(6) Privacy> Cynthia Giles-AA
Cc: Adora Andy; Diane Thompson; Richard Windsor
Subject: Re: Huff Post: "BP Can Be Fined \$4K Per Barrel Spilled.. Will EPA Pursue It?"

Looping in Cynthia (b)(5) Deliberative

Bob Perciasepe
Deputy Administrator

(o) +1 202 564 4711

(c) +1 (b)(6) Privacy

"Seth Oster"

(b)(5) Deliberative

05/25/2010 08:42:08 PM

From: "Seth Oster" <(b)(6) Privacy>
To: Richard Windsor/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Adora Andy/DC/USEPA/US@EPA
Date: 05/25/2010 08:42 PM
Subject: Huff Post: "BP Can Be Fined \$4K Per Barrel Spilled.. Will EPA Pursue It?"

(b)(5) Deliberative

Seth

SPECIAL REPORT-Civil fine in Gulf spill could be \$4,300 barrel

7:45pm EDT

- * Clean Water Act allows per-barrel fines for oil spillers
- * Civil fines may raise liability, not subject to cap
- * Extent of fine depends on whether there was negligence
- * Liability, including fines, may top \$10 billion

By Joshua Schneyer

NEW YORK, May 25 (Reuters) - Just how many barrels of oil are gushing into the Gulf of Mexico from the Deepwater Horizon spill is a billion dollar question with implications that go beyond the environment. It could also help determine how much BP <BP.L> and others end up paying for the disaster.

A clause buried deep in the U.S. Clean Water Act may expose BP and others to civil fines that aren't limited to any finite cap -- unlike a \$75 million limit on compensation for economic damages. The Act allows the government to seek civil penalties in court for every drop of oil that spills into U.S. navigable waters, including the area of BP's leaking well.

As a result, the U.S. government could seek to fine BP or others up to \$4,300 for every barrel leaked into the U.S. Gulf, according to legal experts and official documents.

So far, analysts and experts calculating potential oil spill liabilities have mostly concentrated on the cost of the clean-up and compensation for economic damages to affected parties. Some have also discussed criminal liabilities.

But the potential for civil fines has received scant attention -- and they could add up very quickly, depending on how aggressive the U.S. government is in pursuing them.

The threat of hefty fines underscores the importance of quantifying how much oil is pouring into the Gulf. As BP seeks to staunch the leak that has now been gushing for at least 33 days, it has estimated a spill rate of 5,000 barrels per day. But some experts say the volume -- and hence the fines -- could be more than 10 times higher.

The little-known, seldom applied clause in the Clean Water Act was added in 1990 after the Exxon Valdez disaster in Alaska, and was intended to beef up the arsenal of penalties the government can apply to oil spillers to deter future disasters.

"These civil penalties could be staggeringly high, possibly running into the billions," said Professor David Uhlmann, director of the Environmental Law program at University of Michigan.

Total liability -- including civil fines as well as the cost of clean-up, economic damages and potential criminal liability -- "will run into the billions and may be in the tens of billions," Uhlmann said.

Under the Clean Water Act, the Environmental Protection Agency can seek in federal court to fine any party whose negligence results in an oil spill in U.S. federal waters.

Other companies involved at the Horizon platform and the oilfield could share liability with BP, experts said. They include rig-owner Transocean Ltd <RIGN.S>, cementing contractor Halliburton Co. <HAL.N>, blowout preventer manufacturer Cameron <CAM.N>, and Anadarko <APC.N> and Mitsui <8031.T>, which also hold stakes in the oilfield.

SHARP RISE IN FINES

The basic fine, according to the act, is \$1,100 per barrel spilled. But the penalty can rise to \$4,300 a barrel if a federal court rules the spill resulted from gross negligence. The fines were originally set at \$1,000 to \$3,000 but that was raised in 2004 to keep up with inflation, according to Tracy Hester, head of the Environmental Law and Policy program at the University of Houston.

(To see an EPA memo on 2004 revisions to penalties outlined in the Clean Water Act, click here: [here](#))

It is unclear, however, that the EPA would try to apply the fines, or seek maximum penalty levels. EPA officials did not respond to several calls and e-mails requesting comment.

If the agency does act, the per-barrel fines could push oil companies' liability well beyond the cost of cleaning up the spill and paying legitimate claims for economic damages it causes, experts told Reuters.

"There are civil fines that could be quite substantial. I think BP's exposure to this is far greater than people initially thought," said Harvard Law School professor Jody Freeman, who recently served in the White House as Counselor for Energy and Climate Change.

BP has already said it will voluntarily exceed a \$75 million cap on liability for economic damages, pledging to pay any "legitimate claim" it receives. But the civil fines are another wild card.

BP spokesman Mark Salt said the company had nothing further to add to what it has said about the costs of the oil spill response.

Cash raised from such fines would be funnelled to government pollution funds, which provide economic aid for hazardous material spills.

BP or other parties facing fines could appeal them, or try to settle with the government for a lesser amount. Another option would be for BP or other responsible parties to seek a far-ranging settlement covering various areas of liability.

"The amount of barrels being released from the well is going to be critical," said Hester of the University of Houston.

Under pressure over the government's response to the disaster, President Barack Obama last Friday created a bi-partisan commission on the spill, and

the administration has pledged to independently verify the volume of oil leaking into the Gulf. "We're not depending on what BP is telling us," Interior Secretary Ken Salazar told CNN last week.

© Thomson Reuters 2010. All rights reserved. Users may download and print extracts of content from this website for their own personal and non-commercial use only. Republication or redistribution of Thomson Reuters content, including by framing or similar means, is expressly prohibited without the prior written consent of Thomson Reuters. Thomson Reuters and its logo are registered trademarks or trademarks of the Thomson Reuters group of companies around the world.

Thomson Reuters journalists are subject to an Editorial Handbook which requires fair presentation and disclosure of relevant interests.

This copy is for your personal, non-commercial use only. To order presentation-ready copies for distribution to colleagues, clients or customers, use the Reprints tool at the top of any article or visit: www.reutersreprints.com.

01268-EPA-3905

**David
McIntosh/DC/USEPA/US**
06/02/2010 09:31 AM

To Richard Windsor
cc
bcc

Subject Fw: draft paragrpah for Cabinet report

HI Administrator. FYI, please see below.

----- Forwarded by David McIntosh/DC/USEPA/US on 06/02/2010 09:31 AM -----

From: David McIntosh/DC/USEPA/US
To: Daniel Kanninen/DC/USEPA/US@EPA
Cc: Diane Thompson/DC/USEPA/US@EPA, Eric Wachter/DC/USEPA/US@EPA
Date: 06/02/2010 09:30 AM
Subject: draft paragrpah for Cabinet report

EPA expects, on Wednesday, June 9, to deliver to the offices of Senators Kerry and Lieberman the agency's economic modeling report on the Senators' draft American Power Act. (b)(5) Deliberative



01268-EPA-3906

Richard Windsor/DC/USEPA/US
06/02/2010 09:33 AM

To David McIntosh
cc
bcc

Subject Re: draft paragrpah for Cabinet report

Tx

David McIntosh

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

From: David McIntosh
Sent: 06/02/2010 09:31 AM EDT
To: Richard Windsor
Subject: Fw: draft paragrpah for Cabinet report

HI Administrator. FYI, please see below.

----- Forwarded by David McIntosh/DC/USEPA/US on 06/02/2010 09:31 AM -----

From: David McIntosh/DC/USEPA/US
To: Daniel Kanninen/DC/USEPA/US@EPA
Cc: Diane Thompson/DC/USEPA/US@EPA, Eric Wachter/DC/USEPA/US@EPA
Date: 06/02/2010 09:30 AM
Subject: draft paragrpah for Cabinet report

EPA expects, on Wednesday, June 9, to deliver to the offices of Senators Kerry and Lieberman the agency's economic modeling report on the Senators' draft American Power Act. (b)(5) Deliberative

[REDACTED]

01268-EPA-3907

Lisa Garcia/DC/USEPA/US

06/02/2010 03:09 PM

To Gina McCarthy, Richard Windsor, Cynthia Giles-AA

cc

bcc

Subject Fw: June 11 Clean Air Forum Meeting

I will be speaking at The Clean Air Forum on EPA's EJ priority and work- any thoughts or experience with this group.

(b)(5) Deliberative

----- Forwarded by Lisa Garcia/DC/USEPA/US on 06/02/2010 02:59 PM -----

From: David Friedman <DFriedman@npra.org>
To: Lisa Garcia/DC/USEPA/US@EPA
Cc: Amy Dewey/DC/USEPA/US@EPA
Date: 06/02/2010 02:58 PM
Subject: June 11 Clean Air Forum Meeting

As this year's Chair of the Clean Air Forum, I want to thank you for agreeing to speak to our group at our June meeting that is scheduled for noon on June 11. The meeting will take place at the Portland Cement Association which is located at 500 New Jersey Avenue, NW, Suite 700. We look forward to having you discuss the Administration's initiatives related to Environmental Justice.

The Clean Air Forum includes environmental professionals from the following trade associations: Alliance of Automobile Manufacturers, Aluminum Association, American Chemistry Council, American Coke and Coal Chemicals Institute, American Farm Bureau, American Forest & Paper Association, American Iron and Steel Institute, American Petroleum Institute, American Public Power Association, Brick Industry Association, Chamber of Commerce, Corn Refiners Association, Cotton Council, Council of Industrial Boiler Owners, Edison Electric Institute, International Liquid Terminals Association, National Association of Home Builders, National Association of Manufacturers, National Grain and Feed Association, National Mining Association, National Oilseed Processors Association, National Petrochemical & Refiners Association, National Pork Producers Council, National Realtors Association, National Rural Electric Cooperative Association, National Stone, Sand and Gravel Association, Portland Cement Association, Rubber Manufacturers Association and Utility Air Regulatory Group. I would expect that we will have 20-25 participants at the meeting.

Please let me know if you have any questions and we look forward to meeting you on the 11th !

David N. Friedman, Senior Director, Regulatory Affairs
NPRA

1667 K Street , NW, Suite 700
Washington, DC 20006
T 202-552-8461-direct # | F 202-457-0480
dfriedman@npra.org
www.npra.org
[Register now for NPRA Meetings!](#)

01268-EPA-3908

Richard Windsor/DC/USEPA/US
06/02/2010 03:14 PM

To Lisa Garcia, Gina McCarthy, Cynthia Giles-AA
cc
bcc

Subject Re: June 11 Clean Air Forum Meeting

I have no experience but it is a great opportunity.
Lisa Garcia

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

From: Lisa Garcia
Sent: 06/02/2010 03:09 PM EDT
To: Gina McCarthy; Richard Windsor; Cynthia Giles-AA
Subject: Fw: June 11 Clean Air Forum Meeting

I will be speaking at The Clean Air Forum on EPAs EJ priority and work- any thoughts or experience with this group.

(b)(5) Deliberative

----- Forwarded by Lisa Garcia/DC/USEPA/US on 06/02/2010 02:59 PM -----

From: David Friedman <DFriedman@npra.org>
To: Lisa Garcia/DC/USEPA/US@EPA
Cc: Amy Dewey/DC/USEPA/US@EPA
Date: 06/02/2010 02:58 PM
Subject: June 11 Clean Air Forum Meeting

As this year's Chair of the Clean Air Forum, I want to thank you for agreeing to speak to our group at our June meeting that is scheduled for noon on June 11. The meeting will take place at the Portland Cement Association which is located at 500 New Jersey Avenue, NW, Suite 700. We look forward to having you discuss the Administration's initiatives related to Environmental Justice.

The Clean Air Forum includes environmental professionals from the following trade associations: Alliance of Automobile Manufacturers, Aluminum Association, American Chemistry Council, American Coke and Coal Chemicals Institute, American Farm Bureau, American Forest & Paper Association, American Iron and Steel Institute, American Petroleum Institute, American Public Power Association, Brick Industry Association, Chamber of Commerce, Corn Refiners Association, Cotton Council, Council of Industrial Boiler Owners, Edison Electric Institute, International Liquid Terminals Association, National Association of Home Builders, National Association of Manufacturers, National Grain and Feed Association, National Mining Association, National Oilseed Processors Association, National Petrochemical & Refiners Association, National Pork Producers Council, National Realtors Association, National Rural Electric Cooperative Association, National Stone, Sand and Gravel Association, Portland Cement Association, Rubber Manufacturers Association and Utility Air Regulatory Group. I would expect that we will have 20-25 participants at the meeting.

Please let me know if you have any questions and we look forward to meeting you on the 11th!

David N. Friedman, Senior Director, Regulatory Affairs

NPRA

1667 K Street , NW, Suite 700

Washington, DC 20006

T 202-552-8461-direct # | F 202-457-0480

dfriedman@npra.org

www.npra.org

[Register now for NPRA Meetings!](#)

01268-EPA-3909

Richard Windsor/DC/USEPA/US
06/03/2010 10:00 PM

To David Gray
cc
bcc
Subject Re: URGENT

Merci beaucoup.
David Gray

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

From: David Gray
Sent: 06/03/2010 09:59 PM EDT
To: Richard Windsor
Subject: Fw: URGENT

Fyi
David Gray
Director
External and Government Affairs
US EPA
(214) 665-2200 office
(214) 789-2619 mobile
gray.david@epa.gov

Sent from Blackberry
Sam Coleman

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

From: Sam Coleman
Sent: 06/03/2010 09:58 PM EDT
To: David Gray
Subject: Re: URGENT

Called and left a message.

Samuel Coleman, PE
Superfund Div Region 6
214.665.6701 Ofc
214.789.2016 Cell

Sent by EPA Wireless E-Mail Services
David Gray

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

From: David Gray
Sent: 06/03/2010 09:33 PM EDT
To: Sam Coleman
Subject: Re: URGENT

Any chance - you can make the call?

David Gray
Director
External and Government Affairs
US EPA

(214) 665-2200 office
(214) 789-2619 mobile
gray.david@epa.gov

Sent from Blackberry
Sam Coleman

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

From: Sam Coleman
Sent: 06/03/2010 09:03 PM EDT
To: David Gray; "Sam Coleman" <coleman.sam@epa.gov>
Subject: Re: URGENT

Timing?

Samuel Coleman, PE
Superfund Div Region 6
214.665.6701 Ofc
214.789.2016 Cell

Sent by EPA Wireless E-Mail Services
David Gray

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

From: David Gray
Sent: 06/03/2010 08:28 PM EDT
To: "Sam Coleman" <coleman.sam@epa.gov>
Subject: URGENT

In case you haven't heard from Al yet about this email to LPJ

Thanks for offering to have Mr. Coleman arrange for a multi-agency briefing for our state and local NAACP presidents in the area. Given such access to senior officials from BP, the Coast Guard, EPA and any other relevant agencies, there is a lot our folks can do to address concerns and distribute information in coastal communities.

The point-person at NAACP for Mr. Coleman is Jacqui Patterson, Director, NAACP Climate Change Initiative. Her email is jpatterson@naacpnet.org. Her mobile phone is (b) (6). She is expecting his call.

David Gray
Director
External and Government Affairs
US EPA
(214) 665-2200 office
(214) 789-2619 mobile
gray.david@epa.gov

Sent from Blackberry

01268-EPA-3916

Richard Windsor/DC/USEPA/US
06/08/2010 10:31 AM

To Cynthia Giles-AA
cc Mathy Stanislaus, Bob Sussman, "Seth Oster"
bcc
Subject Re: Coal combustion waste facilities

Lets publicize the Orders. Tx.
Cynthia Giles-AA

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

From: Cynthia Giles-AA
Sent: 06/03/2010 06:56 PM EDT
To: Richard Windsor
Cc: Mathy Stanislaus; Bob Sussman
Subject: Coal combustion waste facilities

We are planning to send tomorrow information requests to 7 coal combustion waste facilities. OECA has been coordinating closely with OSWER on the selection of the sites and the content of the information requests. (b)(5) Deliberative

[REDACTED]

[REDACTED]

Happy to supply any additional information.

Cynthia

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.

01268-EPA-3918

Richard Windsor/DC/USEPA/US
06/08/2010 11:12 AM

To David McIntosh
cc Michael Moats, Seth Oster, Allyn Brooks-LaSure, Diane Thompson, Bob Perciasepe
bcc

Subject Re: (b)(5) Deliberative
[Redacted]

Perfect.
David McIntosh

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

From: David McIntosh
Sent: 06/08/2010 10:40 AM EDT
To: Richard Windsor
Cc: Michael Moats; Seth Oster; Allyn Brooks-LaSure; Diane Thompson; Bob Perciasepe
Subject: Fw: (b)(5) Deliberative
[Redacted]

Administrator,
(b)(5) Deliberative
[Redacted]

-David

[attachment "(b)(5) Deliberative" doc" deleted by Richard Windsor/DC/USEPA/US]

Chamber of Commerce

OF THE

United States of America

R. Bruce Josten
Executive Vice President
Government Affairs

1615 H Street, N
Washington, D.C. 200
202/463-5311

June 8, 2010

TO THE MEMBERS OF THE UNITED STATES SENATE:

The U.S. Chamber of Commerce, the world's largest business federation represents the interests of more than three million businesses and organizations of every size, sector, and region, strongly supports S.J. Res. 26, crucial, bipartisan legislation sponsored by Sens. Murkowski and Lincoln, which would prevent the U.S. Environmental Protection Agency (EPA) from moving forward with its scheme to regulate greenhouse gas emissions under the Clean Air Act, because of the enormous permitting and compliance costs EPA regulation would force.

businesses large and small.

There is significant consensus that the Clean Air Act is an imprecise, impractical, and unworkable process to regulate greenhouse gas emissions. Yet, EPA's "endangerment finding" triggered a burgeoning regulatory onslaught of costly, burdensome regulatory programs, as:

- Mandatory New Source Performance Standards, set by sector;
- New Source Review and Prevention of Significant Deterioration permits for new or modified major sources;
- Title V operating permits for an escalating number of emitters; and,
- National Ambient Air Quality Standards, a program so incompatible with greenhouse gas science that EPA has concluded it would be virtually impossible to implement.

The endangerment finding expands the regulatory universe under the Clean Air Act from a few thousand businesses to almost six million. Many of these newly-regulated entities would have their costs of doing business escalate due to rigid new rules and requirements, and many have stalled or stopped while they apply and wait for complicated new permits that require strictly expensive control technologies. Entities affected are not just power plants and refineries, but also potentially office buildings, small businesses, private schools, nursing homes, churches, and other small emitters.

The Congressional Review Act provides Congress with needed checks and balances to undo unwise and unwarranted Administration regulatory actions. Simply put, S.J. Res. 26 is the only effective way to stop the consequences of the endangerment finding.

Other purported endangerment "fixes" are illusory, impractical, and potentially illegal. EPA may attempt to promulgate a rule ostensibly intended to address ancillary impacts of the endangerment finding; such a regulation would likely be invalidated by the courts. Bills that have been or may be introduced in the House or Senate to amend the Clean Air Act may be intended; they will not and cannot mitigate, block, deflect or undo EPA's oncoming regulatory onslaught as effectively as S.J. Res. 26.

Support for S.J. Res. 26 should not be misrepresented as a vote against greenhouse gas emissions legislation. The Chamber supports efforts to address energy security and climate change, and believes that any legislation must be comprehensive and bipartisan, and take into account a wide spectrum of issues including American jobs and our economy.

The Chamber urges you to approve S.J. Res. 26, the bipartisan Congressional Review Resolution of Disapproval. **The Chamber will consider votes on, or in relation to, this in our annual *How They Voted* scorecard.**

Sincerely,



R. Bruce Josten

01268-EPA-3920

**David
McIntosh/DC/USEPA/US**
06/08/2010 01:33 PM

To Richard Windsor
cc Seth Oster, Allyn Brooks-LaSure, Michael Moats
bcc

Subject Cardin Hill Op-Ed: Resolution would increase US oil
dependence

FYI

Resolution would increase US oil dependence even as BP's oil spill keeps gushing

By Sen. Benjamin L. Cardin (D-Md.)

06/08/10 10:44 AM ET

Our nation's failure to enact a comprehensive energy bill hurts Americans in many ways. One of the harms is on horrific display right now in the Gulf of Mexico.

Our hearts and prayers go out to the families of the eleven workers who died and to the thousands of fishermen and other hardworking Americans whose jobs are threatened and lives are in turmoil in Louisiana, Mississippi, Alabama, and Florida.

Frankly I find it amazing that one of the responses to this crisis is a resolution that would increase America's oil dependence by billions of barrels. Senator Lisa Murkowski is asking the Senate to approve a resolution that would stop dead in its tracks efforts to cut the oil consumption of cars and trucks sold in America.

Senator Murkowski is right when she says that Congress needs to act. She is wrong when she says that we need to adopt a Resolution of Disapproval and a weak energy bill. Instead, we need a comprehensive energy law that will generate millions of new jobs, improve our national security, and stem the flow of dangerous pollution into our environment. We need a new energy future for America based on dramatic improvements in energy efficiency, a major investment in renewable and nuclear power, and a price on carbon pollution that will spur new jobs and new investments.

Let's be clear. Big Oil, which brought us the unfolding Gulf disaster, strongly supports Senator Murkowski's resolution of disapproval.

America needs to chart a new energy future. The scientific case is overwhelming.

EPA, acting under clear court orders as required by the Clean Air Act, issued an endangerment finding, saying that carbon dioxide pollution threatens our future. Following the laws enacted by Congress and as a direct result of the endangerment finding, EPA has taken preliminary steps to stem these dangerous pollutants from mobile sources including cars and trucks.

Just two months ago, EPA and the Department of Transportation completed standards to decrease the oil consumption of Model Year 2012-2016 cars and light trucks sold in the US. Those standards will result in vehicles that will use 1.85 billion barrels less than current models.

On May 21, President Obama directed EPA and DOT to follow up over the next two years with standards for trucks and buses starting with Model Year 2014, and for cars and light trucks starting with Model Year 2017. Those follow-on standards will further reduce US oil consumption by billions of barrels.

But the Murkowski resolution would compel EPA to rescind its portion of the completed standard and prevent the agency from taking part in the follow-on ones. Removing EPA from the equation would take away the steep penalties for noncompliance set forth in the Clean Air Act.

We are seeing in the Gulf today what happens when regulatory enforcement is too weak to deter risky behavior. The American people are forced to pay the price.

The Murkowski resolution ignores scientific evidence and reverses court-ordered action. It would put EPA on the bench. The certain result would be to forfeit one quarter - or 455 million barrels - of the oil savings of the standards completed in April and at least one quarter - amounting to billions of barrels - of the oil savings of the follow-on standards that the President announced on May 21.

Not surprisingly, Big Oil is trying to disguise their resolution as something other than it is.

They claim that it is necessary to prevent EPA from directly regulating the greenhouse gas emissions of small businesses and even homes and farms. But that assertion is simply wrong.

The facts are clear. EPA has already issued a final rule to shield small businesses, homes, farms, and all other small sources from regulation for at least the next six years. Six years is more than enough time to pass a law making the exemption for small sources permanent.

The resolution of disapproval has just one certain outcome - It would eliminate the legal foundation of the EPA oil-savings standards.

When the resolution comes to the Senate floor, it will be time to decide - whose side are you on? I choose to stand for a new energy future and not with Big Oil. I ask my colleagues to join me.

01268-EPA-3921

Richard Windsor/DC/USEPA/US
06/08/2010 01:37 PM

To David McIntosh
cc
bcc

Subject Re: Cardin Hill Op-Ed: Resolution would increase US oil dependence

Cool.

David McIntosh

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

From: David McIntosh
Sent: 06/08/2010 01:33 PM EDT
To: Richard Windsor
Cc: Seth Oster; Allyn Brooks-LaSure; Michael Moats
Subject: Cardin Hill Op-Ed: Resolution would increase US oil dependence

FYI

(b)(5) Deliberative

By Sen. Benjamin L. Cardin (D-Md.)

06/08/10 10:44 AM ET

Our nation's failure to enact a comprehensive energy bill hurts Americans in many ways. One of the harms is on horrific display right now in the Gulf of Mexico.

Our hearts and prayers go out to the families of the eleven workers who died and to the thousands of fishermen and other hardworking Americans whose jobs are threatened and lives are in turmoil in Louisiana, Mississippi, Alabama, and Florida.

Frankly I find it amazing that one of the responses to this crisis is a resolution that would increase America's oil dependence by billions of barrels. Senator Lisa Murkowski is asking the Senate to approve a resolution that would stop dead in its tracks efforts to cut the oil consumption of cars and trucks sold in America.

Senator Murkowski is right when she says that Congress needs to act. She is wrong when she says that we need to adopt a Resolution of Disapproval and a weak energy bill. Instead, we need a comprehensive energy law that will generate millions of new jobs, improve our national security, and stem the flow of dangerous pollution into our environment. We need a new energy future for America based on dramatic improvements in energy efficiency, a major investment in renewable and nuclear power, and a price on carbon pollution that will spur new jobs and new investments.

Let's be clear. Big Oil, which brought us the unfolding Gulf disaster, strongly supports Senator Murkowski's resolution of disapproval.

America needs to chart a new energy future. The scientific case is overwhelming.

EPA, acting under clear court orders as required by the Clean Air Act, issued an endangerment finding, saying that carbon dioxide pollution

threatens our future. Following the laws enacted by Congress and as a direct result of the endangerment finding, EPA has taken preliminary steps to stem these dangerous pollutants from mobile sources including cars and trucks.

Just two months ago, EPA and the Department of Transportation completed standards to decrease the oil consumption of Model Year 2012-2016 cars and light trucks sold in the US. Those standards will result in vehicles that will use 1.85 billion barrels less than current models.

On May 21, President Obama directed EPA and DOT to follow up over the next two years with standards for trucks and buses starting with Model Year 2014, and for cars and light trucks starting with Model Year 2017. Those follow-on standards will further reduce US oil consumption by billions of barrels.

But the Murkowski resolution would compel EPA to rescind its portion of the completed standard and prevent the agency from taking part in the follow-on ones. Removing EPA from the equation would take away the steep penalties for noncompliance set forth in the Clean Air Act.

We are seeing in the Gulf today what happens when regulatory enforcement is too weak to deter risky behavior. The American people are forced to pay the price.

The Murkowski resolution ignores scientific evidence and reverses court-ordered action. It would put EPA on the bench. The certain result would be to forfeit one quarter - or 455 million barrels - of the oil savings of the standards completed in April and at least one quarter - amounting to billions of barrels - of the oil savings of the follow-on standards that the President announced on May 21.

Not surprisingly, Big Oil is trying to disguise their resolution as something other than it is.

They claim that it is necessary to prevent EPA from directly regulating the greenhouse gas emissions of small businesses and even homes and farms. But that assertion is simply wrong.

The facts are clear. EPA has already issued a final rule to shield small businesses, homes, farms, and all other small sources from regulation for at least the next six years. Six years is more than enough time to pass a law making the exemption for small sources permanent.

The resolution of disapproval has just one certain outcome - It would eliminate the legal foundation of the EPA oil-savings standards.

When the resolution comes to the Senate floor, it will be time to decide - whose side are you on? I choose to stand for a new energy future and not with Big Oil. I ask my colleagues to join me.

01268-EPA-3937

Bob Sussman/DC/USEPA/US

06/10/2010 07:04 PM

To Richard Windsor, Seth Oster, Bob Perciasepe, Diane Thompson, Janet Woodka, Arvin Ganesan, Peter Silva, Mathy Stanislaus
cc Shawn Garvin, JamesB Martin, Judith Enck, Al Armendariz
bcc

Subject Fw: Fracturing Operations Incidents

The enclosed describes two recent incidents involving fracturing operations in Region 3.

(b)(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 06/10/2010 06:56 PM -----

From: Shawn Garvin/R3/USEPA/US
To: Bob Sussman/DC/USEPA/US@EPA
Date: 06/10/2010 06:31 PM
Subject: Fracturing Operations Incidents

Bob,

As a follow up to the conference call this past Monday morning, I am relaying to you the pertinent details of two incidents involving natural gas incidents that happened within a few days of each other in Region III.

The first happened Thursday evening June 3 in Moshannon State Forest in northwest Pennsylvania and went for 16 hours before ending at noon on Friday. Unexpectedly high gas pressure in a new well prevented crews from initially containing the leak. Though there was no explosion or fire, gas spewed from the well along with fracking fluid. While initial media reports were that approximately one million gallons of fracking fluids were released, PADEP is now reporting that number at 35,000 gallons. A one-mile radius of the forest was evacuated Friday morning and no one was injured. The polluted drilling water did not reach a waterway and radiation was not detected in it. In addition to the Emergency Management Agency and Pennsylvania Department of Environmental Protection, a team from the Texas owner - EOG Resources, Inc. was deployed to the scene to help control the situation. PADEP had the lead response role for the state and coordinated with local responders. The gas leak apparently also prompted the Federal Aviation Administration to issue a flight restriction in the immediate area shortly after 11 a.m. Region III became aware of the blowout Friday afternoon. The incident was not reported to the National Response Center and the Region was not aware of the incident until we saw media reports. At that point the immediate emergency was reported as over but the Region did immediately reach out to PADEP and offer assistance. None was requested.

The second blowout occurred approximately 1:30 a.m. this past Monday morning in Marshall County, West Virginia. A crew drilling a natural gas well through an abandoned coal mine apparently hit a pocket of methane gas causing an explosion that burned seven workers. It was reported the blast created a column of flame 70 feet high before it was reduced much lower. AB Resources PA LLC of Brecksville, Ohio is the operator of the well and had just received their

permit on June 2, 2010. A contractor they had retained drilled the first 1,000 feet of a well on the property and it was reported they were preparing to install surface casing when the explosion occurred. WVDEP immediately responded and had the state lead for the response working closely with local officials and the WV Office of Emergency Management. OSHA also responded to the scene as a consequence of the injured workers. The incident was not reported to the National Response Center and the Region became aware of the incident through media reports. We immediately called WVDEP and offered assistance but none was requested.

(b)(5) Deliberative



If I can provide you with additional information, please don't hesitate to contact me.

Thanks.
Shawn

01268-EPA-3940

Richard Windsor/DC/USEPA/US
06/11/2010 07:16 AM

To Bob Sussman
cc
bcc

Subject Re: Fracturing Operations Incidents

Tx

Bob Sussman

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

From: Bob Sussman
Sent: 06/10/2010 07:04 PM EDT
To: Richard Windsor; Seth Oster; Bob Perciasepe; Diane Thompson; Janet Woodka; Arvin Ganesan; Peter Silva; Mathy Stanislaus
Cc: Shawn Garvin; JamesB Martin; Judith Enck; Al Armendariz
Subject: Fw: Fracturing Operations Incidents

The enclosed describes two recent incidents involving fracturing operations in Region 3

(b)(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 06/10/2010 06:56 PM -----

From: Shawn Garvin/R3/USEPA/US
To: Bob Sussman/DC/USEPA/US@EPA
Date: 06/10/2010 06:31 PM
Subject: Fracturing Operations Incidents

Bob,

As a follow up to the conference call this past Monday morning, I am relaying to you the pertinent details of two incidents involving natural gas incidents that happened within a few days of each other in Region III.

The first happened Thursday evening June 3 in Moshannon State Forest in northwest Pennsylvania and went for 16 hours before ending at noon on Friday. Unexpectedly high gas pressure in a new well prevented crews from initially containing the leak. Though there was no explosion or fire, gas spewed from the well along with fracking fluid. While initial media reports were that approximately one million gallons of fracking fluids were released, PADEP is now reporting that number at 35,000 gallons. A one-mile radius of the forest was evacuated Friday morning and no one was injured. The polluted drilling water did not reach a waterway and radiation was not detected in it. In addition to the Emergency Management Agency and Pennsylvania Department of Environmental Protection, a team from the Texas owner - EOG Resources, Inc. was deployed to the scene to help control the situation. PADEP had the lead response role for the state and coordinated with local responders. The gas leak apparently also prompted the Federal Aviation Administration to issue a flight restriction in the immediate area shortly after 11 a.m. Region III became aware of the blowout Friday afternoon. The incident was not reported to the National Response Center and the Region was not aware of the incident

until we saw media reports. At that point the immediate emergency was reported as over but the Region did immediately reach out to PADEP and offer assistance. None was requested.

The second blowout occurred approximately 1:30 a.m. this past Monday morning in Marshall County, West Virginia. A crew drilling a natural gas well through an abandoned coal mine apparently hit a pocket of methane gas causing an explosion that burned seven workers. It was reported the blast created a column of flame 70 feet high before it was reduced much lower. AB Resources PA LLC of Brecksville, Ohio is the operator of the well and had just received their permit on June 2, 2010. A contractor they had retained drilled the first 1,000 feet of a well on the property and it was reported they were preparing to install surface casing when the explosion occurred. WVDEP immediately responded and had the state lead for the response working closely with local officials and the WV Office of Emergency Management. OSHA also responded to the scene as a consequence of the injured workers. The incident was not reported to the National Response Center and the Region became aware of the incident through media reports. We immediately called WVDEP and offered assistance but none was requested.

(b)(5) Deliberative



If I can provide you with additional information, please don't hesitate to contact me.

Thanks.
Shawn

01268-EPA-3942

David McIntosh/DC/USEPA/US
06/16/2010 05:19 PM

To Richard Windsor, Diane Thompson, Bob Perciasepe, Seth Oster, Allyn Brooks-LaSure, Arvin Ganesan
cc
bcc

Subject From E&ENews PM -- CLIMATE: Reid plans Senate vote on 2-year EPA delay this year

FYI. I'll be watching this closely over the next few days. (b)(5) Deliberative

----- Forwarded by David McIntosh/DC/USEPA/US on 06/16/2010 05:15 PM -----

From: David McIntosh/DC/USEPA/US@EPA
To: David McIntosh/DC/USEPA/US@EPA
Date: 06/16/2010 05:14 PM
Subject: From E&ENews PM -- CLIMATE: Reid plans Senate vote on 2-year EPA delay this year

This E&ENews PM story was sent to you by: McIntosh.David@epa.gov

Personal message:



An E&E Publishing Service

CLIMATE: Reid plans Senate vote on 2-year EPA delay this year
(Wednesday, June 16, 2010)
Robin Bravender, E&E reporter

The Senate will vote this year on a measure to block U.S. EPA from regulating greenhouse gases from stationary sources for two years, Senate Majority Leader Harry Reid (D-Nev.) said today. "We're going to try to do that before the end of the year," Reid said.

Senate Democratic leaders promised earlier this month to offer the vote on the two-year ban, sponsored by Sen. Jay Rockefeller (D-W.Va.), in hopes of draining support from a more sweeping bid to block EPA from Sen. Lisa Murkowski (R-Alaska), according to a Senate aide ([Greenwire](#) , June 10).

Murkowski's resolution, which would have nullified EPA's authority to issue any climate rules under the Clean Air Act, was blocked by a 47-53 procedural vote last week. "I have some hopes for that bill," Rockefeller said yesterday. "The Murkowski bill had to fail in order for that to come in and I voted for the Murkowski bill, but I do have some hopes for that two-year moratorium."

Six moderate Democrats have signed on as co-sponsors to the two-year time-out: Byron Dorgan and Kent Conrad of North Dakota, Tim Johnson of South Dakota, Claire McCaskill of Missouri, Jim Webb of Virginia and Ben Nelson of Nebraska.

Nelson, one of the three Democratic co-sponsors of Murkowski's resolution, signed on Thursday after that effort was quashed.

Nelson said he would have preferred the more sweeping Murkowski measure, "but you know, that didn't pass, so you look for some sort of alternative to make sure that the EPA understands that they're not the fourth branch of government."

Rockefeller has said he hopes to get additional support for the bill, including Murkowski, who has signaled that she might support the two-year delay in EPA stationary source rules.

Some industry groups have said they could back the two-year delay. Environmentalists say they would oppose any delay in greenhouse gas rules, although some have said that approach would be

more acceptable than the broader Murkowski resolution.
EPA has not taken a position on the two-year delay.

Want to read more stories like this?

Click here to start a free trial to E&E -- the best way to track policy and markets.

About E&ENews PM

E&ENews PM is written and produced by the staff of E&E Publishing, LLC. A late afternoon roundup providing coverage of all the breaking and developing policy news from Capitol Hill, around the country and around the world, E&ENews PM is a must-read for the key players who need to be ahead of the next day's headlines. E&ENews PM publishes daily at 4:30 p.m.



E&E Publishing, LLC
122 C St., Ste. 722, NW, Wash., D.C. 20001.
Phone: 202-628-6500. Fax: 202-737-5299.
www.eenews.net

All content is copyrighted and may not be reproduced or retransmitted without the express consent of E&E Publishing, LLC. [Click here](#) to view our privacy policy.

01268-EPA-3943

**David
McIntosh/DC/USEPA/US**
06/17/2010 04:23 PM

To Richard Windsor
cc
bcc

Subject Politico: Dems lack consensus on climate bill

The least surprising story I've read all year.

Dems lack consensus on climate bill

By: [Darren Samuelsohn](#)
June 17, 2010 03:06 PM EDT

Senate Democrats emerged from a special caucus meeting in the Capitol on Thursday with no clear consensus yet on the fate of energy and climate legislation due on the floor before the August recess.

Majority Leader Harry Reid of Nevada dedicated an hourlong session to a "full, frank discussion" of three competing proposals for overhauling the nation's energy policies and trimming greenhouse gas emissions. But senators spoke for so long that they had to bump back a more detailed question-and-answer session for another meeting that's tentatively scheduled for next week.

"We're not going to tell you today what we're going to have in this legislation because it's a work in progress," Reid told reporters. "The reason we're coming back for another caucus is because we understand the importance of this issue. We have no one saying no. We have everyone saying yes. It's a question of how we move forward."

Reid insisted that he had made no decisions during the meeting on whether to advance a climate and energy bill that includes a controversial price on greenhouse gas emissions. For now, Democrats don't have the votes to pass such a plan and are still casting about for a formula that can attract moderates on both sides of the aisle.

"I'd support it, but I don't see 60 votes for it," said Sen. Dianne Feinstein (D-Calif.).

Sens. John Kerry of Massachusetts and Joe Lieberman of Connecticut, authors of a bill to cap greenhouse gases across the economy, pulled out all the stops in their presentations even before the meeting started. Their staff plunked down on every Democratic senator's chair a report from President Barack Obama's pollster showing public support for placing carbon caps on the nation's smokestacks and tailpipes in the wake of the Gulf of Mexico oil spill.

They also hosted a pre-caucus luncheon for about 20 Democrats and one Republican, Judd Gregg of New Hampshire, that included presentations on the need for a carbon cap from General Electric CEO Jeff Immelt and top brass from Honeywell, Dow Chemical, Vantage Point Venture Capital and Applied Materials.

During the Democratic Caucus meeting, Energy and Natural Resources Committee

Chairman Jeff Bingaman (D-N.M.) offered a snapshot of the legislation his panel approved a year ago, which includes a nationwide renewable electricity standard and a range of incentives for alternative forms of energy. Several moderates are rallying around Bingaman's bill as the leading vehicle for the floor debate and as an alternative to the more controversial Kerry-Lieberman bill.

Sen. Maria Cantwell (D-Wash.) also presented details of her alternative carbon pricing bill, which has won co-sponsorship from Maine GOP Sen. Susan Collins and endorsements from lobbying powerhouse AARP and environmental groups.

Supporters of the [Kerry-Lieberman](#) and [Cantwell-Collins](#) bills both posted YouTube videos promoting their efforts Thursday afternoon.

Kerry, Lieberman, Bingaman, Cantwell and Gregg are among the senators invited to the White House for a meeting next Wednesday with Obama. Others expected to attend include Sens. Lisa Murkowski (R-Alaska), Dick Lugar (R-Ind.) and Debbie Stabenow (D-Mich.).

Environmental groups also jumped at the chance to weigh in on Thursday's Senate Democratic meeting with a joint session two hours before the meeting even began.

"We are confident Sen. Reid and his colleagues will opt to take the best ideas from all the major proposals and craft legislation which puts a strong limit on carbon pollution and drives the innovation necessary to create millions of clean energy jobs for America," wrote top officials from the League of Conservation Voters, Natural Resources Defense Council, National Wildlife Federation, Sierra Club and Environmental Defense Fund. "This long-sought goal is within our reach, if we have the will to make it happen."

The Alliance for Automobile Manufacturers weighed in with a statement opposing Lugar's proposal that includes a provision that would impose new fuel economy standards after 2017.

The leading trade group for the domestic auto industry complained that Lugar's bill "piles additional burdens onto the auto industry — the only industry that has already committed to do its fair share to reduce [greenhouse gas] emissions and improve energy security."

AAM also said the proposal pushes "arbitrary" new fuel economy mandates that don't come with end dates, new taxes on consumers and additional technology.



01268-EPA-3944

Richard Windsor/DC/USEPA/US
06/17/2010 05:08 PM

To David McIntosh
cc
bcc

Subject Re: Politico: Dems lack consensus on climate bill

yup

David McIntosh [The least surprising story I've read all y...](#) 06/17/2010 04:23:52 PM

From: David McIntosh/DC/USEPA/US
To: Richard Windsor/DC/USEPA/US@EPA
Date: 06/17/2010 04:23 PM
Subject: Politico: Dems lack consensus on climate bill

The least surprising story I've read all year.

Dems lack consensus on climate bill

By: [Darren Samuelsohn](#)
June 17, 2010 03:06 PM EDT

Senate Democrats emerged from a special caucus meeting in the Capitol on Thursday with no clear consensus yet on the fate of energy and climate legislation due on the floor before the August recess.

Majority Leader Harry Reid of Nevada dedicated an hourlong session to a “full, frank discussion” of three competing proposals for overhauling the nation’s energy policies and trimming greenhouse gas emissions. But senators spoke for so long that they had to bump back a more detailed question-and-answer session for another meeting that’s tentatively scheduled for next week.

“We’re not going to tell you today what we’re going to have in this legislation because it’s a work in progress,” Reid told reporters. “The reason we’re coming back for another caucus is because we understand the importance of this issue. We have no one saying no. We have everyone saying yes. It’s a question of how we move forward.”

Reid insisted that he had made no decisions during the meeting on whether to advance a climate and energy bill that includes a controversial price on greenhouse gas emissions. For now, Democrats don’t have the votes to pass such a plan and are still casting about for a formula that can attract moderates on both sides of the aisle.

“I’d support it, but I don’t see 60 votes for it,” said Sen. Dianne Feinstein (D-Calif.).

Sens. John Kerry of Massachusetts and Joe Lieberman of Connecticut, authors of a bill to cap greenhouse gases across the economy, pulled out all the stops in their presentations even before the meeting started. Their staff plunked down on every Democratic senator’s chair a report from President Barack Obama's pollster showing public support for placing carbon caps on the nation’s smokestacks and tailpipes in the

wake of the Gulf of Mexico oil spill.

They also hosted a pre-caucus luncheon for about 20 Democrats and one Republican, Judd Gregg of New Hampshire, that included presentations on the need for a carbon cap from General Electric CEO Jeff Immelt and top brass from Honeywell, Dow Chemical, Vantage Point Venture Capital and Applied Materials.

During the Democratic Caucus meeting, Energy and Natural Resources Committee Chairman Jeff Bingaman (D-N.M.) offered a snapshot of the legislation his panel approved a year ago, which includes a nationwide renewable electricity standard and a range of incentives for alternative forms of energy. Several moderates are rallying around Bingaman's bill as the leading vehicle for the floor debate and as an alternative to the more controversial Kerry-Lieberman bill.

Sen. Maria Cantwell (D-Wash.) also presented details of her alternative carbon pricing bill, which has won co-sponsorship from Maine GOP Sen. Susan Collins and endorsements from lobbying powerhouse AARP and environmental groups.

Supporters of the [Kerry-Lieberman](#) and [Cantwell-Collins](#) bills both posted YouTube videos promoting their efforts Thursday afternoon.

Kerry, Lieberman, Bingaman, Cantwell and Gregg are among the senators invited to the White House for a meeting next Wednesday with Obama. Others expected to attend include Sens. Lisa Murkowski (R-Alaska), Dick Lugar (R-Ind.) and Debbie Stabenow (D-Mich.).

Environmental groups also jumped at the chance to weigh in on Thursday's Senate Democratic meeting with a joint session two hours before the meeting even began.

"We are confident Sen. Reid and his colleagues will opt to take the best ideas from all the major proposals and craft legislation which puts a strong limit on carbon pollution and drives the innovation necessary to create millions of clean energy jobs for America," wrote top officials from the League of Conservation Voters, Natural Resources Defense Council, National Wildlife Federation, Sierra Club and Environmental Defense Fund. "This long-sought goal is within our reach, if we have the will to make it happen."

The Alliance for Automobile Manufacturers weighed in with a statement opposing Lugar's proposal that includes a provision that would impose new fuel economy standards after 2017.

The leading trade group for the domestic auto industry complained that Lugar's bill "piles additional burdens onto the auto industry — the only industry that has already committed to do its fair share to reduce [greenhouse gas] emissions and improve energy security."

AAM also said the proposal pushes "arbitrary" new fuel economy mandates that don't come with end dates, new taxes on consumers and additional technology.



© 2010 Capitol News Company, LLC

01268-EPA-3945

Bob Sussman/DC/USEPA/US

To "Lisa P. Jackson"

06/17/2010 07:55 PM

cc "Bob Perciasepe", "Diane Thompson"

bcc

Subject MTM Decisions

Lisa: a gentle reminder that we need a decision tomorrow

(b)(5) Deliberative

[Redacted]

[Redacted]

Let me know where you come out. We can certainly get quick answers if you have any remaining questions.

(b)(5) Deliberative

[Redacted]

01268-EPA-3946

Richard Windsor/DC/USEPA/US
06/18/2010 06:36 AM

To Bob Sussman
cc Bob Perciasepe, Diane Thompson
bcc

Subject Re: MTM Decisions

[Redacted] (b)(5) Deliberative

Bob Sussman

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

From: Bob Sussman
Sent: 06/17/2010 07:55 PM EDT
To: Richard Windsor
Cc: Bob Perciasepe; Diane Thompson
Subject: MTM Decisions

Lisa: a gentle reminder that we need a decision tomorrow [Redacted] (b)(5) Deliberative

[Redacted]

[Redacted]

[Redacted]

Let me know where you come out. We can certainly get quick answers if you have any remaining questions.

[Redacted] (b)(5) Deliberative

01268-EPA-3949

**David
McIntosh/DC/USEPA/US**
06/21/2010 08:38 PM

To Richard Windsor, Seth Oster, Gina McCarthy
cc
bcc

Subject Re: FYI

(b)(5) Deliberative

Richard Windsor

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

From: Richard Windsor

Sent: 06/21/2010 08:26 PM EDT

To: Seth Oster; David McIntosh; Gina McCarthy

Subject: FYI

<http://green.blogs.nytimes.com/2010/06/20/climate-scientist-gets-a-media-apology/>

01268-EPA-3950

Richard Windsor/DC/USEPA/US
06/21/2010 08:41 PM

To David McIntosh
cc Gina McCarthy, Seth Oster
bcc

Subject Re: FYI

(b)(5) Deliberative

David McIntosh

(b)(5) Deliberative

06/21/2010 08:38:59 PM

From: David McIntosh/DC/USEPA/US
To: Richard Windsor/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA
Date: 06/21/2010 08:38 PM
Subject: Re: FYI

(b)(5) Deliberative

Richard Windsor

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

From: Richard Windsor
Sent: 06/21/2010 08:26 PM EDT
To: Seth Oster; David McIntosh; Gina McCarthy
Subject: FYI

<http://green.blogs.nytimes.com/2010/06/20/climate-scientist-gets-a-media-apology/>

01268-EPA-3951

David McIntosh/DC/USEPA/US
06/21/2010 08:45 PM

To Richard Windsor
cc Gina McCarthy, Seth Oster
bcc
Subject Re: FYI

(b)(5) Deliberative

Richard Windsor

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

From: Richard Windsor
Sent: 06/21/2010 08:41 PM EDT
To: David McIntosh
Cc: Gina McCarthy; Seth Oster
Subject: Re: FYI

(b)(5) Deliberative

David McIntosh (b)(5) Deliberative 06/21/2010 08:38:59 PM

From: David McIntosh/DC/USEPA/US
To: Richard Windsor/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA
Date: 06/21/2010 08:38 PM
Subject: Re: FYI

(b)(5) Deliberative

Richard Windsor

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

From: Richard Windsor
Sent: 06/21/2010 08:26 PM EDT
To: Seth Oster; David McIntosh; Gina McCarthy
Subject: FYI

<http://green.blogs.nytimes.com/2010/06/20/climate-scientist-gets-a-media-apology/>

01268-EPA-3953

Richard Windsor/DC/USEPA/US
06/23/2010 04:54 PM

To Shawn Garvin, Bob Perciasepe, Diane Thompson, Seth Oster, Bob Sussman
cc
bcc

Subject Re: Charleston Gazette (6-23) Blog: WVDEP's Randy Huffman on mining permits: "If what EPA is doing is illegal, they will pay the price."

(b)(5) Deliberative

Shawn Garvin

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

From: Shawn Garvin
Sent: 06/23/2010 03:40 PM EDT
To: Richard Windsor; Bob Perciasepe; Diane Thompson; Seth Oster; Bob Sussman
Subject: Fw: Charleston Gazette (6-23) Blog: WVDEP's Randy Huffman on mining permits: "If what EPA is doing is illegal, they will pay the price."

(b)(5) Deliberative

Thanks - Shawn

----- Forwarded by Shawn Garvin/R3/USEPA/US on 06/23/2010 03:38 PM -----

From: Roy Seneca/R3/USEPA/US
To: Shawn Garvin/R3/USEPA/US@EPA, Cindy Cook/R3/USEPA/US, Daniel Ryan/R3/USEPA/US@EPA, Jessica Greathouse/R3/USEPA/US@EPA, Terri-A White/R3/USEPA/US@EPA, Michael Kulik/R3/USEPA/US@EPA, Catherine Libertz/R3/USEPA/US@EPA, David Sternberg/R3/USEPA/US@EPA, Amy Caprio/R3/USEPA/US@EPA, Michael DAndrea/R3/USEPA/US@EPA, William Early/R3/USEPA/US, capacasa.jon@epa.gov, Martin Harrell/R3/USEPA/US@EPA, David McGuigan/R3/USEPA/US@EPA, Donna Heron/R3/USEPA/US@EPA
Date: 06/23/2010 02:20 PM
Subject: Charleston Gazette (6-23) Blog: WVDEP's Randy Huffman on mining permits: "If what EPA is doing is illegal, they will pay the price."

WVDEP's Randy Huffman on mining permits: "If what EPA is doing is illegal, they will pay the price."
June 23, 2010 by Ken Ward Jr.

It wasn't really that long ago that WVDEP Secretary Randy Huffman was sounding like a pretty reasonable guy ... Back in January, he announced that his agency was suspending permitting of valley fills and writing its own new policies to try to reduce the water quality impacts from strip mining.

At the time, Randy told me:

If EPA's not going to give us answers, we need to get our own. We need to get our own posture on this, and the end result is going to be a reduction in the size and scope of these operations.

And, in a rare moment for a West Virginia government leader, Randy was pretty honest about what the impacts from mining really are and what should be done about it:

Our opposition [to EPA's permit reviews] has been more about the process than it has been about the science. There is a lot of validity to the concerns about the downstream impacts.

I think that's the change in direction everyone is going to have to make to meet the downstream water quality requirements. I don't see any choice but to reduce the impacts.

Well, four months went by, and WVDEP hadn't released any new policies, rules or water quality guidelines. EPA went ahead with its own actions, proposing a tough guideline for conductivity, aimed at addressing increasing concerns about what mountaintop removal is doing to water quality downstream. As far as I know, WVDEP still hasn't publicly released any new rules itself, though Randy told me last week that they were going to do so sometime soon.

But gosh, what do we have today, in a report from Vicki Smith of The Associated Press? Check it out:

West Virginia's top environmental official says surface-mine permitting in his state is getting tougher federal scrutiny than in any of the other five states the Environmental Protection Agency has targeted, and the continuing conflict over new standards will likely end up in litigation.

"We are either going to be a plaintiff, a defendant or an intervener," Department of Environmental Protection Secretary Randy Huffman told The Associated Press. "I can't predict right now which one we'll be."

Several DEP employees are attending a meeting with EPA staff in Pittsburgh on Wednesday and Thursday over new water-quality standards imposed April 1 on six states: West Virginia, Kentucky, Pennsylvania, Ohio, Virginia and Tennessee. Huffman argues the standards are not only unattainable, but also being unfairly enforced.

"They are wrong on a lot of levels," Huffman said of federal regulators. "... If what EPA is doing is illegal, they will pay the price."

Huffman said his staff will "do more listening and asking questions than talking" to EPA officials. "I can promise you, there will be much that will be said in this two-day meeting that will be held against them later."

Re-read a couple of those quotes:

If what EPA is doing is illegal, they will pay the price.

I can promise you, there will be much that will be said in this two-day meeting that will be held against them later.

What do we not see in these quotes? Any recognition at all from the Manchin administration's top environmental regulator of the overwhelming science showing that mountaintop removal is having pervasive and irreversible impacts on the environment and that tougher rules are needed to curb those effects.

These statements sound much more like Randy Huffman's testimony to the U.S. Senate a year ago, in which the state's top environmental regulator sounded more like someone whose main job was to promote the coal industry. A few examples of his remarks in that testimony:

Without evidence of any significant impact on the rest of the ecosystem beyond the diminished numbers of certain genus of mayflies, the State cannot say that there has been a violation of its narrative standard.

The greater concern for the Department of Environmental Protection, however, as protector of the State's water resources, is the unintended consequences of the Environmental Protection Agency's recent actions that have the potential to significantly limit all types of mining.

What happened to the realization from WVDEP that mining is having impacts that current regulations don't address, and to the state's efforts to try to tackle those impacts?

I asked Randy about that this morning, and he said WVDEP staffers continue to work on the project, that it's complicated and is taking longer than he would have liked. "We're working our tails off on it, but it is just hard," he said.

Also, Randy said he doesn't think he said some of the things Vicki quoted him as saying, in particular that bit about EPA "paying the price" or the part about what EPA says in this week's meetings being "held against them later." Randy told me:

I'm obviously preparing to cross swords with EPA. I've made no secret about that for more than a year. But I did not say that they will pay the price. There's not a chance I'm going to do that, because I still have to work with EPA.

Regardless, is it any wonder that that EPA officials sometimes say things like this:

The notion of 'clarity' invoked by some West Virginia officials and industry representatives has too often meant letting coal companies do as they please, with little or no consideration for the harmful impacts on Americans living in coal country.

UPDATED:

DEP spokeswoman Kathy Cosco just called me back to say that, in fact, Randy did say the things quoted in Vicki's story ... and Randy was calling EPA this afternoon to apologize

Roy Seneca
EPA Region 3 Press Officer
Office of Public Affairs
seneca.roy@epa.gov
(215) 814-5567

01268-EPA-3954

Richard Windsor/DC/USEPA/US
06/23/2010 04:58 PM

To "Seth Oster"
cc
bcc

Subject Fw: Charleston Gazette (6-23) Blog: WVDEP's Randy Huffman on mining permits: "If what EPA is doing is illegal, they will pay the price."

(b)(5) Deliberative
Richard Windsor

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

From: Richard Windsor
Sent: 06/23/2010 04:54 PM EDT
To: Shawn Garvin; Bob Perciasepe; Diane Thompson; Seth Oster; Bob Sussman
Subject: Re: Charleston Gazette (6-23) Blog: WVDEP's Randy Huffman on mining permits: "If what EPA is doing is illegal, they will pay the price."

(b)(5) Deliberative

Shawn Garvin

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

From: Shawn Garvin
Sent: 06/23/2010 03:40 PM EDT
To: Richard Windsor; Bob Perciasepe; Diane Thompson; Seth Oster; Bob Sussman
Subject: Fw: Charleston Gazette (6-23) Blog: WVDEP's Randy Huffman on mining permits: "If what EPA is doing is illegal, they will pay the price."

(b)(5) Deliberative

Thanks - Shawn

----- Forwarded by Shawn Garvin/R3/USEPA/US on 06/23/2010 03:38 PM -----

From: Roy Seneca/R3/USEPA/US
To: Shawn Garvin/R3/USEPA/US@EPA, Cindy Cook/R3/USEPA/US, Daniel Ryan/R3/USEPA/US@EPA, Jessica Greathouse/R3/USEPA/US@EPA, Terri-A White/R3/USEPA/US@EPA, Michael Kulik/R3/USEPA/US@EPA, Catherine Libertz/R3/USEPA/US@EPA, David Sternberg/R3/USEPA/US@EPA, Amy Caprio/R3/USEPA/US@EPA, Michael DAndrea/R3/USEPA/US@EPA, William Early/R3/USEPA/US, capacasa.jon@epa.gov, Martin Harrell/R3/USEPA/US@EPA, David McGuigan/R3/USEPA/US@EPA, Donna Heron/R3/USEPA/US@EPA
Date: 06/23/2010 02:20 PM
Subject: Charleston Gazette (6-23) Blog: WVDEP's Randy Huffman on mining permits: "If what EPA is doing is illegal, they will pay the price."

WVDEP's Randy Huffman on mining permits: "If what EPA is doing is illegal, they will pay the price."
June 23, 2010 by Ken Ward Jr.

It wasn't really that long ago that WVDEP Secretary Randy Huffman was sounding like a pretty reasonable guy ... Back in January, he announced that his agency was suspending permitting of valley fills and writing its own new policies to try to reduce the water quality impacts from strip mining.

At the time, Randy told me:

If EPA's not going to give us answers, we need to get our own. We need to get our own posture on this, and the end result is going to be a reduction in the size and scope of these operations.

And, in a rare moment for a West Virginia government leader, Randy was pretty honest about what the impacts from mining really are and what should be done about it:

Our opposition [to EPA's permit reviews] has been more about the process than it has been about the science. There is a lot of validity to the concerns about the downstream impacts.

I think that's the change in direction everyone is going to have to make to meet the downstream water quality requirements. I don't see any choice but to reduce the impacts.

Well, four months went by, and WVDEP hadn't released any new policies, rules or water quality guidelines. EPA went ahead with its own actions, proposing a tough guideline for conductivity, aimed at addressing increasing concerns about what mountaintop removal is doing to water quality downstream. As far as I know, WVDEP still hasn't publicly released any new rules itself, though Randy told me last week that they were going to do so sometime soon.

But gosh, what do we have today, in a report from Vicki Smith of The Associated Press? Check it out:

West Virginia's top environmental official says surface-mine permitting in his state is getting tougher federal scrutiny than in any of the other five states the Environmental Protection Agency has targeted, and the continuing conflict over new standards will likely end up in litigation.

"We are either going to be a plaintiff, a defendant or an intervener," Department of Environmental Protection Secretary Randy Huffman told The Associated Press. "I can't predict right now which one we'll be."

Several DEP employees are attending a meeting with EPA staff in Pittsburgh on Wednesday and Thursday over new water-quality standards imposed April 1 on six states: West Virginia, Kentucky, Pennsylvania, Ohio, Virginia and Tennessee. Huffman argues the standards are not only unattainable, but also being unfairly enforced.

"They are wrong on a lot of levels," Huffman said of federal regulators. "... If what EPA is doing is illegal, they will pay the price."

Huffman said his staff will "do more listening and asking questions than talking" to EPA officials. "I can promise you, there will be much that will be said in this two-day meeting that will be held against them later."

Re-read a couple of those quotes:

If what EPA is doing is illegal, they will pay the price.

I can promise you, there will be much that will be said in this two-day meeting that will be held against them later.

What do we not see in these quotes? Any recognition at all from the Manchin administration's top environmental regulator of the overwhelming science showing that mountaintop removal is having pervasive and irreversible impacts on the environment and that tougher rules are needed to curb those effects.

These statements sound much more like Randy Huffman's testimony to the U.S. Senate a year ago, in which the state's top environmental regulator sounded more like someone whose main job was to promote the coal industry. A few examples of his remarks in that testimony:

Without evidence of any significant impact on the rest of the ecosystem beyond the diminished numbers of certain genus of mayflies, the State cannot say that there has been a violation of its narrative standard.

The greater concern for the Department of Environmental Protection, however, as protector of the State's water resources, is the unintended consequences of the Environmental Protection Agency's recent actions that have the potential to significantly limit all types of mining.

What happened to the realization from WVDEP that mining is having impacts that current regulations don't address, and to the state's efforts to try to tackle those impacts?

I asked Randy about that this morning, and he said WVDEP staffers continue to work on the project, that it's complicated and is taking longer than he would have liked. "We're working our tails off on it, but it is just hard," he said.

Also, Randy said he doesn't think he said some of the things Vicki quoted him as saying, in particular that bit about EPA "paying the price" or the part about what EPA says in this week's meetings being "held against them later." Randy told me:

I'm obviously preparing to cross swords with EPA. I've made no secret about that for more than a year. But I did not say that they will pay the price. There's not a chance I'm going to do that, because I still have to work with EPA.

Regardless, is it any wonder that that EPA officials sometimes say things like this:

The notion of 'clarity' invoked by some West Virginia officials and industry representatives has too often meant letting coal companies do as they please, with little or no consideration for the harmful impacts on Americans living in coal country.

UPDATED:

DEP spokeswoman Kathy Cosco just called me back to say that, in fact, Randy did say the things quoted in Vicki's story ... and Randy was calling EPA this afternoon to apologize

Roy Seneca
EPA Region 3 Press Officer
Office of Public Affairs
seneca.roy@epa.gov
(215) 814-5567

01268-EPA-3955

Richard Windsor/DC/USEPA/US
06/23/2010 08:05 PM

To Betsaida Alcantara
cc "Seth Oster", "Adora Andy"
bcc

Subject Re: FYI - W.Va. apologizes for 'pay the price' EPA remark

(b)(5) Deliberative

Betsaida Alcantara

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

From: Betsaida Alcantara
Sent: 06/23/2010 07:36 PM EDT
To: Richard Windsor
Cc: Seth Oster; Adora Andy
Subject: FYI - W.Va. apologizes for 'pay the price' EPA remark

LPJ,

FYI see article below with Huffman retraction . We will probably use this statement reactively.

(b)(5) Deliberative

W.Va. apologizes for 'pay the price' EPA remark

By VICKI SMITH
Associated Press Writer

MORGANTOWN, W.Va. (AP) -- Though he believes West Virginia will end up in litigation with the Environmental Protection Agency over tough new standards for surface mine permits, the state's top environmental official apologized Wednesday for saying federal regulators would "pay the price" for illegal or unfair enforcement.

Department of Environmental Protection Secretary Randy Huffman called the EPA to apologize for the tone of remarks he made in an interview with The Associated Press, DEP spokeswoman Kathy Cosco said.

Huffman contended in the interview that the EPA is holding West Virginia to greater scrutiny in strip mine permitting than any of the other five states it's targeted, and he predicted the continuing conflict over the new standards may end up in court.

Several DEP employees were attending a meeting with EPA staff in Pittsburgh on Wednesday and Thursday over new water-quality standards imposed April 1 on six states. Huffman argues the standards are not only unattainable, but also being unfairly enforced.

"They are wrong on a lot of levels," Huffman said of federal regulators, whose rules also apply to Kentucky, Pennsylvania, Ohio, Virginia and Tennessee.

"None of the other five states are feeling this pain. No one is being scrutinized like we are," he said in his AP interview. "If what EPA is doing is illegal, they will pay the price."

Huffman said his staff will "do more listening and asking questions than talking" to EPA officials this week. "I can promise you, there will be much that will be said in this two-day meeting that will be held against them later."

Cosco said "frank exchanges" between DEP and EPA are not uncommon. The Region 3 administrator is familiar with Huffman's argument that rules should be applied universally, "and that one state and one industry should not be unfairly targeted," she said.

Huffman also issued a follow-up statement, saying it's easy to forget that both agencies want to protect the state's water quality.

"Regardless of what I say about the process, I have not forgotten that and I will not forget it," he said.

EPA spokeswoman Terri White said the guidance was intended to provide a consistent review framework for the regional offices and to prevent "significant and irreversible damage to Appalachian watersheds at risk from mining."

EPA ensures the new standards are applied "fairly and consistently" across the six states by holding weekly conference calls between headquarters and staff in regional offices, she said.

White said this week's meeting, which grew out of an annual meeting of state program managers in May, will include representatives from environmental agencies in West Virginia, Virginia, Maryland and Pennsylvania, as well as officials with the U.S. Fish and Wildlife Service, the Office of Surface Mining and the Army Corps of Engineers.

Officials from Kentucky, Tennessee and Ohio are not attending the Pittsburgh meeting.

The EPA's new policy, which is open for public comment through Dec. 1, could curtail mountaintop removal mining, a highly efficient and destructive form of strip mining that blasts apart mountaintops to expose multiple seams of coal. The resulting waste is dumped into valleys, covering intermittent streams.

EPA says burying streams increases salt levels in waterways downstream, hurting fish and other aquatic life. It says its new standards would protect 95 percent of aquatic life.

The industry argues the new standards would effectively shut down strip mining, devastating coal companies and communities that depend on the jobs. The National Mining Association says the six targeted states produced more than 150 million tons of coal and employed nearly 20,500 people in 2008.

Huffman said the rules have essentially brought permitting in West Virginia to a halt. Bruce Scott, commissioner of Kentucky's Department for Environmental Protection, said his state is feeling it, too.

More than a dozen Kentucky projects are in limbo, and operators lined up behind them for permit approvals are also forced to wait.

"The practical result is, it's slowed things down considerably," he said.

Kentucky has many more mines than West Virginia, but most are considerably smaller, Scott said. Many have already been forced to shut down and lay off workers.

Kentucky adopted new stream-monitoring requirements in anticipation of new EPA policies, and its system focuses on testing for contaminants after the fact. It gives the Kentucky DEP the ability to revisit permits if testing shows effluent is likely to harm water quality or aquatic life.

"The difference, then, is that EPA's approach presumes an impact," Scott said. "The Kentucky approach says, 'Let's determine whether there's an impact, then go back and assess what to do.'"

Kentucky considers its approach reasonable, but the likelihood of litigation over the federal approach "depends on what EPA's ultimate line in the sand is," Scott said. "One of the avenues ahead for everybody is litigation."

If West Virginia isn't the first state to sue, Huffman said it will quickly follow whoever does - whether it be

another state, an industry association or an individual operator affected by the new rules.

While DEP agrees with much of what EPA has to say, Huffman said, "they have taken it to such an extreme that it makes it an impossible standard for the industry to meet.

"The disagreement is not about the big picture," he said. "It's about details."

2010 The Associated Press. All rights reserved. This material may not be published, broadcast, rewritten or redistributed. Learn more about our [Privacy Policy](#) and [Terms of Use](#).

01268-EPA-3956

David
McIntosh/DC/USEPA/US
06/24/2010 05:42 PM

To Richard Windsor
cc
bcc

Subject reporters are clearly starting to appreciate the comedy in the situation

CLIMATE: 'Inspirational' Democratic meeting yields no Senate game plan (Thursday, June 24, 2010)

Josh Voorhees and Robin Bravender, E&E reporters

Senate Democrats left their latest round of energy and climate talks with what they hailed as a renewed sense of unity -- and little else.

Majority Leader Harry Reid (D-Nev.) and other party leaders called this afternoon's meeting "inspirational," "powerful" and even "thrilling" but conceded that Democrats had yet to rally around any of the legislative proposals currently on the table.

Instead, Reid will work to cobble together some sort of compromise legislation that senators promised would address the Gulf of Mexico oil spill, boost domestic clean energy production and address climate emissions with a system in which the "polluter pays."

"We're going to write a bill that sets reasonable goals over reasonable time frames that will benefit both our environment and our economy," Reid said. "We're going to write a bill that can pass the Senate ... but we need the cooperation of Republicans that we're hoping will put good policy over bad politics."

Democrats said they still hoped to bring a bill to the floor next month and that they were confident that they could pass a bill before the end of the year.

"Whatever form it takes, we're going to move forward," Reid said.

Sen. John Kerry (D-Mass.) said Reid would ultimately take the lead in finding a compromise, but Sen. Joe Lieberman (I-Conn.) said there had been discussion of creating a committee of senators to recommend what should be in the final draft.

Despite the optimistic tone from Democrats, few could offer any specific progress that had been hammered out during the hourlong talks.

Sen. Frank Lautenberg (D-N.J.) said the only consensus was "to do some soul-searching to make sure that we know what it is that we want to do."

Democratic leaders have been scrambling for months to rally their caucus to

embrace specific energy and climate legislation but have so far had little luck rounding up all 59 members -- let alone the at least one, and likely several, Republican votes they would need to pass it.

The party's more liberal members have held out hope for a bill that prices carbon in a number of a key sectors, while moderates have been slow to embrace a cap-and-trade system akin to the one backed by Kerry and Lieberman.

Those two sides appeared no closer to striking a deal after today's caucus meeting, but several senators said that it appeared as though the majority of Democrats were in favor of passing a bill that dealt with climate and energy, as opposed to energy-only legislation.

"There was no discussion of a bill per se," said Sen. Maria Cantwell (D-Wash.). "I don't think we have the shape of the table -- the details of the bill. I think we had people saying, 'Let's try to get something more comprehensive than just energy-only.'"

"There was kind of an uprising of rank-and-file members in support of a strong comprehensive energy legislation that makes polluters pay," Lieberman said.

Still, lawmakers were mum on the details of exactly what "polluter pays" legislation would look like.

"We'll have to see what we come to the floor with; that's the principle that is going to guide us and was uniform within the caucus," Kerry said. "It's also been the policy of our country since 1970 ... all the way up to George [W.] Bush, who then negated it a few years ago."

Asked whether the caucus is in agreement that the bill needs to price carbon, Kerry said, "I'd say the overwhelming majority of the caucus is very much in favor of that."

Democrats also are eager to include legislation focused on the Gulf of Mexico oil spill as a way to attract more votes. "It will be an opportunity for senators to vote for oil safety," Lieberman said.

A 'revival' atmosphere

Democrats emerging from the meeting made a point to stress the caucus's optimistic tone and the consensus for acting this year.

"As we said, we had a revival," said Sen. Kay Hagan (D-N.C.). "There was this atmosphere of a lot of people coming together on the need now to move forward."

Several senators called it the best caucus they had ever attended.

"This was without doubt one of the most motivating energized and even inspirational caucuses I've ever been a part of," Kerry said.

Lautenberg echoed those thoughts. "It was one of the best caucuses that I've seen, and I've been here over 25 years," he said.

Lieberman called the meeting "absolutely thrilling, and by that I mean it was an uprising of the rank-and-file members of the caucus speaking with passion and purpose in favor of enacting strong comprehensive energy independence legislation this year."

Still, Majority Whip Dick Durbin (D-Ill.) signaled some hesitancy among the Democrats. There was a question of "whether or not we should commit ourselves," he said. "It's been a very busy two years. A lot of people are very fatigued, but there was a strong feeling that we should move forward."

Democrats used the opportunity to prod their GOP colleagues to support comprehensive energy and climate legislation.

"We're going to challenge some of our Republican colleagues to do what I know they know is the right and necessary thing for America, and we're going to get 60 votes or more," Lieberman said.

But several liberals said that they hope to move forward even in the absence of Republican buy-in.

"Republicans are not supporting virtually anything to transform our energy system," said Sen. Bernie Sanders (I-Vt.). "That's not what the American people want, so I think you bring forth a strong bill, you rally the American people, and I think the Republicans will respond as a response to that."

Lautenberg said the Democrats must be cohesive in their presentation to the public "and stop waiting to see if we can coax a Republican or two or three over the finish line."

Sen. Sherrod Brown (D-Ohio) said before the meeting that he is still optimistic a bill can pass this year. "The problem is, Mitch McConnell tells the Republicans, 'Don't cooperate on anything.' It doesn't mean we're not trying to peel some off," he said. "They're going to try to block everything, and that's the mountain to climb."

Minority Leader Mitch McConnell (R-Ky.) said today that the chances of an energy and climate bill passing this year depend "entirely on what it does. If it looks like it's a national energy tax, which is what cap and trade is, I think it's not going to pass," he said.

"What we need to do is think about what kind of legislation, if any, is appropriate in response to the oil spill," he added.

Sen. George LeMieux (R-Fla.), who is considered a possible swing vote on a climate and energy bill, said today that the goal is to "make sure that we do get something done and not have it be a political statement." He said he would support a bill that would increase alternative energy and address the Gulf oil spill.

Sen. Lindsey Graham (R-S.C.), who dropped out of climate negotiations with Kerry and Lieberman earlier this year, said today that there may be Republican support for a cap-and-trade measure that capped only the utility sector but was skeptical that it could get done this year.

"This year, I don't know," Graham said. "It's a pretty weary Congress right now. Big items to be done between now and November, or a heavy lift after health care." He said it would depend in part on how utilities and the environmental community responded to the legislation.

"So I don't know. It would be a new political dynamic, but I think that is where we are headed," he said.

Reporters Allison Winter, Elana Schor and Mike Soraghan contributed.

01268-EPA-3957

Richard Windsor/DC/USEPA/US
06/24/2010 06:07 PM

To David McIntosh
cc
bcc

Subject Re: reporters are clearly starting to appreciate the comedy in the situation

LOL

David McIntosh

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

From: David McIntosh
Sent: 06/24/2010 05:42 PM EDT
To: Richard Windsor
Subject: reporters are clearly starting to appreciate the comedy in the situation

CLIMATE: 'Inspirational' Democratic meeting yields no Senate game plan (Thursday, June 24, 2010)

Josh Voorhees and Robin Bravender, E&E reporters

Senate Democrats left their latest round of energy and climate talks with what they hailed as a renewed sense of unity -- and little else.

Majority Leader Harry Reid (D-Nev.) and other party leaders called this afternoon's meeting "inspirational," "powerful" and even "thrilling" but conceded that Democrats had yet to rally around any of the legislative proposals currently on the table.

Instead, Reid will work to cobble together some sort of compromise legislation that senators promised would address the Gulf of Mexico oil spill, boost domestic clean energy production and address climate emissions with a system in which the "polluter pays."

"We're going to write a bill that sets reasonable goals over reasonable time frames that will benefit both our environment and our economy," Reid said. "We're going to write a bill that can pass the Senate ... but we need the cooperation of Republicans that we're hoping will put good policy over bad politics."

Democrats said they still hoped to bring a bill to the floor next month and that they were confident that they could pass a bill before the end of the year.

"Whatever form it takes, we're going to move forward," Reid said.

Sen. John Kerry (D-Mass.) said Reid would ultimately take the lead in finding a compromise, but Sen. Joe Lieberman (I-Conn.) said there had been discussion of creating a committee of senators to recommend what should be in the final draft.

Despite the optimistic tone from Democrats, few could offer any specific progress that had been hammered out during the hourlong talks.

Sen. Frank Lautenberg (D-N.J.) said the only consensus was "to do some soul-searching to make sure that we know what it is that we want to do."

Democratic leaders have been scrambling for months to rally their caucus to embrace specific energy and climate legislation but have so far had little luck rounding up all 59 members -- let alone the at least one, and likely several, Republican votes they would need to pass it.

The party's more liberal members have held out hope for a bill that prices carbon in a number of a key sectors, while moderates have been slow to embrace a cap-and-trade system akin to the one backed by Kerry and Lieberman.

Those two sides appeared no closer to striking a deal after today's caucus meeting, but several senators said that it appeared as though the majority of Democrats were in favor of passing a bill that dealt with climate and energy, as opposed to energy-only legislation.

"There was no discussion of a bill per se," said Sen. Maria Cantwell (D-Wash.). "I don't think we have the shape of the table -- the details of the bill. I think we had people saying, 'Let's try to get something more comprehensive than just energy-only.'"

"There was kind of an uprising of rank-and-file members in support of a strong comprehensive energy legislation that makes polluters pay," Lieberman said.

Still, lawmakers were mum on the details of exactly what "polluter pays" legislation would look like.

"We'll have to see what we come to the floor with; that's the principle that is going to guide us and was uniform within the caucus," Kerry said. "It's also been the policy of our country since 1970 ... all the way up to George [W.] Bush, who then negated it a few years ago."

Asked whether the caucus is in agreement that the bill needs to price carbon, Kerry said, "I'd say the overwhelming majority of the caucus is very much in favor of that."

Democrats also are eager to include legislation focused on the Gulf of Mexico oil spill as a way to attract more votes. "It will be an opportunity for senators to vote for oil safety," Lieberman said.

A 'revival' atmosphere

Democrats emerging from the meeting made a point to stress the caucus's optimistic tone and the consensus for acting this year.

"As we said, we had a revival," said Sen. Kay Hagan (D-N.C.). "There was this atmosphere of a lot of people coming together on the need now to move forward."

Several senators called it the best caucus they had ever attended.

"This was without doubt one of the most motivating energized and even inspirational caucuses I've ever been a part of," Kerry said.

Lautenberg echoed those thoughts. "It was one of the best caucuses that I've seen, and I've been here over 25 years," he said.

Lieberman called the meeting "absolutely thrilling, and by that I mean it was an uprising of the rank-and-file members of the caucus speaking with passion and purpose in favor of enacting strong comprehensive energy independence legislation this year."

Still, Majority Whip Dick Durbin (D-Ill.) signaled some hesitancy among the Democrats. There was a question of "whether or not we should commit ourselves," he said. "It's been a very busy two years. A lot of people are very fatigued, but there was a strong feeling that we should move forward."

Democrats used the opportunity to prod their GOP colleagues to support comprehensive energy and climate legislation.

"We're going to challenge some of our Republican colleagues to do what I know they know is the right and necessary thing for America, and we're going to get 60 votes or more," Lieberman said.

But several liberals said that they hope to move forward even in the absence of Republican buy-in.

"Republicans are not supporting virtually anything to transform our energy system," said Sen. Bernie Sanders (I-Vt.). "That's not what the American people want, so I think you bring forth a strong bill, you rally the American people, and I think the Republicans will respond as a response to that."

Lautenberg said the Democrats must be cohesive in their presentation to the public "and stop waiting to see if we can coax a Republican or two or three over the finish line."

Sen. Sherrod Brown (D-Ohio) said before the meeting that he is still optimistic a bill can pass this year. "The problem is, Mitch McConnell tells the Republicans,

'Don't cooperate on anything.' It doesn't mean we're not trying to peel some off," he said. "They're going to try to block everything, and that's the mountain to climb."

Minority Leader Mitch McConnell (R-Ky.) said today that the chances of an energy and climate bill passing this year depend "entirely on what it does. If it looks like it's a national energy tax, which is what cap and trade is, I think it's not going to pass," he said.

"What we need to do is think about what kind of legislation, if any, is appropriate in response to the oil spill," he added.

Sen. George LeMieux (R-Fla.), who is considered a possible swing vote on a climate and energy bill, said today that the goal is to "make sure that we do get something done and not have it be a political statement." He said he would support a bill that would increase alternative energy and address the Gulf oil spill.

Sen. Lindsey Graham (R-S.C.), who dropped out of climate negotiations with Kerry and Lieberman earlier this year, said today that there may be Republican support for a cap-and-trade measure that capped only the utility sector but was skeptical that it could get done this year.

"This year, I don't know," Graham said. "It's a pretty weary Congress right now. Big items to be done between now and November, or a heavy lift after health care." He said it would depend in part on how utilities and the environmental community responded to the legislation.

"So I don't know. It would be a new political dynamic, but I think that is where we are headed," he said.

Reporters Allison Winter, Elana Schor and Mike Soraghan contributed.

01268-EPA-3962

David McIntosh/DC/USEPA/US
06/29/2010 04:23 PM

To Richard Windsor
cc
bcc

Subject EPA's Modeling of Policies to Reduce Non-GHG Air Pollution from Power Plants

Hi Administrator,

Late last week, you identified for me two projections that EPA staff ideally would prepare for you to consider citing as standards by which any three-pollutant power-plant bills should be judged.

(b)(5) Deliberative

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

(b)(5) Deliberative

-David

01268-EPA-3965

Bob Sussman/DC/USEPA/US

To Richard Windsor

06/30/2010 07:16 PM

cc Arvin Ganesan, Bob Perciasepe, Diane Thompson, Seth Oster, Betsaida Alcantara

bcc

Subject Coal Mac

Administrator -- (b)(5) Deliberative
[Redacted]

[Redacted]

[Redacted]

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

Arvin Ganesan (b)(5) Deliberative 06/30/2010 02:03:58 PM

From: Google Alerts <googlealerts-noreply@google.com>
To: Arvin Ganesan/DC/USEPA/US@EPA
Date: 06/30/2010 02:02 PM
Subject: Google Alert - lisa jackson, epa

News 1 new result for lisa jackson, epa

[EPA Inexplicably Greenlights WV Mountaintop Removal Permit](#)

Natural Resources Defense Council (blog)

April 1: EPA Administrator Lisa Jackson announces new, stronger water quality standards that she insists will essentially zero out "valley fill" permits, ...

[See all stories on this topic »](#)



[Natural Resources Defense Council \(blog\)](#)

Tip: Use a plus sign (+) to match a term in your query exactly as is.. [Learn more.](#)

[Remove](#) this alert.
[Create](#) another alert.
[Manage](#) your alerts.

01268-EPA-3968

Mathy
Stanislaus/DC/USEPA/US
07/02/2010 10:02 AM

To Diane Thompson
cc Bob Perciasepe, Bob Sussman, Lisa Feldt, Richard Windsor
bcc
Subject Re: C2P2

My view is as follows

o [redacted] (b)(5) Deliberative [redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

Mathy Stanislaus
USEPA Assistant Administrator
Office of Solid Waste & Emergency Response

Diane Thompson Mathy, I know you are focused on th... 07/02/2010 09:38:01 AM

From: Diane Thompson/DC/USEPA/US
To: Mathy Stanislaus/DC/USEPA/US@EPA
Cc: Richard Windsor/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Lisa Feldt/DC/USEPA/US@EPA
Date: 07/02/2010 09:38 AM
Subject: C2P2

Mathy,
I know you are focused on the spill response, but we need to deal with the C2P2 website today. There is
(b)(5) Deliberative [redacted]

(b)(5) Deliberative

Best,
Diane

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

01268-EPA-3969

Bob Sussman/DC/USEPA/US

07/02/2010 11:17 AM

To Mathy Stanislaus

cc Bob Perciasepe, Diane Thompson, Lisa Feldt, Richard Windsor, Seth Oster

bcc

Subject Re: C2P2

Mathy -- thanks for jumping on this.

(b)(5) Deliberative
[Redacted]

[Redacted]

[Redacted]

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

Mathy Stanislaus My view is as follows (b)(5) 07/02/2010 10:02:39 AM

From: Mathy Stanislaus/DC/USEPA/US
To: Diane Thompson/DC/USEPA/US@EPA
Cc: Bob Perciasepe/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Lisa Feldt/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA
Date: 07/02/2010 10:02 AM
Subject: Re: C2P2

My view is as follows

o (b)(5) Deliberative
[Redacted]

[Redacted]

[Redacted]

[Redacted]

(b)(5) Deliberative
[Redacted]

[Redacted]

[Redacted]

[Redacted]

Mathy Stanislaus
USEPA Assistant Administrator
Office of Solid Waste & Emergency Response

Diane Thompson Mathy, I know you are focused on th... 07/02/2010 09:38:01 AM

From: Diane Thompson/DC/USEPA/US
To: Mathy Stanislaus/DC/USEPA/US@EPA
Cc: Richard Windsor/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Lisa Feldt/DC/USEPA/US@EPA
Date: 07/02/2010 09:38 AM
Subject: C2P2

Mathy,
I know you are focused on the spill response, but we need to deal with the C2P2 website today. (b)(5)

[Redacted] ive

Best,
Diane

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

01268-EPA-3979

Katharine Gage/DC/USEPA/US
07/09/2010 05:34 PM

To Arthur Elkins, Teri Porterfield, Marianne Holsman, Dennis McLerran, Abigail Gaudario, Jared Blumenfeld, Shirley Kelley, JamesB Martin, Julia Cacho, Karl Brooks, Joyce Runyan, Al Armendariz, Shwanda Mayo, Susan Hedman, Janice Donlon, Shawn Garvin, Nancy Beck, Judith Enck, Nancy Grantham, Curt Spalding, Alisha Johnson, Donald Maddox, Brendan Gilfillan, Michael Moats, Betsaida Alcantara, Aaron Dickerson, Vicki Ekstrom, Denise Dickenson, Janet Woodka, Darlene Yuhas, Ann Campbell, Nena Shaw, Beth Zelenski, Venu Ghanta, Colleen Flaherty, Dennis James, Gladys Stroman, Charles Imohiosen, Matt Bogoshian, Clay Diette, Megan Cryan, Adora Andy, Candace White, Nancy Stoner, Daniel Kanninen, Marygrace Galston, Debbie Dietrich, Lisa Garcia, Paul Anastas, Alecia Allston, Barbara Bennett, Heidi Ellis, Christopher Busch, Clay Diette, Stephanie Owens, Bob Perciasepe, Craig Hooks, Michelle DePass, Steve Owens, Peter Silva, Peter Grevatt, Sarah Pallone, Mathy Stanislaus, Cynthia Giles-AA, Gina McCarthy, Alicia Kaiser, Lawrence Elworth, Seth Oster, Katharine Gage, Stephanie Washington, Diane Thompson, Arvin Ganesan, Marcus McClendon, Ray Spears, Sarah Dale, Georgia Bednar, Carla Veney, Scott Fulton, Bob Sussman, Allyn Brooks-LaSure, Richard Windsor, Eric Wachter, (b)(6) Robert Goulding, Lisa Heinzerling, David McIntosh

cc

bcc

Subject Saturday, July 10, 2010 Schedule for Lisa P. Jackson

*** do not copy or forward this information ***

**Schedule for Lisa P. Jackson EPA Administrator
Saturday, July 10, 2010**

Notes: Note: All Times are in EDT
Advance: Marcus McClendon, 202-590-0333

Drivers

Shift Leaders

Staff Contact

(b)(6)

Heidi Ellis 202-355-5212

09:50 AM - 10:45 AM Grand Street Cafe 4740 Grand Ave Kansas City, MO 64112
Breakfast with Congressman Cleaver and Local VIPs
9 AM- Congressman Cleaver will offer brief remarks
9:10 AM- Karl Brooks will introduce the Administrator
9:15 AM- LPJ gives brief remarks about her visit, EPA Priorities and quick oil spill update
9:30 AM- Floor Opens for Q&A

Attendees:

Green Impact Zone/MARC Attendees

- 1. Anita Maltbia
- 2. Twana Scott
- 3. Shontrice Patillo
- 4. Arletha Manlove
- 5. David Warm
- 6. Dean Katerndahl

7. Marlene Nagel

Neighborhood Leader Attendees (To Be Invited)

1. Rodney Knott – Historic Manheim Park
2. Margaret May – Ivanhoe
3. Paul Tancredi – Blue Hills
4. Becky Forest – Town Fork
5. Jason Peters – Troostwood
6. Renee Neades – 49/63

10:45 AM - 11:00 AM	Grand Street Cafe	Dpeart for Green Impact Zone Office
11:00 AM - 12:00 PM	Green Impact Zone (GIZ) 4600 Paseo Kansas City, MO 64110	Green Impact Zone Briefing POC: Shontrice Patillo, Administrator for GIZ Office, (ph) (b) (6) and (c) (b) (6) Format: [Closed Press] Attendees: Congressman Cleaver, Mid-America Regional Council and local leadership (same people from brfst)
12:00 PM - 12:30 PM	Green Impact Zone Kansas City, MO	Driving/Bus Tour of the Green Impact Zone Format: Open to invited specific press only * Tour will begin and end at the GIZ office
12:30 PM - 01:15 PM	TBD	Lunch
01:30 PM - 02:15 PM	KC Marriott Downtown, Room: Count Basie B & C Kansas City, MO	Remarks at the Health Advocacy Lunch POC: Ana Aponte Curtis: (b) (6) Format: [Closed Press] The Administrator will attend and offer remarks at the luncheon. *FYI: Luncheon begins at 12 PM. Agenda oPresiding: Dr. John Arradondo oWelcome oAcknowledgements – Sponsor (Johnson & Johnson) oHealth Department Acknowledgement: board health committee, state health chairs, local health chairs oInvocation: Rev. Gordon Glenn oIntroduction of Johnson & Johnson: Karen Boykin Towns oSponsor Remarks: Anthony Carter, Johnson and Johnson oLUNCH SERVED – 12:20-12:45 p.m. oIntroduction of Keynote Speaker: Barbara Sapp Davis (Gulf State- TX) oKeynote Speaker: Lisa Jackson, EPA Administrator
02:15 PM - 03:00 PM	Kansas City	Meeting withe NAACP Gulf Presidents

Convention Center POC: Ana Aponte Curtis: (b) (6)
 Format: [Closed Press]
 RUN OF SHOW:
 1) Quick round of introductions
 2) Administrator Jackson provides brief updates on Waste Management and Air Quality Monitoring
 3) Open Discussion of Gulf State Concerns and Questions (Representatives from Alabama, Florida, Louisiana, Mississippi, and Texas)
 4) Quick overview of NAACP plans going forward

Attendees:
 Louisiana--Ernest Johnson (Louisiana State Conference President) Musheer Robinson (Louisiana Economic Development Chair)
 Mississippi-- James Crowell (Biloxi Branch President)
 Florida--Adora Obi Nweze (Florida State Conference President)
 Texas--Gary Bledsoe (Texas State Conference President)
 Regional/National--Charles White (Field and Operations Director) Jacqui Patterson (Climate Justice Initiative Director)

03:00 PM - 03:15 PM	Convention Center Kansas City, MO	Press Conference with NAACP President and CEP, Ben Jealous
03:30 PM - 05:00 PM	TBD, Kansas City, MO	Congressional Black Caucus (CBC)-EPA Environmental Justice Tour Panel Panel Participants: Administrator Jackson, Chairwoman Lee, Mrs. Jackson-Lee and Mr. Cleaver Format: [Open Press] oModerator/Welcome Message: Rep. Cleaver oWelcome: Local KC Leader oOpening Remarks: Rep. Lee, Rep. Jackson Lee (3 mins each) oKeynote Presentation: Adm. Jackson (10 mins) oQ&A: (1 hr)
05:00 PM - 06:00 PM	TBD	Depart for MCI Airport
06:44 PM - 09:10 PM	MCI Airport	En Route to IAD United Flight # 7720

*** 07/09/2010 05:33:45 PM ***

01268-EPA-3982

Richard Windsor/DC/USEPA/US
07/10/2010 12:11 AM

To Adora Andy, Sarah Pallone, Dana Tulis, Mathy Stanislaus, "Lisa Jackson", Bob Perciasepe, Diane Thompson, "Bob Sussman", David McIntosh, "Seth Oster", "Allyn Brooks-Lasure", "Arvin Ganesan", Stephanie Owens
cc "Brendan Gilfillan", "Betsaida Alcantara", Alisha Johnson, Michael Moats, Vicki Ekstrom
bcc

Subject Re: HEADS UP #2: HUFF PO

(b)(5) Deliberative
[Redacted]

[Redacted]

Adora Andy

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

From: Adora Andy
Sent: 07/09/2010 10:53 PM EDT
To: Sarah Pallone; Dana Tulis; Mathy Stanislaus; "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>; Stephanie Owens
Cc: "Brendan Gilfillan" <gilfillan.brendan@epa.gov>; "Betsaida Alcantara" <alcantara.betsaida@epa.gov>; Alisha Johnson; Michael Moats; Vicki Ekstrom
Subject: HEADS UP #2: HUFF PO

Administrator,

(b)(5) Deliberative
[Redacted]

Thanks,
Adora

HUFFINGTON POST: Despite Obama's Lofty Words, Scientific Integrity Rules Are Lagging

http://www.huffingtonpost.com/2010/07/09/despite-obamas-lofty-word_n_641082.html

Despite Obama's Lofty Words, Scientific Integrity Rules Are Lagging

First Posted: 07- 9-10 02:32 PM | Updated: 07- 9-10 02:45 PM

Dan Fromkin

Last March, President Obama promised he'd have a strategy for restoring scientific integrity to the federal government on hand by July 29. A full year later, federal agencies still have not received any new directives and some government scientists say that conditions have not improved noticeably since Obama took power.

Obama made scientific integrity an issue in his presidential campaign, and his March 9, 2009 memo outlined a series of high-minded principles -- advocating, for instance, for "transparency in the preparation, identification, and use of scientific and technological information in policymaking."

The memo also ordered John Holdren, the director of the White House's Office of Science and Technology Policy (OSTP) to develop guidelines "designed to guarantee scientific integrity throughout the executive branch." Obama gave Holdren 120 days. That deadline came and went. And Friday is its one-year anniversary.

The White House won't explain what's holding things up. In a June 18 posting on the White House website, Holdren simply said that "the process has been more laborious and time-consuming than expected at the outset." He set a new deadline, saying he would deliver "a high-quality product" to Obama "in the next few weeks." (That was three weeks ago.)

Holdren, however, also tried to argue that the directives weren't really a big deal. "There should not be any doubt that these principles have been in effect -- that is, binding on all Executive departments and agencies -- from the date of issue of the Memorandum on March 9, 2009," he wrote. The hold-up, he insisted, only affected "recommendations to the President on what further instructions he might issue in augmentation of these principles in order to advance the goal of achieving the highest level of scientific integrity across the Executive Branch." (Holdren's italics.)

But that, people who follow the issue closely tell the Huffington Post, is baloney.

"You can't enforce a principle, without a rule," said Jeff Ruch, executive director of Public Employees for Environmental Responsibility, a whistleblower group that he describes as "sort of a shelter for battered staff." Ruch's group is calling attention to the one-year anniversary of the blown deadline in hopes of spurring action.

"The reason that the Bush people were able to manipulate science is because there are no rules against it. And there still aren't," Ruch said.

"For changes to be meaningful and lasting, the White House must provide specific guidelines, they must provide a timeline and they must present benchmarks for agency performance, so we can measure the agencies and assure accountability," said Francesca Grifo, director of the scientific integrity project at the Union of Concerned Scientists.

"That's actually how the work gets done," said Susan F. Wood, a professor involved in George Washington University's Scientists in Government program. Obama's memo was a "first step," she said. "Following through on that is really important."

A March report by Wood found that most government scientists interviewed did not view conditions at their agencies as having improved noticeably since the change in administration. That's an amazing conclusion, considering how President Bush and Vice President Cheney took political interference with science to entirely unprecedented levels.

In many cases, explained Ruch, scientists are still working for the same managers they were in the Bush administration. And, he said, "if you're going to have the same people operating with the same rules, you're going to have the same results."

The extraordinary delay in formulating new rules for the agencies is perplexing to some observers outside government. "I really don't get what's taking them so long," said Danielle Brian, executive director of the Project on Government Oversight.

Grifo has a suspicion: "I think different agencies and different parts of our government have differing amounts of power, and what I suspect is that one of those parts that has a lot of power is probably not happy with parts of it," she said.

Ruch has a theory: "One of the central tensions in the Obama administration is a rhetorical commitment to transparency and a fanatical devotion to message control. And the two don't go together."

"Who has the most to lose from an order like this being released? That's where I'd put my money on the hold ups," said Grifo.

If Ruch's theory is correct, the answer to Grifo's question would seem to be those elements in the administration that most fervently advocate for centralized command and control, namely Obama's top political advisers and his Office of Management and Budget. But nobody's talking, so we just don't know.

Rick Weiss, a spokesman for the OSTP, declined to explain the delay, though he did write in an e-mail to the Huffington Post: "Meanwhile it is important to appreciate that this administration has made scientific integrity a priority from day one -- in the people we've appointed, the policies we've adopted, the budgets we've proposed, and the processes we follow. It is reflected in the dozens of extraordinarily high-caliber and internationally renowned scientists that the President has brought into his administration (including [Energy Secretary] Steve Chu, [National Oceanographic and Atmospheric Administration director] Jane Lubchenco, John Holdren, and [Holdren's associate director for science] Carl Wieman).

"Science is now at the heart of key Presidential decisions such as the President's Executive Order removing barriers to responsible research involving stem cells, and is back at the heart of our policymaking processes to help us solve some of our most challenging problems. It is also a priority in our budget process, as reflected by the largest investment in science and innovation in our Nation's history. We have returned to evidence-based decision-making in energy, agriculture, climate, resource management, national security, and other areas, proving that in this White House science and technology once again have the respect they deserve."

Advocates of scientific integrity wonder what will eventually emerge from Holdren's office. Will it be watered-down rules, or will time have worn down the opposition?

Grifo said she is hoping that the long delay reflects that the OSTP is "holding fast to a line and not giving in."

Last May, Grifo's organization weighed in with some suggested guidelines. Comparing them to what Holdren delivers should be telling. Among the suggestions:

* That "the director of OSTP should appoint an assistant administrator to oversee the integrity of science in the executive branch. The president should instruct the heads of scientific and regulatory agencies that scientific integrity is crucial to achieving their missions and should require agency heads to monitor their agencies' efforts to improve scientific integrity, reporting annually to the OSTP regarding their progress. OSTP should also regularly seek and release information to the public regarding potential instances of political interference in science."

* That "[r]eforms are needed to strengthen the broken federal whistleblower protection system and ensure that scientists who report political interference in their work may do so without fear of retaliation.

* And that "[o]pening up federal science and decision making to scrutiny from Congress and the public is an important, and inexpensive, means of revealing and ending political interference in science."

"Our expectations were really raised by the March 2009 memo, and then there was no follow through," Ruch said. Recalling how the last administration publicly espoused the virtues of "sound science," Ruch said that simply expressing lofty goals isn't enough.

"You had those under Bush," he said.

So what is the state of scientific integrity in the Obama administration? We'll have more about this next week. Readers: Do you have any personal experience related to the relationship between science and politics in federal agencies -- and how that has or hasn't changed since the Bush era? E-mail Dan Froomkin at froomkin@huffingtonpost.com.

