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

Monday, February 18, 2013

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

Tuesday, December 22, 2009

ADMINISTRATOR JACKSON 3
Byrd Asks EPA for Clarity (*West Virginia MetroNews*) 3
Dam break illustrates EPA's burden (*Washington Post*) 3
EDITORIAL / OP-ED / COMMENTARY / LETTERS 6
The EPA's Power Grab (*Yahoo News*) 6
Christmas gift to the nation? (*San Francisco Chronicle*) 14
AIR 15
Rail hub plan faces a fight in courtroom (*Kansas City Star*) 15
DEQ secretary objects to greenhouse gas findings (*2theadvocate)* 17
Opponents of crematorium crowd Nashotah Fire Station garage for public hearing (*Milwaukee Journal Sentinel*) 19
Cash cows boost carbon trading; Cleaning up in California greenhouse-gas emissions (*Ottawa Citizen*) 22
Senator's bill opposes EPA (*Witchita Eagle*) 24
ASBESTOS 24
Mill asbestos work ongoing (*Mass Live / The Republican*) 24
BROWNFIELDS 26
Mayors Lobby To Double EPA FY11 Brownfields Funds To Clean Auto Sites (*Inside EPA*) 26
CLIMATE CHANGE / GLOBAL WARMING 28
Desert Vistas vs. Solar Power (*New York Times*) 28
Climate change bill tough sell (*Washington Times*) 31
Waging a global war (*Miami Herald*) 34
Industry Seeks Moderate Democrats' Support To Delay EPA Climate Rules (*Inside EPA*) 36

GENERAL 39
Power to the people (*Sacramento Bee*) 39
Continental 'super single' truck trailer tire gets EPA SmartWay approval (*Search-Autoparts.com*) 41
MINING 42
Nunn pleads with EPA about uranium mine proposal (*Greeley Tribune*) 42
PESTICIDES 44
Hunte nabbed by EPA for FIFRA violation (*Joplin Independent*) 44
Story also appeared: *News Leader* 44
RECYCLING 44
Ind. attorney general sues lumber recycling plant (*Associated Press*) 44
Story also appeared: *Chicago Tribune* 44
SOLID WASTE 45
Dane County wants to turn scrap food into energy (*Wisconsin State Journal)* 45
TOXICS 47
Good move for this neighborhood; As part of a housing plan, city officials want to relocate a metal finishing firm charged with illegal dumping (*Los Angeles Times*). 47
A year later: a promise amid massive cleanup (*Knoxville News Sentinel*) 50
Reviewers Split On EPA Cancer Risk Finding For Key Solvents' Metabolite (*Inside EPA*) 51
Ash regulation fight gears up one year after TVA accident (*Greenwire*) 53
Coal waste used for farming poses no safety threat – EPA (*Greenwire*) 53
EPA launches criminal investigation into BP spill (*KTUU.com*) 54
EPA has $2M for toxics education (Seattle Daily Journal of Commerce) 54
WATER 55
EPA awards millions to Texas Water Development Board (*San Antonio Business Journal*) 57

ADMINISTRATOR JACKSON

==========

12/21/2009

Byrd Asks EPA for Clarity (*West Virginia MetroNews*)

MetroNews
Washington, D.C
U.S. Senator Robert C. Byrd is calling for a set of clear guidelines from the U.S. Environmental Protection Agency when it comes to coal mining.

Senator Byrd met face-to-face Monday with EPA Administrator Lisa Jackson asking for as much. Aides said he described the meeting as a friendly and candid discussion.

Byrd told his staff that Jackson said her office would seek to provide clarity on the issue in the near future. However, Byrd's office did not mention a hard timeline for any new guidelines or what effect they could have on the future of the coal industry.

The meeting comes after the Senator wrote an opinion piece earlier this month on coal. In it, he had the following to say about the concerns over the permitting process: "The most important factor in maintaining coal-related jobs is demand for coal. Scapegoating and stoking fear among workers over the permitting process is counter-productive."

Less than a week after that commentary, Governor Manchin said he was surprised by Byrd's comments and called for the Senator to clarify his position on mountaintop removal during an appearance on MetroNews Talkline.

"Senator Byrd really truly deserves the opportunity, if there's any misunderstanding, and right now there is misunderstanding, does he support mountaintop (removal mining) or does he wish to have mountaintop (removal mining) abolished?" Manchin asked in that interview.

Monday's meeting between Senator Byrd and EPA Administrator Jackson was the second meeting the two have had since she was appointed to the post. The first meeting took place last January after her Senate confirmation.

Dam break illustrates EPA's burden (*Washington Post*)

December 22, 2009 Tuesday
Suburban Edition

A-SECTION; Pg. A03
Maryland
By David A. Fahrenthold
When the dam broke -- a year ago Tuesday, a little after midnight -- Sandy Gupton thought she was hearing two trains colliding. It wasn't until morning that she saw what had really happened near Kingston, Tenn.

It looked, Gupton said, "like a volcano had erupted."

An earth-and-ash dam holding back 1 billion gallons of waterlogged ash from a nearby power plant had failed, and the slurry flowed out to choke the Emery River and cover 85 acres of land.

One year later, most of the ash on the land is still there. And the problem of similar coal-ash ponds still sits on the long and fast-expanding to-do list of President Obama's **Environmental Protection Agency.**

Now -- after a year in which a **climate-change** summit in Copenhagen fell short of most expectations, and with a climate bill stalled in the U.S. Senate -- the **EPA** might shoulder more of the burden for an administration with historic environmental ambitions.

It has already laid plans to tackle greenhouse gases, smog, "mountaintop" coal mining, and the long-running fight to save the Chesapeake Bay. But the difficulties of dealing with coal ash illustrate why such problems can linger unsolved.

In the case of the Kingston spill, the agency first announced that it would rewrite the rules for handling coal ash. Industry groups protested, saying that if the **EPA** began defining coal ash as **hazardous waste,** that decision could backfire -- choking off a trade that recycles the material into concrete, and creating even more unwanted ash.

On Thursday, the agency announced that it would not meet its own year-end deadline for issuing a new rule to govern the handling of coal-ash storage. The decision would be delayed, the **EPA** said, "for a short period due to the complexity of the analysis the agency is currently finishing."

The agency said it remains committed to staying the course on its broader agenda.

"**EPA** under the Obama Administration has promised change and is working to deliver it through a rededication to science, transparency and the rule of law," **EPA** spokeswoman Adora Andy said in a statement Monday.

Many environmental groups have applauded the scope of the **EPA's** efforts in the past year, saying they were necessary to overcome what they characterized as years of inaction under President George W. Bush.

Some industry groups, however, have said the agency is overreaching, and that its new

efforts will cost businesses and consumers.

"I don't think I've ever seen this many major proposals coming out this quickly," said Jeffrey R. Holmstead, who headed the **EPA's** air-pollution efforts under Bush, and works for the law firm Bracewell & Giuliani.

Under Administrator Lisa P. Jackson, the **EPA** has inserted itself more deeply into the debate over mountaintop mines in Appalachia, even threatening a rare veto for a mine permit. It has also made an unprecedented threat to states in the Chesapeake Bay watershed, warning that they could be punished if they lag behind pollution-cutting targets.

And, most prominently, the agency has threatened to crack down on greenhouse-gas emissions if Congress doesn't do it first. The **EPA** issued a finding this month that the emissions pose a danger to public health, which would trigger a responsibility to regulate the gases in the same way as the ones that create smog.

That would be a key test for an agency that has sometimes struggled with a reputation as an environmental "nanny." Delegates gathered in Copenhagen and bickering senators have struggled to find a politically palatable way of imposing emissions cuts. Doing it by bureaucratic fiat won't be popular.

"They're going to need lots of staff. They're going to need an enormous effort, the likes of which I think they've never seen, in such a short period," said Eileen Claussen of the Pew Center on Global **Climate Change** and a former **EPA** staffer.

Even Jackson has said she would prefer that Congress approved another method for regulating emissions.

The story of the Kingston coal-ash spill underscores the difficulties facing the agency.

The spill was caused by a failure at a dam holding coal ash from a Tennessee Valley Authority power plant. No one died, but 26 homes were damaged, and residents complained of health problems afterward.

In response, the **EPA** conducted a survey of similar coal-ash storage facilities, finding 431 of them nationwide and 49 classified as "high hazard," where a failure could endanger human life.

The **EPA's** delay in issuing a new rule governing the handling of coal ash has environmentalists and business leaders worried.

Among industry groups, the concern is that the **EPA** will decide to treat coal ash as **hazardous waste.** That, they say, would curtail reusing it in cement and concrete. And, wouldn't they be sued for knowingly using **hazardous waste?**

"Defending something like that just scares the industry to death," said Thomas Adams of the American Coal Ash Association.

But Jeff Stant of the Environmental Integrity Project said it was crucial for the **EPA** to treat the waste as hazardous, which would require new protections to keep it from spreading into rivers and groundwater. He said he was concerned that the delay meant the administration was bending under industry pressure.

While the fight goes on, the **EPA,** the Tennessee Valley Authority and state officials have not figured out how to remove the ash that covers parts of Gupton's farm. Although the ash is topped with a protective barrier and kept moist to hold down dust, she and her husband each recently received a diagnosis of asthma.

"I don't think they will ever get it cleaned up," she said Monday.

EDITORIAL / OP-ED / COMMENTARY / LETTERS
==========

The EPA's Power Grab (*Yahoo News*)

Steven F. Hayward Steven F. Hayward – Mon Dec 21, 10:56 am ET

Washington (The Weekly Standard) Vol. 015, Issue 15 - 12/28/2009 – The climate campaign, built step-by-step over the last 20 years, has reached its Waterloo. The Copenhagen conference that ended Friday was an exercise in political theater. It not only failed to produce a binding agreement, but the potential emissions curbs it endorsed fall far below what climate orthodoxy demands, while the proposed wealth transfer from rich nations to poor nations is a political nonstarter. Back home, cap and trade legislation remains on life support, even though it has been significantly watered down so as to postpone real costs to consumers for a decade or more. In the midst of this gloom, the climate campaign has played its trump card in the United States: The Environmental Protection Agency formally announced on December 7 its intention to regulate greenhouse gases through the Clean Air Act.

That trump card, however, may turn out to be a joker.

The Clean Air Act (CAA), enacted in 1970 and last updated in 1990, is an abysmal

policy mechanism for controlling greenhouse gases, and was never intended for this kind of problem. But the EPA's gambit is not about policy--it is all about politics. The EPA's grasp for dominion over greenhouse gases has been a long time in coming, starting as an effort to bring pressure on the Bush administration to relent in its opposition to a U.N.-led international climate treaty, and continuing under Obama as a means of pressuring Congress and the business community to support cap and trade.

The key antecedent to this gambit was a botched Supreme Court decision in 2007, Massachusetts v. EPA, in which a 5-4 majority (Justice Anthony Kennedy sided with the Court's four liberals) ruled that greenhouse gases like carbon dioxide were indeed "pollutants" under the capacious definitions of the Clean Air Act, thereby giving the EPA jurisdiction to regulate them without any legislative mandate from Congress.

Environmental groups had petitioned the EPA to regulate greenhouse gases under the Clean Air Act and had encouraged several states to ask for federal authority to impose their own regulations on automobile emissions. The Bush EPA took the position that it did not have the authority to regulate greenhouse gases, and would decline to regulate them even if it did have the legal authority. Once the Supreme Court ruled, however, the slippery slope logic of environmental law took over, making it inevitable that the EPA would eventually move to regulate greenhouse gases. In a nutshell, environmental statutes and case law have evolved so as to make federal judges into the sock puppets of environmentalists, and greens have become highly skilled in bringing lawsuits to compel federal agencies to do their bidding. (This explains, for example, the Bush administration's decision to list the polar bear as an endangered species.)

The EPA gambit has business groups in an uproar, but is this a case of crying wolf, in a mirror image of environmental alarms? Industry protested every version of the Clean Air Act (a Ford executive named Lee Iacocca predicted in 1970 that the CAA would shut down the entire American auto industry), and although the cost of reducing air pollution was not trivial (over $500 billion according to the EPA's likely underestimate), it has not decimated the American economy. In fact, on the surface the Clean Air Act appears to be the largest public policy success story of the last generation: The dramatic reduction

in air pollution is greater in magnitude than the reduction in the crime rate in the 1990s or the fall in welfare rolls since welfare reform. You'd never know this from the media or the greens, who hate good environmental news as much as vampires hate garlic.

It is important to understand why the Clean Air Act worked on conventional air pollution so as to appreciate why it is an inappropriate policy tool for greenhouse gases--akin to wearing thick mittens to peel an onion. Greenhouse gases are not comparable to traditional forms of air pollution such as carbon monoxide, sulfur dioxide, lead, and ozone. Reducing conventional sources of air pollution was mostly a technological problem--such as removing lead from gasoline, improving combustion efficiency (a lot of air pollution came from evaporating or incompletely burned fuel), and capturing pollutants, as was done with "scrubbers" on coal-fired power plants to reduce sulfur dioxide. The EPA regulations might be excessively costly, but they imposed no constraint on the use of fuel or energy. To the contrary, the use of coal in the United States has doubled since the 1970s, while sulfur dioxide emissions from coal have been cut by about two-thirds. Likewise we have more than doubled our gasoline and diesel fuel consumption since 1970, but reduced auto and truck emissions more than two-thirds through reformulated fuel, catalytic converters, and better engine combustion technology. Emissions trading (cap and trade) has been one of the tools used to reduce sulfur dioxide emissions efficiently, but it is simpleminded in the extreme to suppose that just because sulfur dioxide and carbon dioxide both end in "dioxide," cap and trade will work exactly the same way for CO2.

Carbon dioxide emissions are an energy use problem pure and simple, and not a byproduct problem like other forms of air pollution. As Ted Nordhaus and Michael Shellenberger, dissidents in the environmental movement, have written: "Global warming is as different from smog in Los Angeles as nuclear war is from gang violence." The only way to reduce CO2 emissions is to burn a lot less fossil fuel--ultimately almost none if the ambitious target of climate orthodoxy is to be met (an 80 percent reduction by the year 2050). With the partial exception of still unproven and hugely expensive carbon sequestration for coal, there are no add-on technologies to remove carbon dioxide from fossil fuel combustion, and there is no such thing as "low-carbon" coal,

gasoline, or natural gas (comparable to low-sulfur coal and diesel). The EPA can only reduce CO_2 by regulating fuel inputs in the economy--something it never did in regulating conventional air pollutants. In other words, this step promises to turn the EPA into an energy regulatory agency.

But differences between carbon dioxide and conventional air pollutants are only the beginning of the story. It is the peculiar way the Clean Air Act regulations operate that has business groups in an uproar now. There are several steps to the Clean Air Act process. Once a pollutant has been identified as harmful to human health, the next step is to determine its "safe," "health-based" maximum level. This will be a fascinating process to watch with CO_2. The current ambient level of CO_2 is about 390 parts per million (ppm). Climate orthodoxy per the Kyoto-Copenhagen process aims for CO_2 to reach no higher than 450 ppm. If the EPA adopted 450 ppm as the U.S. ambient standard, then no part of the country would be in violation, which would greatly complicate the task of justifying regulation. The EPA could still propose regulations for CO_2 under another feature of the Clean Air Act--"prevention of significant deterioration." More likely the EPA will arbitrarily designate an ambient CO_2 level below the current level of 390 ppm; lately the most vocal climate campaigners, such as former vice president Al Gore, have been claiming that 350 ppm is the safe level we must somehow return to.

The next step in the process is to designate specific "non-attainment" areas around the nation--that is, areas where ambient levels of pollution are higher than the health-based standard. Most major metropolitan areas were at one time designated a "non-attainment" area for one or more pollutants over the last 30 years. This is important because regulatory measures are then tailored to match local differences in sources of pollution. Texas and Louisiana, for example, have pollution profiles different from the rest of the country because of the heavy presence of petrochemical refining, while the Northeast has a pollution problem from coal-fired power plants in the Ohio valley, and California suffers mostly from car and truck emissions. But large parts of the nation--rural areas and sparsely populated states such as Wyoming and Montana--are with a few exceptions not subject to Clean Air Act regulation and permitting requirements. But

in the case of CO_2, the EPA is likely to designate the entire country as a non-attainment area.

The Clean Air Act also includes an element of federalism that will either be swept away or made incoherent by CO_2 regulation. Under the act, each state is charged with developing its own State Implementation Plan (SIP), subject to EPA supervision and approval, for reducing air pollution, tailored to local conditions. Some states--California in particular--have extensive experience at this, while other states (Wyoming and Idaho, for example) have done little of this, and may now have to create new bureaucracies to comply. On the other hand, with the entire country designated as a CO_2 non-attainment zone, the EPA may decide to regulate directly and skip over the SIP process. But this will require a vast expansion of the EPA (not that the agency itself will be complaining).

Next, because there are so many more sources of CO_2 emissions than there are of conventional air pollution, the EPA's regulatory reach is certain to be much greater. There is already some funny business going on. The Clean Air Act authorizes the EPA to regulate stationary sources (buildings, factories, power plants, etc.) that generate as little as 250 tons of pollution per year. Two hundred and fifty tons is a lot if we are talking about emissions that cause ozone, but it is a tiny amount for carbon dioxide. A 70,000 square foot office building (the size of most small office buildings in Washington, D.C., for example) will meet that threshold, as will most fast-food restaurants and virtually all manufacturing facilities. Is such micromanagement of the U.S. economy by the EPA farfetched? Twenty years ago regulators in Los Angeles, facing the nation's worst ozone problem and looking to squeeze every possible emissions source no matter how small, considered a rule banning construction of drive-through windows at fast-food outlets on the theory that cars idling at the pickup windows emitted high amounts of ozone-forming chemicals. Improved auto technology made this rule unnecessary. The L.A. air district also considered banning barbecue lighter fluid, but manufacturers reformulated it to make it less volatile. These are the kinds of measures we can expect to make their appearance nationwide under an EPA regulatory regime for greenhouse gases; worse, it is easy to imagine the EPA mandating lighting fixtures, insulation retrofits, and thermostat controls on most buildings and small businesses.

The EPA is hip to this problem, and has announced that it would impose its new regulatory regime at a threshold of 25,000 tons of greenhouse emissions per year. This restraint will not survive the first lawsuit from the Sierra Club, since the Clean Air Act statute specifies the 250-ton threshold; eventually a federal judge will compel the EPA to enforce the law to the maximum extent allowed. But this raises another irony in this whole mess--the very litigation machine that has so far been the bread-and-butter of environmentalists could now throw lots of sand into the EPA's gears.

The Clean Air Act has always been a very slow-moving administrative process. Each step in this process--from the choice of the ambient air standard for CO2, to each state's SIP, to the individual regulations the EPA promulgates--will be susceptible to legal challenge by industry (for being too harsh) or environmentalists (for being too lenient), followed by inevitable appeals by the losing side. For example, the Clinton EPA's proposal to make the ambient air standard for ozone and particle pollution much stricter in the late 1990s was held up in litigation for nearly a decade. Today's first graders may well be reading about the Copenhagen conference in the third edition of high school climate-history textbooks by the time EPA greenhouse gas regulations begin to take effect. But by then the "climate crisis," in the orthodox view, will be so far advanced that it will be too late.

At this point the transparent insincerity of the climate campaign becomes more obvious. The Waxman-Markey version of cap and trade includes a provision that would strip the EPA of authority to regulate greenhouse gases by means of the Clean Air Act--an obvious sop to the business community. Seldom do the greens give up a grant of power such as they were handed by the Supreme Court's Massachusetts v. EPA decision (it's the green version of the Brezhnev Doctrine). The Obama administration keeps insisting it doesn't want to regulate greenhouse gases through the cumbersome Clean Air Act, in hopes this will push cap and trade over the finish line as the "market-friendly" alternative. Business groups ought to take a "please don't throw me into that briar patch" attitude, however. The Clean Air Act method of regulating greenhouse gases has the political potential to turn every congressman into John Dingell--the fierce guardian of

the auto industry against the EPA for the last 40 years. It is also possible that the EPA gambit may backfire in Congress in the short term. Many senators and House members may decide that it is preferable to let the EPA do the climate campaigners' dirty work, rather than cast another tough vote for cap and trade. This will be especially tempting, since many voters may not cotton on to the fact that Congress can easily remove the EPA's jurisdiction over greenhouse gases by amending the Clean Air Act--as that provision in the cap and trade bill shows. Indeed, House Republicans have already signaled their intention to turn up the heat on Democrats by introducing a "resolution of disapproval" of the endangerment finding, though they should go further and propose stripping the EPA entirely of its authority to regulate greenhouse gases under the Clean Air Act, perhaps saying that is the one part of the Waxman-Markey bill that merits support.

The greatest irony of the EPA's entry into the fray is that it may reopen the supposedly "settled" question of climate science itself, which has new salience because of the firestorm over the "climategate" scandal involving the leaked emails from the University of East Anglia. There is in addition a separate tale of leaked emails from the EPA itself that has received surprisingly little attention.

Designating carbon dioxide as a Clean Air Act "pollutant" involves a finding that CO2 is a hazard to human health. Common sense suggests this is a stretch. Unlike ozone, which burns lung tissue and harms plant growth, or airborne lead, which harms brain development in children, human beings exhale carbon dioxide--800 pounds per person per year according to the EPA--and CO2 is the primary nutrient for plant life on earth. Since the EPA can't make the case that CO2 is toxic like other air pollution, it based its endangerment finding entirely on indirect or secondary effects, specifically the possibility of more deaths from heat waves, higher ozone levels (ozone tends to rise with temperature), more insect-borne diseases and allergies, and higher vulnerability to extreme weather events such as hurricanes and tornadoes. Each of these claims rests on dubious or contested scientific findings. In general, human health in the United States keeps improving. Deaths from heat waves in this country have been steadily declining. The EPA's own models project falling ozone levels for the next generation.

Vector-borne disease rates (think malaria) correlate much more closely with wealth and poverty than with temperature, and recent research casts doubt on the super-hurricane scenarios.

Numerous critics pointed out these and other defects in the EPA's first draft of its endangerment finding released last spring, most notably the Cato Institute's Pat Michaels, who filed a 186-page critique with the EPA during the public comment period. The EPA brushed most of these comments aside in its 11-volume response with a self-assured, not to say royal, "We disagree." But perhaps the most potentially damaging critique of the EPA's science came from within the EPA itself, in the form of an 81-page analysis from career EPA employees Alan Carlin and John Davidson. Carlin and Davidson work for the EPA's in-house research unit known as the National Center for Environmental Economics (NCEE). They argued straightforwardly that "the EPA and many other agencies and countries have paid too little attention to the science of global warming," and went on to cite peer-reviewed studies pointing out the deficiencies and anomalies of the conventional climate-catastrophe narrative.

The EPA didn't condescend to discuss the substance of its outside critics' comments. To insiders Carlin and Davidson, the response amounted to, "Shut up, if you know what's good for you." Carlin and Davidson wanted to submit their analysis as part of the EPA's public comment process in March. Their boss, Al McGartland, head of the NCEE, said no, telling Carlin and Davidson by email "please do not have any direct communication with anyone outside NCEE on endangerment. There should be no meetings, emails, written statements, phone calls, etc." A few days later McGartland told Carlin that he would not submit Carlin's analysis to the EPA public comment process: "The time for such discussion of fundamental issues has passed for this round. The administrator and the administration has decided to move forward on endangerment, and your comments do not help the legal or policy case for this decision. . . . I can only see one impact of your comments given where we are in the process, and that would be a very negative impact on our office."

This is a deeply disingenuous response. The EPA never did engage in a fundamental

internal discussion of fundamental issues. Ordinarily the EPA conducts its own scientific investigation to establish its endangerment findings, but in this case the EPA simply borrowed from the U.N.'s Intergovernmental Panel on Climate Change and the U.S. government's own Climate Change Science Program. Eight minutes after McGartland told Carlin that his analysis would have a "negative impact," he sent a followup email instructing Carlin, "I don't want you to spend any additional EPA time on climate change. No papers, no research etc., at least until we see what EPA is going to do with climate." McGartland then reminded Carlin that the budget for the NCEE had just been cut by 66 percent. There has been talk of eliminating the office altogether on account of the inconvenient economic truths it periodically generates from within the EPA citadel.

The Carlin/Davidson document and the emails were leaked to the Competitive Enterprise Institute in June, but attracted only scant media attention. In light of the scandal surrounding the East Anglia emails, however, the newly urgent demand for transparency in the climate science and policy process may shine unwelcome new light into the dark corners of EPA's politically driven agenda. There will certainly be new fodder for litigation challenging the EPA's endangerment finding, which will involve reopening basic questions of climate science to judicial review. What was "settled" is about to become unsettled. In other words, in hoping to use the EPA's Clean Air Act club to bully Congress into passing cap and trade, the -climate campaign may have made its biggest blunder yet.

Steven F. Hayward is the F.K. Weyerhaeuser fellow at the American Enterprise Institute, coauthor of AEI's Energy and Environment Outlook, and author of the forthcoming Almanac of Environmental Trends (Pacific Research Institute). His 'Scientists Behaving Badly' appeared in the December 14 issue.

Christmas gift to the nation? (*San Francisco Chronicle*)

California
December 22, 2009 Tuesday
FINAL Edition

Op-Ed; LETTERS TO THE EDITOR; Pg. A19
Christmas gift to the nation?
The Democrat-controlled U.S. Senate wolves, dressed in Santa Claus clothing, are poised to pass health care legislation as a Christmas gift to the country. When reconciled with the House bill, this will be the groundwork for the government takeover of health care in America. Next, of course, will be the "Happy New Year" of nationalizing our energy to comply with the climate change hoax and bullying by EPA regulators.

Indeed, as if the demolition of the housing market and the damage to the financial and auto industries weren't enough government tampering with the economy, capitalism and the lives of the people, the "we know what is best for you and, like or not, you will take it" gang is embarking upon ideological missions that will surely destroy our society and bankrupt our nation.

Those of us who object, such as the "Tea Party" people, make up a spontaneous movement of grievances by concerned citizens against overreaching government. That's what America was founded upon, and that's what the vast majority of the American people are all about.

DANIEL JEFFS
Apple Valley San Bernardino County

AIR
==========

Rail hub plan faces a fight in courtroom (*Kansas City Star*)

December 22, 2009 Tuesday
A; Pg. 7
By BRAD COOPER; The Kansas City Star
December 21 2009

The fate of BNSF Railway's massive rail hub proposed for Johnson County could be decided in a courtroom now that the project has received its federal environmental clearances.

An environmental group is vowing to take the government to court after the U.S. Army Corps of Engineers on Friday issued the permit BNSF needs to start construction of a 418-acre rail yard near Gardner.

The proposed rail hub is one of the metro area's biggest economic development projects and is expected to create thousands of jobs.

But environmentalists contend that regulators have underestimated the project's impact on water and air quality.

A lawyer for the nonprofit Hillsdale Environmental Loss Prevention Inc. said Monday that he expected to bring a lawsuit seeking to set aside the permit.

"The decision to issue the permit and go forward with the whole project was arbitrary and capricious," Mark Dugan said.

The corps spent 2 1/2 years studying the environmental implications of the project, something BNSF noted in a statement issued Monday.

BNSF Railway spokesman Steve Forsberg said the study concluded that the project wouldn't "have a significant adverse effect on the environment."

The corps released a brief statement explaining its decision.

But environmentalists don't put a lot of faith the corps' environmental assessment. They want a deeper and broader economic impact study.

Environmentalists say the corps didn't fully assess the cancer risk tied to the project. They argue that the corps' predictions of diesel emissions were much less than what's generated at rail projects elsewhere.

In a report last summer, the corps found that a person had a greater chance of getting cancer in a typical lifetime than from pollution from the freight center.

The report said the project would have moderate to significant adverse effects on air quality, traffic and streams but said BNSF had plans to reduce negative effects.

At that time, the corps acknowledged it didn't quantify all cancer risks because there was insufficient data to do so.

Although the **Environmental Protection Agency** has classified diesel emissions as a likely cause of cancer, it hasn't specified a threshold of exposure at which the cancer risk rises.

Regulators say they measured potential diesel emissions at the Gardner site but didn't examine the related cancer risks.

But environmentalists argued that data are available for the corps to do its own evaluation of diesel emissions. They point to California studies showing that residents living near rail yards face an increased cancer risk.

BNSF, however, contends that the science around diesel emissions is imprecise.

“Whether diesel exhaust causes some form of cancer in humans is still highly questionable, since the existing linkage is only in some species of test animals,” BNSF said in a three-page e-mail sent to The Star.

BNSF also targeted arguments made by critics who compare the Gardner project to rail yards in California that were studied by the California Air Resources Board.

The BNSF e-mail noted that state risk assessments of rail projects in California assume a person lives at the same location for 70 years and is outdoors 24 hours a day, 350 days a year. The person also is assumed to be doing some moderate exercise.

BNSF said the risk assessments tend to be conservative, so they err on the side of public health.

Earlier this year, the railway put the project on hold because of the economy, but if it gets $50 million in federal stimulus money, it will begin construction as soon as possible.

@ Go to KansasCity.com to read the BNSF’s full response to the environmental accusations and documents on the Army Corps of Engineers’ decision.

To reach Brad Cooper, call 816-234-7724 or send e-mail to bcooper@kcstar.com .

DEQ secretary objects to greenhouse gas findings (*2theadvocate)*

- By GERARD SHIELDS
- Advocate Washington bureau
- Published: Dec 22, 2009 - Page: 1A

WASHINGTON — The state is objecting to what they say is the federal Environmental Protection Agency’s attempt to regulate air pollution through administrative policy rather than going through the U.S. Congress.

Earlier in the month, the EPA announced that the public health and welfare of current and future generations were threatened by so-called greenhouse gas emissions released by sources such as vehicles. Though the EPA findings do not themselves impose any new requirements, they set the stage for regulation of emissions from larger sources such as power plants and refineries under the Clean Air Act, said state Department of Environmental Quality Secretary Hal Leggett.

Leggett said Monday the EPA efforts would have a serious impact on the economy of Louisiana with its chemical, oil and gas industries without allowing necessary public debate that would occur during the legislative process.

“This is significant policy that the EPA is trying to put forth,” Leggett said. “The public has a right to be part of that policy. When you don’t do that, you’re taking that voice away.”

Leggett sent a letter to EPA Administrator Lisa Jackson, a Louisiana native, last week outlining his concerns. Leggett wrote that the public needs a cost-benefit analysis before the decision over the pollutants can be made.

“Based on the absence of any reports, data or economic analyses, we are concerned that the EPA has not adequately evaluated the collateral impact of its recent greenhouse gas proposed rules, specifically, the impact on states and permitting authorities,” Leggett wrote.

In September, the EPA set new standards for emissions coming from industrial plants facing new permitting or installing new equipment. The agency issued its more recent finding based on a U.S. Supreme Court ruling in 2007 that reversed Bush administration determinations that greenhouse gases were not harmful to public health.

Asked to respond to Leggett’s letter, the EPA issued a statement Monday saying that its actions were tied to the Supreme Court ruling.

“The EPA answered the endangerment question because the U.S. Supreme Court ordered the agency to do so more than two years ago,” the statement said. “EPA reached its determination because there is broad and overwhelming scientific consensus that greenhouse gas pollution endangers public health.”

The greenhouse gases at issue are carbon dioxide, methane, nitrious oxide, hydrofluorocarbons, petrofluorocarbons and sulfur hexafluoride. Leggett argues that Congress should be the arbiter of the emissions. A climate change bill establishing a cap and trade process that would allow polluters to buy credits from cleaner sources passed the House earlier this year. None of Louisiana’s seven-member House delegation voted for the bill.

The bill faces larger hurdles in the Senate due to opposition from oil and gas state Democrats such as U.S. Sen. Mary Landrieu of Louisiana.

“The issue of global climate change resulting from the emissions of greenhouse gases should be addressed through comprehensive federal legislation, full public debate and American political consensus rather than through unilateral agency policy under the auspices of the EPA,” Leggett wrote.

Industry leaders in Louisiana welcomed Leggett’s actions. Dan Borne of the Louisiana Chemical Association, which represents close to 100 facilities, lauded Leggett for being forceful.

“The Obama administration is telling Congress and the regulated to get on board the climate change train or risk being run over by the greenhouse gas regulation bus,” Borne said.

State environmentalists, though, say the climate change issue directly impacts Louisiana.

“I was disappointed that the secretary did not address the welfare concerns of the people of Louisiana,” said Adam Babich, an attorney with the Tulane Environmental Law Clinic. “We’re basically at ground zero as it pertains to climate change. As seas rise, it becomes harder and harder to protect southeast Louisiana.”

Leggett said Monday that although his agency promotes reduction in the emissions and that the protection of health and the environment is a duty of the DEQ, economic factors must be taken into consideration. That is the difference between the DEQ and EPA, he said.

“They’re in charge of protecting the environment,” he said.

Opponents of crematorium crowd Nashotah Fire Station garage for public hearing (*Milwaukee Journal Sentinel*)

Wisconsin
December 22, 2009 Tuesday
Early Edition
A News; Pg. 11
Opponents of crematorium crowd Nashotah Fire Station garage for public hearing <|>
Proposal tabled until January Plan Commission meeting

By LAURA DRITLEIN

Nashotah - After moving the meeting twice, and in the face of vast public interest, the Plan Commission last week tabled a decision on a proposal for a crematorium at W328 N4484 School Road.

A crowd of more than 100 people moved from Village Hall to an equipment bay at the Fire Station on Dec. 16 for a public hearing on the proposal. The crowd exceeded the capacity of the Village Hall meeting room, and attendees stood during the meeting at the Fire Station because there were no chairs. After more than two hours of public hearing, the commission meeting moved again, to another room to avoid fire engine noise. Ultimately, the commission voted 5-1 to table the decision, with Karla Zizis casting the only opposing vote. She would not comment about her vote.

The conditional use permit was tabled because of conflicting date on emissions and pollution, and because conditions are lacking controls for monitoring emissions.

Residents, property owners and parents of Country Christian schoolchildren spoke out against the proposal by Renee Evert of Evert-Luko Funeral Home in Hartland to build the crematorium. One side of the duplex-style facility would provide crematory services to families for the home and later could extend services to other area funeral homes. The other side would offer crematory services for pets.

The site is adjacent to Country Christian School and near the Red Circle Inn, the Picnic Basket, Nashotah Farms subdivision, Dixon Park and University Lake School.

Jim Nelson, also a member of the Plan Commission, is selling the property to Evert. He told the Plan Commission he is recusing himself from the process at the advice of the village attorney, and because "I'd like to put the village interest first," said Nelson.

Evert handed out a packet addressing opponents' concerns and defended her proposal for building a crematory in Nashotah.

"Fifty-seven percent of my families choose cremation," said Evert. "It's the way of the future."

"I am shipping loved ones to a third party. By having my own crematory, I know I am getting the same body back," said Evert.

"I'm paying three times more to a third party," said Evert, who has been in the business for 18 years and is active in the Hartland community. "What I do is a calling, not a career. One thing I like about owning my own company is I have control."

She displayed photos of Ritter-Larsen Funeral Home, which operates a crematory along Calhoun Road in Brookfield. It is adjacent to the Venice Club restaurant, St. John Vianney School and Church and across from Brookfield City Hall and the Brookfield Public Library. There are also other schools, condominiums, townhomes and retail in the immediate area.

"I am not reinventing the wheel," said Evert of locating a crematory in a mixed-use area. Her handout addressed air pollution studies by the **Environmental Protection Agency** and the Crematory Association of North America. One **EPA** study showed that crematory emissions are 91 percent safer than **EPA** guidelines.

"It's unthinkable that I would even think about putting this in a community if I thought it would create a nuisance, problems or pollution," said Evert.

Emissions, pollution, location near schools with young children, parks, homes, restaurants and the fear of lower property values were among the litany of reasons people opposed a crematory on that site.

Opponents were armed with studies about emissions and pollutants that contradicted

EPA studies.

Bob Smith quoted a Great Lakes Binational Toxic Strategy study presented in 2005 by the Dane County Department of Public Works that found cremation the third largest source of air emissions of mercury. The main source of mercury is dental amalgam, said Smith.

Dentist Gerry Bradley said mercury in amalgam is in its safest form. "Mercury in vapor form is its most dangerous; burning mercury has not been proven safe."

"Why should we take this risk for our kids?" said Bradley, who urged the issue to go to referendum.

Steve Trou,t who served on the Plan Commission and Village Board, agreed with the concerns and the perceived downside of a crematorium near schools, businesses and homes.

He urged Plan Commission members and board members to listen to constituents. "We also have close to 10 percent of our residents here tonight."

"This is absolutely insane," said Matt Hall, who doesn't trust the **EPA** study. "Look at this crowd; it's freaking people out. This is insane for our small community. There is no upside to this. This is about money." He asked people to raise their hands if they opposed the proposal. All raised their hands.

Celeste Ortmeier of Nashotah Farms subdivision submitted a petition along with several other people as they got up to speak. In total, about 150 people signed petitions.

"The village will monitor 30 items, but monitoring air quality is not on the list," said Ortmeier. Mercury is one concern. There are codes for disposal of medical waste, but not for cremations, explained Ortmeier. "The only code for monitoring is the nuisance code," said Ortmeier. It is the same code that covers leaf burning. Without monitoring, Ortmeier questioned how it could be proven safe.

Evert had considered other locations for a crematorium, including the Hartland funeral home location, which has no room to expand. Evert recently decided against a site in the City of Delafield because the operators of a home for troubled boys was interested in expanding their facility, using the property Evert was eyeing for a crematorium. Evert said she sold them the land.

Evert said that no one showed up at the zoning change public hearing in Hartland, and there was no opposition so far in Delafield. She thought the Nashotah proposal was rolling along.

The Village of Nashotah Plan Commission is expected to take up the conditional use

permit at its next meeting, Wednesday, Jan. 20. Attendees requested the meeting be held at an alternate location that could accommodate a larger crowd.

Cash cows boost carbon trading; Cleaning up in California greenhouse-gas emissions (*Ottawa Citizen*)

December 22, 2009 Tuesday
Final Edition
BUSINESS & TECHNOLOGY; Pg. D4
Giuseppe Valiante, The Financial Post
The thousands of dairy cows in just one of the 100 industrial farms in California's San Joaquin Valley can produce the daily equivalent of waste a small town produces. The manure is cleaned out of the barns with high-pressure water and turned into liquid slurry, which is pumped into an outdoor lagoon that is about five metres deep and the size of a large parking lot.

There, it festers: The solid waste separates from the liquid and falls to the bottom of the lagoon, where it becomes food for bacteria. As the bacteria digest this waste, they produce methane gas that rises to the surface of the putrid lake, releasing thousands of tonnes of methane -- a greenhouse gas -- into the atmosphere, altering the Earth's climate.

The farmers' crap has become the driver of a Quebec company's balance book. L2I Solutions, based in Saint-Lambert, on Montreal's south shore, is turning this odorous, harmful sludge into millions for itself and the farmers in rural California by creating a carbon-offset program, handling the paperwork and the verification process and acting as a middleman between the farmers and the carbon brokers, who do the actual selling and trading. The World Bank estimates the global carbon-credit market was worth about US$126- billion at the beginning of 2009.

Yves Legault, L2I Solutions vice-president in corporate finance, and his team convinced 28 San Joaquin Valley dairy farmers to use a waste-filtering technology before pumping the manure slurry into their lagoons. The waste that is filtered out in this two-step process is reused as bedding for the cows and as fertilizer. As a consequence, less manure enters the lagoon, eliminating a good deal of the food for bacteria and the corresponding methane.

The methane that has been saved or "offset" from entering the atmosphere can be quantified. One tonne of carbon dioxide equals one carbon credit. Since methane, according to the U.S. **Environmental Protection Agency,** has a **global warming** potential 23 times that of CO2, each tonne of methane not released into the atmosphere is worth about 23 carbon credits.

L2I Solutions estimates in the span of the offsetting program, which runs until 2015, the

farmers, together, can create about 1.6 million carbon credits. The price of these credits varies widely because there is no federally regulated market in either Canada or the United States.

In the European Union, high greenhouse-gas-emitting companies are given carbon allowances, which "allow" them to emit to a certain point. In this mandatory cap-and-trade system, if they wish to emit further, they can buy credits from another EU company, which hasn't used up its allowances and is willing to sell.

A carbon credit, or "allowance" in Europe -- also measured as one tonne of CO2 -- was trading for about ¤13.5 in mid-December.

With no federal cap-and-trade law in Canada or the United States, carbon credits are bought and sold by specialized brokerage firms for negotiated amounts that are often kept private.

Adam Raphaely from TFS Energy LLC in New York is Mr. Legault's carbon broker, and he would not release any details about who is buying the credits and for what price.

"For the most part it's over the counter," Mr. Raphaely said about the North American carbon trading exchange. "There [usually] is no public pricing."

Mr. Legault said 70% of the 1.6 million credits have been bought by five bidders, and he expects the rest to be bought by the end of January. "Two of the five are part of the top 10 U.S. banks and another is one of the largest oil producers in the States," he noted.

Before Mr. Legault could contact his broker, his farmers' carbon offset system must be approved by a verifying organization, which then issues the credits. Each verification organization issues its own credit, or label, as opposed to the European system, which has one authorizing body, the European Union Emissions Trading System.

Mr. Legault uses the Voluntary Carbon Standard, an independent, non-profit organization based in Washington. The VCS verifies whether the carbon credits Mr. Legault has collected have "additionality," meaning they wouldn't have occurred if the farmers had not adopted the new technology.

Mr. Legault admits the North American system is self-regulatory, but trusts it is robust. "In any market there are risks and scams that can occur, he said. "But [the verification by VCS] is a tough process."

Many companies that have high greenhouse gas emissions are buying credits at low prices, anticipating they will rise once cap-and-trade becomes U.S. and Canadian law.

Meanwhile, L2I Solutions makes money in professional fees and a commission when credits are sold. L2I plans to double business, giving it sales of $1.5-million to $2-million, next year.

Posted on Tue, Dec. 22, 2009

Senator's bill opposes EPA (*Witchita Eagle*)

A Kansas Senate Republican says an EPA decision on greenhouse gases is unfair to farm states.
BY JEANNINE KORANDA
Eagle Topeka bureau
TOPEKA — State Sen. Tim Huelskamp announced Monday that he planned to introduce a resolution opposing a federal environmental decision that classified carbon dioxide and other greenhouse gases as a danger to public health.
The decision by the U.S. Environmental Protection Agency paved the way for litigation, taxation and regulation of carbon producers, Huelskamp said in a written statement.

"This is a decision that clearly was made without taking into account the drastic economic consequences that it would have on the states, particularly a farm state like Kansas," he wrote in the announcement.

Huelskamp plans to file the resolution with the Legislature returns to Topeka in January. He has also written a letter to the agency's administrator, Lisa Jackson, urging her to rescind the decision.

"This decision will have far-reaching negative consequences for the state of Kansas, as well as other states across the nation," the state senator wrote . "Our state produces significant amounts of both oil and natural gas, which would be subject to strict regulation under this ruling."

Huelskamp, R-Fowler, is one of several Republican candidates running to be the party's candidate for the 1st Congressional District.

Read more: http://www.kansas.com/news/state/story/1108444.html#ixzz0aQ1eXG67

ASBESTOS
==========

Mill asbestos work ongoing (*Mass Live / The Republican*)

Tuesday, December 22, 2009

By MIKE PLAISANCE
mplaisance@repub.com
HOLYOKE - Federal officials say they will work to keep residents informed as asbestos removal continues at the Sargeant Street site of a paper-mill fire.
The city councilor who represents the area, Ward 2 Councilor Diosdado Lopez, says he will hold the U.S. Environmental Protection Agency, to that pledge.

"It all depends on how they're going to haul that waste out of there and if it takes beyond April," Lopez said Friday, a day after the EPA and the state Department of Environmental Protection held a public hearing to update residents of work at the former Parsons Paper Co. mill.

A fire on June 9, 2008 caused major damage to the vacant buildings that once housed the Parsons Paper Co. at 84 Sargeant St.

The asbestos at the site was used in roof shingles, window caulking and tank and pipe insulation, officials said. A 10-member crew is working at the site five days a week to identify areas with asbestos, the only substance aside from rubble that was likely to survive the fire, and secure it for removal, the EPA's Tom Hatzopoulos said.

Asbestos, when disturbed, can become airborne and is believed to cause cancer. That's why the removal is being done by soaking areas that sampling tests have shown have asbestos, to prevent fibers from becoming airborne, double-bagging the debris and placing the bags in wheeled containers, which are covered by tarpaulins, Hatzopoulos said.

"The people around the area can feel pretty safe that there's no asbestos fibers becoming airborne," he said. Hatzopoulos was among those who provided an update about the asbestos-removal process on Thursday at Morgan Elementary School.

Site owner National Vulcanized Fiber Co., of Yorklyn, Del., filed for bankruptcy about four years ago. It owes the city more than $2.2 million in back taxes and water and sewer bills. The city has filed a claim to recover that money in bankruptcy court, officials said.

Officials also will seek reimbursement from National Vulcanized Fiber for the $1.8 million that the federal government has provided for asbestos removal.

A fence has been erected around the site and security guards patrol from 5 p.m. to 6 a.m., officials said.

City officials and residents will be informed when crews determine that the bins containing the asbestos debris are ready to be hauled away. A traffic plan for that will be submitted to the city, said Douglas Gutro, special assistant to the regional administrator for the EPA in Boston.

The agency is willing to hold another neighborhood meeting, he said. "It will, hopefully, be seamlessly transparent," Gutro said.

Lopez said neighborhood residents should know when and how the asbestos is being removed.

National Vulcanized Fiber has owned the 313,000-square-foot former mill since 1959. Established in 1853, Parsons Paper Co. was the first paper company in the city. National Vulcanized Fiber closed it in April 2005, followed by a bankruptcy filing.

BROWNFIELDS
==========

Mayors Lobby To Double EPA FY11 Brownfields Funds To Clean Auto Sites (*Inside EPA*)

A group of mayors from communities impacted by the auto industry restructuring is lobbying the Obama administration to double funding for EPA's brownfields program in fiscal year 2011 -- from $100 million to $200 million -- as well as other measures to clean up as many as 160 shuttered automobile industry sites.

Representatives from the Mayors & Municipalities Automotive Coalition (MMAC) -- a group launched in late 2008 -- have been meeting over the past few weeks with administration officials and key lawmakers to push for increased funding.

Most recently, members of the group met Dec. 15 with EPA waste chief Mathy Stanislaus, who oversees the cleanup of Superfund and brownfields sites, including former auto sites. While details about the EPA meeting were not available at press time, the group also met with White House officials and members of Congress in November, including Sen. Carl Levin (D-MI) and the staff of Sen. Debbie Stabenow (D-MI), to seek increased FY11 funding, one MMAC source says.

The November meetings were positive, but the administration made no promises regarding funding, the MMAC source says. However, EPA asked for more information about how the auto communities would use additional funding, a move the group takes as a positive sign that the administration is considering the funding request, the source says.

MMAC is composed of mayors and representatives of more than 50 local governments in Indiana, Illinois, Kentucky, Louisiana, Michigan, Missouri, Ohio, Texas and Wisconsin where automotive manufacturing, assembly, stamping and supply facilities are located. The group works to win federal funding for cleanup, redevelopment and job training in auto communities.

In addition to the $100 million increase it is seeking for EPA, the group is also seeking $2 billion for the Department of Commerce's Economic Development Administration's (EDA) grant programs to redevelop closed auto sites and $25 billion in additional Department of Energy Section 136 funds to retool plants to make cleaner cars.

And the group is urging the administration to use FY10 funds to establish a so-called Federal Automotive Stabilization Trust, with local government representation, to fund cleanup at the closed auto sites. An MMAC source says the trust would be an interagency effort that could be modeled after the trust that was set up to sell toxic assets after the savings and loan crisis. The trust could be funded by money set aside for site cleanup by the entity holding liability in the General Motors (GM) bankruptcy and by government money, including Troubled Asset Relief Program funding, the source says.

The group is focusing its efforts to win the grant and trust funding on the administration, rather than Congress, because mayors believe the administration has authority to take action and can do so quickly to help communities begin the redevelopment process. "Some of our communities are moving now to get development at these sites . . . and contamination is the 800-pound gorilla in the room," the source says.

The MMAC source praised the administration's appointment of an auto communities czar and an interagency council on the issue and says EPA understands the issue and is moving quickly and purposefully to address it. "I think the administration has made incredibly great strides to help the auto communities," the source says.

EPA Claims On Bankruptcy Cleanups

The group's effort comes as the U.S. Attorney's Office filed claims on behalf of EPA in the bankruptcy cases of Motors Liquidation Company (MLC) and Old Carco, which hold liability for GM and Chrysler respectively, showing that the entities are at least partially liable for $98 million in past cleanup costs and $1.9 billion in future cleanup costs.

MLC so far has listed 89 contaminated former GM sites and has established a fund during its bankruptcy to pay for the cleanup of the sites.

The mayors' group says there are 160 auto industry sites that have closed, though they may not all be contaminated. The MMAC source says all of the sites the group's members were concerned about were included in the MLC list of sites. However, the source notes that Old Carco, Chrysler's successor, has not created a list of contaminated former Chrysler sites and has no cleanup funds set aside.

The source notes that generally, contamination at closed auto sites has not been fully assessed and the group plans to continue to represent communities' interests on the issue.

In addition to the push for new FY11 funds, the group also is urging EPA to set aside $200,000 in brownfields grants for auto sites in FY10 and is urging flexibility on matching requirements for grants to auto communities. The group is also seeking a FY10 grant from EDA to communities to work on development and reuse plans for auto sites. -- *Kate Winston*

CLIMATE CHANGE / GLOBAL WARMING

==========

Desert Vistas vs. Solar Power (*New York Times*)

By TODD WOODY
AMBOY, Calif.
Senator Dianne Feinstein introduced legislation in Congress on Monday to protect a million acres of the Mojave Desert in California by scuttling some 13 big solar plants and wind farms planned for the region.

But before the bill to create two new Mojave national monuments has even had its first hearing, the California Democrat has largely achieved her aim. Regardless of the legislation's fate, her opposition means that few if any power plants are likely to be built in the monument area, a complication in California's effort to achieve its aggressive goals for renewable energy.

Developers of the projects have already postponed several proposals or abandoned them entirely. The California agency charged with planning a renewable energy transmission grid has rerouted proposed power lines to avoid the monument.

"The very existence of the monument proposal has certainly chilled development within its boundaries," said Karen Douglas, chairwoman of the California Energy Commission.

For Mrs. Feinstein, creation of the Mojave national monuments would make good on a promise by the government a decade ago to protect desert land donated by an environmental group that had acquired the property from the Catellus Development Corporation.

"The Catellus lands were purchased with nearly $45 million in private funds and $18 million in federal funds and donated to the federal government for the purpose of conservation, and that commitment must be upheld. Period," Mrs. Feinstein said in a statement.

The federal government made a competing commitment in 2005, though, when President George W. Bush ordered that renewable energy production be accelerated on

public lands, including the Catellus holdings. The Obama administration is trying to balance conservation demands with its goal of radically increasing solar and wind generation by identifying areas suitable for large-scale projects across the West.

Mrs. Feinstein heads the Senate subcommittee that oversees the budget of the Interior Department, giving her substantial clout over that agency, which manages the government's landholdings. Her intervention in the Mojave means it will be more difficult for California utilities to achieve a goal, set by the state, of obtaining a third of their electricity from renewable sources by 2020; projects in the monument area could have supplied a substantial portion of that power.

"This is arguably the best solar land in the world, and Senator Feinstein shouldn't be allowed to take this land off the table without a proper and scientific environmental review," said Robert F. Kennedy Jr., the environmentalist and a partner with a venture capital firm that invested in a solar developer called BrightSource Energy. In September, BrightSource canceled a large project in the monument area.

Union officials, power industry executives, regulators and some environmentalists have also expressed concern about the impact of the monument legislation, but few would speak publicly for fear of antagonizing one of California's most powerful politicians.

The debate over the monument encapsulates a rising tension between two goals held by environmental groups: preservation of wild lands and ambitious efforts to combat **global warming.**

Not only is the desert land some of the sunniest in the country, and thus suitable for large-scale power production, it is also some of the most scenic territory in the West. The Mojave lands have sweeping vistas of an ancient landscape that is home to desert tortoises, bighorn sheep, fringe-toed lizards and other rare animals and plants.

As conflicts over building solar farms in the Mojave escalated earlier this year, Mrs. Feinstein trekked to the desert in April. The senator's caravan, including the heads of two of the nation's largest utilities, top energy regulators and a group of environmentalists, bumped along a dirt track and pulled up to a wind-whipped tent. Inside, executives with a Goldman Sachs-owned developer waited to make their case for building two multibillion-dollar solar power plants.

The presentation over, the entourage rolled on to the next solar project site to hear the developer's pitch. Mrs. Feinstein gave the developers a hearing but was not moved by their arguments, according to five people present on the tour. The senator seemed concerned about the visual effect of huge solar farms on Route 66, the highway that runs through the Mojave, they said.

"When we attended the onsite desert meeting with Senator Feinstein, it was clear she was very serious about this," said Gary Palo, vice president for development with Cogentrix Energy, a solar developer owned by Goldman Sachs. "It would make no

sense for us politically or practically to go forward with those projects."

Another project, a huge 12,000-acre solar farm by Tessera Solar, was canceled last week, and the company cited Mrs. Feinstein's opposition.

Steven L. Kline, chief sustainability officer for Pacific Gas and Electric, called the proposed monument "prime territory" for solar development and noted that the loss of the planned solar projects would hurt his company's efforts to comply with state renewable energy mandates. The utility was planning a solar farm in the monument area.

"In the near term, it would have a very substantial impact," he said, emphasizing that in principle, P.G.& E. supports Mrs. Feinstein's efforts to preserve sensitive desert lands. "Over time those projects will be built somewhere else and we'll have benefits of the power."

Mrs. Feinstein has long championed desert preservation, sponsoring legislation in 1994 that created Death Valley and Joshua Tree national parks and the Mojave National Preserve. Five years later, she pushed for federal money to help acquire nearly 500,000 acres owned by Catellus.

A small Southern California environmental group, the Wildlands Conservancy, had negotiated the acquisition of the Catellus property and raised tens of millions of dollars for its purchase from a major benefactor, the financier David Gelbaum, a former hedge fund manager turned philanthropist.

The Catellus holdings consist of hundreds of small parcels that form a checkerboard across the Mojave.

"The whole objective was to preserve the core of the Mojave Desert," said David Myers, executive director of the Wildlands Conservancy. "To a large extent this land is the connective tissue that holds the desert together."

When Mr. Myers became aware that solar and wind developers had applied to lease federal land that included the former Catellus holdings, he contacted the senator.

The legislation to protect a million acres of desert land would include 266,000 acres of the former Catellus lands. (The balance of the half-million acres of Catellus property is already protected, in various ways.) The proposed renewable energy projects would have occupied about 30,000 acres of Catellus land, according to the Bureau of Land Management.

"If all this solar development took place in the Mojave, the higher you climb the more industrialized the vistas would look," Mr. Myers said recently as he walked past bighorn sheep tracks and scrambled up a peak overlooking the Trilobite Wilderness Area.

Mr. Myers stresses that he is not against large-scale solar power plants but prefers that they be concentrated on already disturbed farmlands. In recent months, he said, he has worked with solar developers to find alternative sites.

On Thursday, Mrs. Feinstein introduced legislation to provide a 30 percent tax credit to developers that consolidate degraded private land for solar projects. She followed that on Monday with the legislation to create the 941,00-acre Mojave Trails National Monument and the 134,00-acre Sand to Snow National Monument.

"I strongly believe that conservation, renewable energy development and recreation can and must co-exist in the California desert," Mrs. Feinstein said in a statement. "This legislation strikes a careful balance between these sometimes competing concerns."

Developers and environmentalists say Mrs. Feinstein has modified the monument legislation to address some of their issues. The 2.5 million acres set aside in a draft version of the monument act has been shrunk to around one million acres, allowing at least two projects to proceed. The bill also includes provisions designed to accelerate approval of renewable energy projects on federal land.

That is not likely to mollify monument opponents, including unions that were anticipating the creation of thousands of construction jobs.

"Unfortunately, Senator Feinstein wants to wall off a large part of the desert based on historical land ownership rather than science," said Marc D. Joseph, a lawyer for California Unions for Reliable Energy. "It seems the wrong approach to where solar should go and where it shouldn't go."

But John White, executive director of the Center for Energy Efficiency and Renewable Technologies in Sacramento, said the monument legislation would put so much land off limits for development that it might actually spur a more vigorous state and federal effort to compensate by creating renewable energy zones. "The problem is," he said, "if you take a million acres off the table, what are you going to replace it with?"

URL: http://www.nytimes.com

Climate change bill tough sell (*Washington Times*)

December 22, 2009 Tuesday

SECTION: B, PLUGGED-IN, POLITICS; Pg. 1
Climate change bill tough sell;
Copenhagen talks end as Senate backers seek new momentum

By Edward Felker THE WASHINGTON TIMES
Earlier this year, Democratic Sen. John Kerry of Massachusetts, the leader of an effort to write a U.S. climate change bill, argued that domestic cuts in greenhouse gas emissions would help President Obama pry similar cuts from China and other major developing nations.

The failure by Mr. Obama to win binding reductions at the U.N. climate conference that ended Friday in Copenhagen means he and Mr. Kerry must persuade a skeptical Senate to pass that same bill without a global treaty. The prospects appear as daunting as ever.

Mr. Kerry has joined with Republican Sen. Lindsey Graham of South Carolina and Sen. Joe Lieberman, Connecticut independent, to write a bipartisan climate bill in the Senate. The House narrowly passed a combined climate and energy bill this summer that included a cap-and-trade plan to cut U.S. greenhouse gas emissions by 17 percent by 2020 and 83 percent by 2050.

The Senate Environment and Public Works Committee passed climate legislation last month written by Mr. Kerry and Sen. Barbara Boxer, California Democrat, who chairs the committee, despite a Republican boycott. Their bill also would impose a cap-and-trade plan, one that would go further than the House by cutting near-term emissions 20 percent by 2020.

Such a treaty may come in time, and environmentalists are praising the final Copenhagen agreement as a necessary first step in the process of getting wealthy nations and emerging, developing countries to work together to slow **global warming.**

David Axelrod, Mr. Obama's top political adviser, said Sunday on CNN's "State of the Union" that the president won't be deterred from seeking climate legislation and that Mr. Obama won a victory in Denmark persuading China and India to agree to limit the growth of their greenhouse gases, if only voluntarily.

"There are millions of jobs to be had there, more energy security, so we're going to pursue this," Mr. Axelrod said, referring to "green" energy legislation and regulations. "But we don't want to put our country at a competitive disadvantage in other ways. Now the Chinese, the Indians and the other major economies are coming along."

Yet the goal of passing a bill in 2010 still means Mr. Obama and Senate Democratic leaders must convince their colleagues that the Copenhagen agreement offers enough reasons to act.

The deal, which was endorsed but not formally adopted by the 193-nation conference on Saturday, puts in writing commitments by the United States, China, India, Brazil, South Africa and other nations to cut or slow their emissions. The signers also support future actions that would hold **global warming** to 2 degrees Celsius.

The countries also must report their emissions every two years for international review, but no nation will be subject to outside inspection, which China rejected as an infringement on its sovereignty.

The signers further support the creation of a $100 billion annual fund by rich nations by 2020 to help poorer nations pay for climate adaptation, renewable energy and forest preservation. But the outlook for that fund depends on the ratification of a future global treaty, one that U.N. Secretary-General Ban Ki-moon said he wants ready at the next global climate conference in Mexico City in November 2010.

Mr. Obama also pledged $3.6 billion in U.S. contributions to a $30 billion, three-year adaptation and forest fund paid for largely by the European Union and Japan. That amount would extend the $1.2 billion in climate aid funds, which the Obama administration proposed in its 2010 budget, for two more years.

Notably, the agreement left much more to be done to reduce **global warming.** It does not set emissions cuts for any nation that has not adopted the 1997 Kyoto Protocol, which does not cover developing countries or the United States, which rejected it.

The deal also omits mention of a 50 percent reduction in global greenhouse gases by 2050 that had been proposed at Copenhagen. Mr. Obama acknowledged Friday that the voluntary agreement he and the other leaders adopted falls short of what most climate scientists say will be needed to keep **global warming** within acceptable limits.

The World Wildlife Federation estimated that the voluntary commitments by the signers will lead to increases of 3 degrees Celsius or more.

"Well-meant but half-hearted pledges to protect our planet from dangerous **climate change** are simply not sufficient to address a crisis that calls for completely new ways of collaboration across rich and poor countries," said Kim Carstensen, leader of WWF´s Global Climate Initiative.

Mr. Kerry was nonetheless upbeat about the chances for climate legislation following the Copenhagen deal. He called it a "catalyzing moment" marked by a "meeting of the minds" among Mr. Obama and Chinese Premier Wen Jiabao, Indian President Manmohan Singh and South African President Jacob Zuma.

"With this in hand, we can work to pass domestic legislation early next year to bring us across the finish line," Mr. Kerry predicted.

But Democratic leaders, as well as Republican opponents in the Senate, quickly signaled that the bill faces no more certain a future after Copenhagen than before.

"Well, we're going to move forward on it. I hope we can get it done this coming year," said Illinois Sen. Richard J. Durbin, the No. 2 Democrat in the Senate, on ABC's "This Week with George Stephanopoulos."

His Republican counterpart, Sen. Jon Kyl of Arizona, said he was convinced the Copenhagen deal does little to improve prospects for climate legislation.

He stressed that the deal signed by Mr. Obama at Copenhagen must be ratified by the Senate, including proposed U.S. emissions cuts of 17 percent by 2020 and U.S. contributions to the adaptation funds.

"And as a result, the Senate will have to act on this, and there is not the support right now for that," Mr. Kyl said. "My guess is, if it came to the Senate today, you'd have even a majority of Democrats not willing to support American taxpayer money going to these countries."

Meanwhile, Sen. Lisa Murkowski of Alaska, the ranking Republican on the Senate Energy and Natural Resources Committee, urged the Senate to abandon an economywide emissions cut and pass bipartisan energy legislation approved by the committee in June.

"Given the difficulty in developing a new international treaty, this matter must be addressed in a way that strengthens our economy and bolsters our energy security," she said. "Our climate policy needs to stand on its own because it is the right approach for our country, regardless of the actions other nations do, or do not, take.

Waging a global war (*Miami Herald*)

December 22, 2009 Tuesday
A; Pg. 18
Was the climate summit in Copenhagen worth the two years of preparation and expense, or just another wasted exercise in over-hyped bloviating by bureaucrats and their heads of state?

Make no mistake, this summit was worth the effort. Despite less-than-ideal results, the world is better off than if the summit hadn't taken place. Instead of sputtering to an inconclusive halt, as was feared toward the summit's end last week, the meeting produced an agreement that lays the groundwork for meaningful international cooperation to combat the worst effects of **global warming** over the next 20 years at least.

Thanks in part to President Obama's marathon negotiations with China and other reluctant nations late last week, an agreement was struck between key nations to reduce emissions enough to keep temperatures from rising more than 2 degrees Celsius above preindustrial levels for two decades, submit to a verification process on emission reductions and have First World countries contribute billions of dollars over time to help Third World countries transition to clean energy development and cope with

the ill effects of **global warming.**

The catch is that, at this stage, it's a nonbinding agreement. But, importantly, China, the world's biggest greenhouse gas producer (the United States is second), has signed on to the agreement in principle, a first for China and a major step in the global fight against **climate change.**

Major challenge

There is no arguing that dealing with **climate change** is the major challenge of our time, far surpassing the war against terrorism in its scope and long-range global consequences. Reducing the effects of **global warming** by reducing the emissions that cause it, plus coming up with affordable energy alternatives to the fossil fuels that produce greenhouse gases will involve every nation.

What will be demanded of industrial countries is to offer incentives to reduce harmful emissions and shift to more sustainable energy production over time.

This won't come cheap. But when you consider the alternatives -- the polar ice caps melting; putting Miami Beach under water; frequent droughts in the Midwest's breadbasket; more arid conditions in poor countries, which will trigger more migration to the United States and other industrialized countries -- better to invest in reducing **global warming** now than paying higher consequences later.

The U.S. House has approved a cap-and-trade bill that will allow clean industries to sell energy credits to greenhouse gas emitters.

Costs will increase

It will provide incentives to turn to more-sustainable energy technologies, which the federal government must spend more on for research and development. In turn, consumers will see energy costs increase, unfortunately.

The fight to get cap-and-trade legislation passed in the U.S. Senate promises to be almost as difficult as healthcare reform has been. But, if the United States is to hold up its share of the Copenhagen agreement brokered by its president, the Senate is going to have to come around. There simply aren't any other responsible choices in the fight against **climate change.**

Industry Seeks Moderate Democrats' Support To Delay EPA Climate Rules (*Inside EPA*)

Industry groups who oppose pending EPA Clean Air Act rules to limit greenhouse gases (GHG) from stationary sources are urging moderate Democrats to back legislation to delay the rules by up to two years, while a key GOP senator pursues a congressional resolution to block EPA's final finding that GHGs endanger public health.

The idea of imposing a "cooling off" period on agency climate rules that are being developed under air law authority may get increasing traction as EPA approaches a March 2010 target for issuing a final first-time vehicle GHG rule, one informed source says, because issuance of that rule will trigger an air act requirement to regulate GHGs from stationary sources. Industry is now "brainstorming" legislative strategies to delay such EPA climate rules, the source adds.

But the source says winning support from Democrats will be key. "The question is, whether Democrats will go along and [the answer is] not yet," the source acknowledges, but adds that the cooling off period may enjoy growing support as it appears increasingly unlikely that the Senate will enact cap-and-trade legislation next year.

Key American Chemistry Council (ACC) representatives are also urging EPA to delay its pending proposal to mandate some GHG limits in stationary source air permits, telling a Dec. 16 ACC event in Arlington, VA, that there are too many unresolved technical issues and economic concerns to proceed with the proposal in the near future.

The general outline of industry's preferred legislative approach would allow EPA to proceed with its vehicle GHG rule -- which the auto industry, environmentalists and others broadly support. However, the legislation would effectively sever the link between issuance of that rule and a Clean Air Act duty to issue stationary source climate regulations, possibly on a temporary basis for one to two years or permanently, the source adds.

The air law's prevention of significant deterioration (PSD) program requires PSD permits to include emission limits for any pollutant regulated under any section of the law, meaning regulation of vehicle GHG emissions would require that PSD permits also include GHG limits. The permits apply to "major" stationary emission sources located in areas that already meet federal ambient air quality limits and are designed to keep areas in attainment.

EPA is already floating a proposed "tailoring" rule that would limit the application of GHG limits in PSD. But the informed source says that industry wants to win Democratic support for an effort to prevent issuance of the final GHG vehicle rule from triggering the PSD requirements.

In a related development, ACC President and Chief Executive Officer Cal Dooley told the group's Dec. 16 event that EPA should delay the PSD rule for one year to allow

Congress more time to craft and pass climate legislation that addresses industry's concerns. The PSD proposal "has the potential to bring to a halt significant investment by the chemical industry and other sectors" and exacerbate unemployment.

Once EPA's PSD rule is made final, affected sources would have to install best available control technology to cut GHG emissions and meet permitted limits. But there is a "lack of clarity on the 'best available control technology' that would have to be adopted," in air permits, which could lead to "regulatory gridlock," Dooley told reporters.

Murkowski Resolution

Meanwhile, the informed source says there is no particular industry group or Senate office currently spearheading the new push, instead there is "general brainstorming" going on in terms of what legislative approaches could work. The source says, "On the one extreme, there is the preempt everything approach" similar to a new plan offered by Sen. Lisa Murkowski (R-AK) last week to pass a resolution vetoing EPA's final finding that GHGs endanger public health and welfare. Revoking the finding would scrap the agency's ability to issue any GHG rules under the air law. Rep. Darrell Issa (R-CA) is vowing to introduce a House companion to Murkowski's resolution

"On the other [side], there is the legislate everything approach [with a broad cap-and-trade bill]. In the middle, there is a compromise to go forward on mobile sources and hold tight on stationary sources," the informed source says.

Murkowksi already offered a rider to EPA's then-pending fiscal year 2010 appropriations bill in September to allow the vehicle GHG rule but delay stationary source rules for several years, but Senate Democrats prevented it from receiving a vote. But the informed source believes the idea may receive fresh traction as EPA's March deadline nears for issuing the vehicle rule, triggering the PSD GHG requirement.

"More members of Congress will [consider] that as a possible alternative as they look at the ramifications of EPA regulations come March. It does present something of a compromise. It allows them to move forward with the vehicle rule and doesn't take away their authority on stationary sources, it merely postpones it," the source says.

Further, the source notes, one possible approach would not block EPA from issuing stationary source rules but direct the agency to issue a formal proposal and take comment on it. EPA has not said it plans to issue such a rule but instead is working on guidance for applying GHG limits to sources subject to PSD permits and has also proposed its PSD tailoring rule to raise the regulatory threshold for GHG sources so as not to capture millions of unregulated sources.

The source says that legislation adopting industry's approach is unlikely to be introduced this year but could be introduced as soon as late January 2010. However, Sen. John Barrasso (R-WY) in early August introduced S. 1622, which would permanently block EPA's ability to regulate GHGs at stationary sources. The bill has

been referred to the Senate Environment & Public Works Committee but has seen no action since its referral.

Any legislation to delay or block EPA from proceeding with its vehicle or stationary source climate rules is likely to spark strong opposition from agency Administrator Lisa Jackson, key Senate Democrats, environmentalists and others who opposed Murkowski's failed budget amendment attempt on the issue earlier this year.

Additionally, it would be highly unlikely that President Obama would sign such a measure and it would be impossible to get enough votes to override a veto, one Senate Republican source concedes.

The source adds that Murkowski's new effort to veto EPA's GHG endangerment finding under the Congressional Review Act (CRA), announced Dec. 14, would also likely face an Obama veto even if it passes Congress. A Murkowski source admits the binding CRA disapproval resolution -- which the senator plans to introduce as soon as EPA officially forwards the finding to Congress -- likely has the votes to clear the Senate but not the House.

Potential 'Blue Dog' Support

But the Senate Republican says getting it out of the Senate is going to be "a tall order," even though the source says moderate Democrats privately indicated their support for Murkowski's earlier budget rider.

"A number of staff to moderate Democrats have indicated to me their bosses would support Murkowski, and she had a number of moderate Democrats come up to her after her amendment [was beaten back] who said if it had come to a vote [they] would have been with [her]. That left Sen. Murkowski and a lot of us encouraged that if we did bring up some sort of language we would get it passed" in the Senate.

The Murkowski source says the senator opted for pursuing a CRA resolution because it only requires a simple majority of 51 votes and cannot be filibustered. Additionally, the senator can force its discharge to the floor within 20 days if she can get 30 senators to sign a discharge petition.

But both sources agree the measure faces unlikely prospects in the House at best. "There are 52 members of the [moderate Democratic] Blue Dog coalition that are potential votes in favor of a CRA resolution or some sort of bill to stop [EPA]. You can also look at the 44 [House] Democrats who voted against" the climate bill. "A lot of those are open to stop EPA," the Republican source says. "But then again, you've got the president and he could veto. . . . He would be inclined not to sign a bill to stop EPA from moving forward."

Environmentalists meanwhile are attacking Murkowksi's CRA effort, with Sierra Club Executive Director Carl Pope calling Murkowski's planned resolution "another cynical

ploy to turn back the progress being made." Pope said that Murkowski is "suggesting that we simply choose to 'un-learn' that global warming is happening and that it will be dangerous to public health and welfare."

At the same time, Murkowski is pulling together GOP supporters of the CRA disapproval plan, calling a Dec. 17 press conference that will also include Republican Sens. Lamar Alexander (TN), Lindsay Graham (SC), James Inhofe (OK), Sam Brownback (KS), Barrasso and others. -- *Dawn Reeves*

GENERAL
==========

Power to the people (*Sacramento Bee*)

California
December 22, 2009 Tuesday
D; Pg. 1
By Jill Duman; Special to The Bee
December 22 2009
If you are out holiday shopping, chances are that batteries are on your list of things to buy. All too many of the hottest gifts – from Zhu Zhu Pets hamsters to Wii remotes – require them.

The average home had more than 30 battery-powered devices in 2007, up from just five in 1970, according to a study commissioned by Duracell.

The expanding list of products that require batteries would have astonished shoppers 40 years ago. Cell phones and smart phones, wine bottle openers, thermometers, blood pressure cuffs, electronic gaming remotes and even makeup applicators are all among the gadgets gobbling up batteries as the first decade of the 21st century comes to a close.

"We use them continuously, nonstop," says Peri Walker, a Davis-based speech therapist with a growing family of boys. "We buy them in bulk at Sam's Club. For us, it's always double A's – and we never have enough."

Walker and her husband, Fred, a health-care consultant, say their family uses batteries for toys, gaming devices and remotes. They also both have smart phones. To keep those products fully charged and operational, they use a cabinet device that plugs into a single outlet.

Newer devices, including the Powermat by Powermat USA (around $99) or Duracell's

myGrid ($79.99) are among the latest in recharging technology. They allow multiple devices to charge at once by placing them on a single, space-saving pad.

Powermats and myGrids both require the purchase of additional "receivers" for each device to receive a charge from the mat.

Also in demand are portable power packs for recharging cell phones and MP3 players, allowing road warriors to plug in and receive extra hours of battery charge even when they're far from an AC outlet.

The power packs themselves are rechargeable using AC adapters or via USB connections to a computer. Prices vary depending on the make and model.

Batteries for cell phones and toys are definitely the norm in most households, but there are also devices using batteries in new ways. Lancôme and Estée Lauder and Maybelline cosmetic companies have launched mascara applicators that vibrate with the flick of a tiny button.

The theory behind the devices is that vibrations (up to 7,000 oscillations per minute, according to some claims) expertly coat the eyelashes with makeup. Lancôme is also touting a vibrating mineral foundation with a battery- powered applicator to help the product "blend seamlessly into the skin."

Vibrating makeup joins the plethora of handheld razors and toothbrushes that have made battery-powered grooming attractive and affordable enough to become common household purchases.

"These are great examples of how batteries and power have really been added to hopefully innovate and make something better," says Kurt Iverson, a Duracell spokesman.

Iverson added that handheld gaming devices and wireless gaming controllers are fueling the demand for batteries, and that batteries today are better made and longer-lasting than they used to be.

"You get about 50 percent more power out of a normal double-A Copper Top than you would 15 years ago," Iverson said.

Rechargeable batteries have also become a new staple in many homes. Available in all sizes, rechargables look like traditional alkaline-style batteries. They work best when placed in devices such as digital cameras that use a lot of power in a single burst, rather than flashlights or home appliances that use small amounts of energy continuously.

Rechargeable batteries are becoming increasingly popular with consumers, says Marc Bazo, a buyer for Emigh Ace Hardware on El Camino Avenue in Sacramento. "People are learning that instead of filling the landfill, it makes sense to recharge."

Justin Vallandingham, a spokesman for Davis Ace Hardware in Davis, says he is also seeing "a lot of people switching to the rechargeables" – and feeling good about "not contributing the landfill."

The U.S. **Environmental Protection Agency** has estimated that 350 million rechargeable batteries are purchased annually, with that demand growing twice as fast as the demand for conventional batteries, according to the National Electrical Manufacturers Association.

Rechargeable batteries use electricity from an AC adapter to reverse the effects of a spent battery. But even rechargeable batteries have a finite life, and when they die, they – like all other batteries – have to be recycled. Yet batteries can't go into traditional recycling collections.

All types of batteries can be recycled at designated collection locations, although some battery users are still tossing their used batteries in the trash.

"It's not a big thing to do the right thing," says Ken Pereira, supervising waste management specialist for Sacramento County. "People need to step up and take a little accountability for what they're doing to the environment."

That counts for all 30 or more devices in your household.

Continental 'super single' truck trailer tire gets EPA SmartWay approval (*Search-Autoparts.com*)

Publish date: Dec 22, 2009

A fourth Continental commercial truck tire, the HTL1 “super single” trailer model, has been added to the U.S. Environmental Protection Agency’s (EPA) SmartWay Transport Partnership list.

The HTL1 (Heavy Trailer Long-Haul) is a single tire that replaces duals on highway or regional trailer axle fitments.

Based upon information provided by tire manufacturers and the EPA’s own testing and research, the agency determines whether a given tire release can provide a reduction in NOx emissions and an estimated fuel savings of 3 percent or greater for line haul trucks when used on all three axles.

The EPA recently verified that that the HTL1 meets its qualifications for low rolling resistance.

The tire features a 13/32-inch tread depth, which minimizes irregular wear and maximizes fuel efficiency, along with being constructed from an advanced compound, according to Continental spokeswoman Jackie Pobiega. It also has a pyramid stone bumper/ejection system to resist stone retention and casing penetrations.

The SmartWay lineup from the company now covers all three truck axles, including the HSL2 steer tire; the Continental HDL Eco Plus in the drive position; and the Continental HTL Eco Plus and HTL1 for trailers.

Since 2008, Continental has belonged to the SmartWay Transport Partnership as a shipper, using the Freight Logistics Environmental and Energy Tracking (FLEET) Model to quantify its environmental performance level. In its first year of participation the company exceeded its goal of compliance and achieved a FLEET score of 1.14 out of a maximum of 1.25.

MINING

==========

Nunn pleads with EPA about uranium mine proposal (*Greeley Tribune*)

JAKOB RODGERS,
More than 100 people gathered Monday night in Nunn to plead with representatives from the Environmental Protection Agency to put a stop to a permitting process that marks the initial stages of a proposed uranium mine near the town.

Several people spoke at the event, which was the second — and final — meeting to gather public comment concerning a class V permit for Canadian-based Powertech Uranium Corp. The permit up for discussion Monday night would allow the mining company to conduct tests to determine the geologic and hydrologic makeup of the site, according to Rich Mylott, spokesman for the EPA.

Should the EPA grant the permit, Mylott said Powertech hopes to draw water up through a pipe and store it in containers. After testing it to determine the quality of the water and how the aquifer recharges, the water would then be placed back into the aquifer unprocessed.

The company has yet to file for a class III permit to actually mine uranium at the site, Mylott said. Once it does, Mylott said there would be another public comment period

before a final decision is made.

Still, nearly everyone who spoke at the meeting implored the agency to strike down the permit. Ken Tarbett, who said he owns property that borders the proposed test drilling site, said he was “very disturbed” by fears that his well water would be contaminated from the testing process.

“This is not an exact science,” Tarbett said of the process of removing the water and then re-injecting it back into the ground to conduct the tests. “Mathematics is an exact science. This pumping test and the complexity of these geological formations are anything but exact.”

Robin Davis, who has helped lead the fight against the uranium mine, also asked the EPA to take heed of its own mission statement, which calls for it to protect the environment and human health — which, she said, includes psychological health. She said concerns about past uranium mining sites that proved unsafe have created feelings of distrust.

“Living in this ... state of fear and anxiety and operating from the place of mistrust does not promote or protect health; in fact, just the opposite,” Davis said. “I cannot begin to fathom how the EPA could justify permitting this kind of threat to human health and environmental safety.”

Still, there were pockets of support for Powertech.

Erik Nelson, who said he lives about a half-mile from the proposed mining area, emphasized that the permit would allow only an assessment of the area's water quality — not to mine uranium — and that the company was merely removing water from the site and then placing back when finished.

“I have no concerns at all, even with” the proposed mine as a whole, Nelson said, drawing a small applause. “And I encourage the EPA to approve the permit for a class V injection well head.”

Meg Corwin, the regional director for U.S. Sen. Michael Bennet, D-Colo., also spoke at the meeting. She read a letter sent by Bennet and U.S. Rep. Betsy Markey, D-Colo., to the agency noting their constituents' concerns and urging the agency to make the rule-making process public.

The meeting was the second public comment meeting concerning the class V permit — the first meeting was held in July. The comment period is open through Thursday, Mylott said. Comments gathered until then will factor into the agency's decision on whether to grant the permit, he said.
http://www.greeleytribune.com/apps/pbcs.dll/article?AID=/20091222/NEWS/912229988/1002&parentprofile=1001&template=printart

PESTICIDES

==========

Hunte nabbed by EPA for FIFRA violation (*Joplin Independent*)

Story also appeared: *News Leader*

Updated: 2009-12-21 22:49:51
A southwest Missouri pet supply dealer has agreed to pay a $56,632 civil penalty to the United States to settle allegations that it violated the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) by repackaging, relabeling and selling an insecticide meant for use on cattle and hogs as a flea and tick treatment for dogs.

Hunte Kennel Systems and Animal Care, Inc., of Goodman, MO, will pay the civil penalty under terms of an administrative consent agreement filed today by EPA Region 7 in Kansas City, KS.

The allegations stem from findings made by the Missouri Department of Agriculture during October 2006 inspections of the company's facilities in Goodman and Buffalo, MO. The inspections found that the company had bottled the pesticide Prolate/Lintox-HD into different packaging and sold it as another pesticide, Paramite.

During the inspections, the company was ordered to immediately stop selling the repackaged pesticide.

Prolate/Lintox-HD is formulated for use in the control of flies, lice, mange and ticks on cattle, and for the control of lice and mange on swine. Paramite is no longer manufactured as a flea and tick treatment for dogs.

RECYCLING

==========

Ind. attorney general sues lumber recycling plant (*Associated Press*)

Story also appeared: *Chicago Tribune*

Trials Environmental Politics Litigation U.S. Environmental Protection Agency
Story also appeared: Chicago Tribune
2:01 a.m. CST, December 22, 2009

ELKHART, Ind. - Indiana's attorney general is suing a northern Indiana lumber recycling plant with a history of environmental and worker-safety violations.

The lawsuit filed Monday in Elkhart County seeks preliminary and permanent injunctions to halt open dumping of wood wastes at VIM Recycling Inc.'s Elkhart operation. It also asks a judge to order VIM to remove waste materials and debris from its property.

Company spokesman Tom Holt says VIM is "extremely surprised" by the lawsuit. He says the U.S. Environmental Protection Agency has agreed to allow VIM to place wood from the recreational vehicles and manufactured housing industries on asphalt at its property.

SOLID WASTE

==========

Dane County wants to turn scrap food into energy (*Wisconsin State Journal)*

Dee J. Hall | dhall@madison.com | 608-252-6132 | Posted: Monday, December 21, 2009 8:30 pm

Discarded food would be collected and turned into energy under a proposal announced Monday by Dane County Executive Kathleen Falk.

The project would be one of the first in the United States to use municipal food waste to generate energy, according to Troy Runge, director of the Wisconsin Bioenergy Initiative, a state-funded program based at the UW-Madison.

The county is seeking a consultant to design a system that would make use of the 30,000 tons of food waste from homes, businesses and institutions disposed of annually in the Dane County Landfill, which gets about 200,000 tons of material a year. Falk said the project could bring in $4 million a year in revenue and create 45 jobs.

The U.S. Environmental Protection Agency calls food waste “one of the least recovered materials in the municipal solid waste stream” and “one of the most important materials to divert from landfills” because it generates methane, a major greenhouse gas. The EPA said food waste is the second-largest contributor to landfills after paper.

Dane County already captures methane from the county landfill and a closed landfill in Verona and burns it to generate electricity, which it sells to Madison Gas & Electric. That arrangement has been around since 1997.

The project announced Monday seeks to segregate food from the rest of the waste stream. The material would be digested at up to three plants around Dane County, according to the request for proposals issued by Dane County last week.

Falk said the project would use discarded fruits, vegetables, meat and other perishables to create methane, which in turn would either be converted into natural gas or burned to generate electricity. The leftover organic material would be packaged for use as fertilizer.

“We’re currently earning $3 million a year for taxpayers by turning methane from trash at our county landfill into green electricity,” Falk said in a statement. “Now we want to further tap into the great financial and energy potential of all the food that gets thrown away from businesses, schools, hospitals and homes.”

One of the biggest challenges will be to design a system to collect the discarded food. Many county residents already have two bins: One for recyclables and one for garbage, including food waste. Would residents need to have a third trash barrel?

Falk spokesman Joshua Wescott said that’s among the questions officials will ask a consultant to answer.

“We know there’s potential there,” Wescott said. “We know there’s a lot of food thrown away. Is there a logical way to round it all up and use it?”

Just a handful of communities in North America segregate food waste, including Oakland, Calif.; San Francisco; Seattle and Toronto.

In Toronto, food scraps, soiled paper, disposable diapers, pet waste and other biodegradable materials from 510,000 households are collected in so-called green bins. The program, which started on a small scale in 2002, currently generates only composting material.

Residents in San Francisco and Seattle use three carts for disposing of waste, including one reserved for food scraps, yard waste and soiled paper, which is turned into compost.

In Oakland, food waste is digested along with wastewater sludge to generate power for a wastewater treatment plant. However, the utility collects its waste only from local restaurants and grocery stores and doesn’t have residential collection, according to the EPA.

The feasibility study for creating a food waste-to-energy system for Dane County is due Sept. 1. The county has set aside $350,000 of a $2.26 million federal stimulus grant for energy efficiency and conservation to pay for the study, Wescott said.

Runge said converting food waste to methane is relatively simple and occurs naturally in landfills. Ultimately it will be the logistics of collecting discarded food that determines whether the project is worthwhile, he said.

“The biggest challenge is getting the food waste economically to a central site. To make it work, you can’t burn a whole ton of diesel collecting it,” Runge said. “We think it’s a great idea, but I think that those sorts of economic trade-offs need to be studied.”

TOXICS
==========

Good move for this neighborhood; As part of a housing plan, city officials want to relocate a metal finishing firm charged with illegal dumping (*Los Angeles Times*)

December 22, 2009 Tuesday
Home Edition
MAIN NEWS; Metro Desk; Part A; Pg. 10
PROMISE AND PERIL IN SOUTH L.A.;
Good move for this neighborhood;
As part of a housing plan, city officials want to relocate a metal finishing firm charged with illegal dumping.

By Scott Gold
Los Angeles officials are close to completing a deal that would relocate a metal finishing company that has long been the bane of a poor neighborhood -- the final piece of an ambitious quarter-billion-dollar plan to bring affordable housing to a pocket of South L.A.

The company, Palace Plating, has become symbolic of the enduring troubles that followed South L.A.'s slapdash development.

Opened in 1941, it's the type of factory that drew thousands of working-class families to the city during the boom years of World War II. Yet it was wedged onto a narrow street next to homes and across from 28th Street School, which soon became one of the largest elementary campuses in the nation.

According to government officials, Palace Plating generated **hazardous waste,** including cyanide and chromium, and faced charges of illegal dumping. The waste gave the nearby students nosebleeds, headaches and worse, according to residents and lawsuits.

The company has long denied any malfeasance and has resisted calls to shut down -- despite lawsuits brought by teachers and parents, criminal charges and government inspectors. "It's been tough," said Jose Tirado, a longtime manager. "But we're still here."

Recently, however, the company has softened its position.

Some officials attribute it to a change in corporate structure; the company's longtime chief executive, Clifford R. Pierce Jr., died and his son, Roger Pierce, took over as chief executive, according to a manager.

Others cite the city's campaign to undo the damage of harried urban planning that left South L.A. shouldering a huge share of industrial pollution. New science linking industry with illness has upped the ante, officials said.

"Science has evolved," said City Councilwoman Jan Perry, who's also a member of the governing board of the South Coast Air Quality Management District. Perry has been leading the effort to negotiate a resolution with the company. "They would be fighting an uphill battle by wanting to stay," she said. Details of the deal are still being negotiated. The wild card remains the waste itself; officials don't know how much cleanup will be required.

But several officials said the city is close to finalizing a deal that would shutter the plant and move it to a more appropriate industrial area.

The relocation would cost taxpayers about $4 million, they said. The plant would be demolished. The site would be scrubbed and then used for housing or a park in the planned The Crossings at 29th Street, an 11 1/2 -acre complex of about 500 affordable-housing units.

Urban Housing Communities, the Santa Ana-based developer, said construction would run as high as $280 million for theproject, which could take more than a decade to finish. The first phase is scheduled to break ground in 2010.

Some other small businesses -- a beauty salon, a bubble gum distributor, a botanica -- would also have to move. The mostly likely destination for Palace Plating, Perry said, is a slice of the 204-acre Goodyear Tire Tract between Slauson and Gage avenues. The site was once one of the nation's largest manufacturing centers for tires and other products.

Officials and attorneys involved in the negotiations said they could not discuss the details publicly. Doug Bigley, president of Urban Housing Communities, spoke about the deal with great care.

"It is highly desirable to make [Palace Plating] part of the redevelopment . . . We are very interested in solving that problem," he said.

Neither Roger Pierce nor one of his attorneys responded to requests for comment.

The street separating the plant from the school is gritty even by the standards of South L.A., littered with cardboard, discarded tires and rotting bananas. It's easy to miss the little sign tacked to the corner of Palace Plating: Sustancias peligrosas. **Hazardous waste.**

South L.A.'s ills have long been compounded by apathy and a lack of political might -- making it all the more unusual that the spark for this possible transformation came 14 years ago with the arrival of a young, poor, immigrant mother.

When she was 25, Martha Sanchez emigrated from Jalisco, Mexico, and soon moved near the school, where she would enroll her three children.

Her two daughters developed asthma, she said. There were nosebleeds, and they all developed respiratory problems. Concerned, she began knocking on neighbors' doors; some told her they'd noticed the same thing.

She suspected that the source of their troubles was the little plant across from the school. She began poring over government documents. She knew little English at the time, but some words jumped out, such as "emissions." And yet, at every turn, officials kept telling her the area was safe. "I just thought: 'But how do you know that?' " she said.

She joined forces with the nonprofit Assn. of Community Organizations for Reform Now, known by its acronym ACORN, becoming president of her neighborhood chapter. That gave her a bigger platform. City Hall began taking notice. Government regulators came next.

In 2003, the AQMD began air monitoring. Some early tests showed high levels of hexavalent chromium, a cancer-causing chemical used in plating, though the tests generally showed levels at or below those typical for the region. (School officials said 28th Street is safe for students and teachers, and that a couple of years ago they vacated two bungalow-style classrooms closest to the plant after inspectors found excessive airborne levels of tetrachloroethylene, a chemical often used in metalworking.)

In 2006, the state Department of **Toxic Substances** Control issued a consent order after finding flaws in the way the company handled **hazardous waste,** including inadequate piping containment. That action came with a $60,000 fine.

And the Los Angeles city attorney's office has twice brought criminal charges, alleging that the company had exceeded allowable levels of several chemicals and dumped them onto the ground and into the sewer. The company pleaded no contest to illegal disposal in one case and is expected to be arraigned in the other soon.

Two lawsuits also were brought by 97 teachers, parents and students. Sanchez is the lead plaintiff in one; the suits have now been combined. The suit alleges, among other things, that two veteran teachers' cancers were tied to the pollution. It says that another teacher has given birth to three children with disabilities -- two have autism, and the third suffers from seizures and scoliosis.

Vincent Vallin Bennett, the attorney representing the group, contended that Palace Plating was "basically a company that looked toward profit and money" without regard for "health and welfare." And yet, illustrating the dizzying activity surrounding Palace Plating, the suit is stalled for now, Bennett said. In the latest criminal case, corporate officers have cited their 5th Amendment right against self-incrimination -- meaning they can't be deposed in the civil case.

Sanchez said the fight has been exhausting from the start. Now 39, she's been thrown out of meetings, and plant managers have threatened to call the police on her, she said. Between zoning changes, environmental rules and other issues, an estimated 150 government officials have had to sign off just to get to this point.

Sanchez, now the chairwoman of ACORN's board of directors in Los Angeles, said the years of fighting Palace Plating will have all been worth it if the deal comes together. She's hopeful -- but said she'll believe it when she sees it.

"There have been so many promises," she said. "I thought it was just a dream. Someone will have to pinch me."

scott.gold@latimes.com

A year later: a promise amid massive cleanup (*Knoxville News Sentinel*)

Posted December 22, 2009
Tennessee
It might be difficult to comprehend what 5.4 million cubic yards of coal ash looks like, but for residents in Roane County, especially in the Swan Pond community near the Emory River, it has been an all-too-familiar and harrowing sight for the past year.

It was one year ago today that a holding pond collapsed at the Tennessee Valley Authority's Kingston Fossil Plant, sending the massive amount of coal ash into the Emory River and onto 300 acres of land in the nearby community. The federal Environmental Protection Agency has called the ash spill one of the worst environmental disasters of its kind in history.

The spill is largely credited with bringing to public attention the problems in storing coal ash, a by-product of coal combustion to generate electricity.

Coal ash contains heavy metals such as arsenic, lead, mercury and selenium.

Even now, with all the clamor over the Kingston spill, the EPA has delayed a decision on regulating coal ash waste from power plants. The agency is extending its Dec. 31 deadline, saying it "is still actively clarifying and refining parts of the proposal."

Last May, EPA took over the cleanup operations, which might appear as massive as the spill itself. EPA officials told Congress this month that pollutants remain elevated in the area of the ash spill, but they are acceptable in drinking water around the spill site.

As a federal agency, TVA is undergoing some changes because of the ash spill. It is developing plans to convert all of its coal ash ponds to dry disposal methods over the next eight years. Internally, TVA also has been taking a look at the culture that was to have overseen coal ash storage but did not prevent last year's spill.

Meanwhile, the cleanup at the site moves steadily on. Dredges pump coal ash from the river through thick black pipes. Dozens of dump trucks move across the land where excavators scoop up the coal ash and allow it to dry before placing it in rail cars, part of a train that will carry the mess to a landfill in Perry County, Ala. The target is 85 to 100 carloads per day.

Leo Francendese, EPA's on-site coordinator, said he is satisfied with the progress TVA has made in cleaning up the site.

Francendese said the cleanup of ash from the Emory River should be complete by the spring of 2010. Operations then would shift to cleaning up the land, and that could take three or four years.

TVA has estimated the total cost for the cleanup will range from $933 million to $1.2 billion, and those figures do not include lawsuits that are pending against the agency.

TVA and the EPA have vowed that they will do everything in their power to prevent anything of this kind and this magnitude from ever happening again. We believe they will try — and public oversight and accountability will be the best tools to hold them to their promise.

Reviewers Split On EPA Cancer Risk Finding For Key Solvents' Metabolite (*Inside EPA*)

A panel of experts is sharply divided over draft EPA findings that trichloroacetic acid (TCA) -- a metabolite of the controversial solvents trichloroethylene (TCE) and tetrachloroethylene (perc) -- is a "likely" carcinogen by all exposure pathways, suggesting further controversy as EPA moves to craft risk values for the ubiquitous substances.

At a Dec. 10 meeting of experts in Arlington, VA, some panelists outright disagreed with EPA's finding, saying they do not believe the chemical is a "likely" carcinogen. But other panelists said they agreed with the agency's proposed classification.

The TCA Integrated Risk Information System (IRIS) assessment has been closely watched in large part because of the chemical's relationship to chlorinated solvents, widely used chemicals that are contaminants at dozens of waste sites nationwide. Assessments for two of those solvents, TCE and perc, have also been long delayed by controversy. Both are considered wide-spread contaminants, with the possibility of large cleanup liabilities on the part of industry, the Defense Department, and the National Aeronautics and Space Administration (NASA), among others.

After 10 years of review and study, including a National Academy of Sciences (NAS) review, EPA recently unveiled a revised assessment of TCE. But NASA and the White House Office of Management & Budget (OMB) are now calling for a second round of NAS review.

EPA's draft TCA assessment -- released in September -- describes the chemical as a "likely human carcinogen by all routes of exposure." If finalized, the classification would be an upgrade from EPA's existing cancer classification of "possible human carcinogen," which was published in the IRIS database in 1996. The draft assessment includes a cancer slope factor, or estimate of oral cancer potency, of 0.2 milligrams per kilogram body weight per day (mg/kg-day). The agency's existing IRIS cancer assessment did not include a quantitative risk estimate, due to limited data.

But at a panel of experts meeting in Arlington, VA, Dec. 10 to review the draft assessment, some panelists strongly criticized EPA's determination.

"There is insufficient documentation for all routes of exposure. I'd support only oral and dermal," said one of the reviewers, Penelope Fenner-Crisp, a consultant and former EPA toxicologist. "The 'likely' [classification] is too much, especially when you can't resolve the mode of action."

Michael Pereira of Ohio State University's Comprehensive Cancer Center and Anthony Scialli of Tetra Tech Sciences agreed, voicing concerns that there was too little data to support the classification.

But Ivan Rusyn of the University of North Carolina and Andrew Salmon of California's Office of Environmental Health Hazard Assessment both agreed with EPA's classification, arguing that agency risk assessors had appropriately followed the agency's 2005 cancer guidelines. "Whether you like the guidelines or not is not the question," Rusyn said. "The agency has to err on the side of caution and assume that humans are as sensitive as the most sensitive species."

Consultant and review panel chairman Alan Stern said that he agreed with Rusyn and Salmon in principle, that the guidelines need to be followed. But Stern suggested that the agency had, in fact, not followed its guidelines, saying he believed the data showed only "suggestive" evidence of human carcinogenicity.

But consultant Ronald Melnick argued that the agency's classification did meet the guidelines. He noted that a chemical is not required to meet all four criteria to be considered a likely human carcinogen -- it only has to meet one.

Diana Wong, EPA's chemical manager for TCA, replied that the risk assessors "chose this classification because it needs to be consistent" with the guidelines and other IRIS assessments. She added that there was "a lot of internal discussion" among staff about the classification.

Ash regulation fight gears up one year after TVA accident (*Greenwire*)

(12/21/2009)
One year after a dike rupture at a Tennessee Valley Authority power plant sent an estimated 2.9 million pounds of toxic pollutants pouring into streams, fields and homes in eastern Tennessee, efforts to place new regulations on the handling and disposal of toxic ash from coal-fired power plants are just getting started.

On Thursday, the Obama administration announced it would delay the release of proposed new rules on coal ash regulation (*E&ENews PM*, Dec. 17). The announcement came a week after an industry official testified on Capitol Hill that tougher regulations could force nearly 200 power plants nationwide to close.

Lobbyists for coal-fired utilities, coal companies and other related industries met privately at least 10 times with White House officials in the past two months to try to scuttle or weaken potential new EPA rules.

"This will be a very, very hard political fight," said Eric Schaeffer, director of the Environmental Integrity Project, which advocates tougher restrictions. "We've got a long way to go before the finish line" (Ken Ward Jr., *Charleston [W. Va] Gazette*, Dec. 19). **-- DFM**

Coal waste used for farming poses no safety threat – EPA (*Greenwire*)

(12/21/2009)
U.S. EPA and the U.S. Agriculture Department are encouraging farmers to spread a chalky residue from coal-fired power plants on their fields to loosen and fertilize the soil. While some environmentalists have raised issue with the practice, studies have shown no risk to human health from the waste.

Since the George W. Bush administration, federal officials have increased their support for "beneficial uses" of coal byproducts. Part of that push has been encouraging farmers

to use synthetic, calcium-rich gypsum -- known as flue gas desulfurization (FGD) gypsum -- on their plots.

The gypsum carries minute traces of mercury but field studies have shown the toxic metal does not accumulate at significant levels in crops or surface water, EPA said.

"EPA believes that the use of FGD gypsum in agriculture is safe in appropriate soil and hydrogeologic conditions," EPA said in a statement.

Most of the FGD gypsum produced in the United States last year -- a total of 17.7 million tons -- was used to make drywall. Farmers spread 279,000 tons of the substance on their fields last year, according to the American Coal Ash Association (Rick Callahan, AP/Yahoo News, Dec. 21). **-- PV**

EPA launches criminal investigation into BP spill (*KTUU.com*)

by Ashton Goodell
Monday, December 21, 2009

ANCHORAGE, Alaska -- The Environmental Protection Agency launched a criminal investigation into a major oil spill on the North Slope.

Nearly 46,000 gallons of crude oil spilled after a BP pipeline ruptured.

The Department of Conservation is conducting a separate civil investigation to see if BP violated state laws. They say it's too early to know what went wrong.

BP says it's working with investigators, but had no specific comment on the investigation.

Contact Ashton Goodell at agoodell@ktuu.com

December 22, 2009

EPA has $2M for toxics education (Seattle Daily Journal of Commerce)

WASHINGTON, D.C. — The U.S. Environmental Protection Agency has $2 million available in 2010 for governments, tribes, nonprofits and universities to help the public understand and reduce toxic risks. Applications for the grants are due on Mach 9.

The Community Action for a Renewed Environment program has cooperative agreements on two levels. Level 1 awards range from $75,000 to $100,000 and help establish community-based partnerships to develop local environmental priorities. Level 2 awards range from $150,000 to $300,000 and support communities that have established broad-based partnerships, identified priority toxic risks in the community

and are prepared to measure results, take risk-reducing action and become self-sustaining.

(In order to read this entire story, EPA must purchase)

WATER
==========

OIG Urges EPA Plan To Ensure States Meet Stimulus Water Fund Deadline (Inside EPA)

EPA's Office of Inspector General (OIG) in a just-released report says the agency must craft and implement a last-minute “contingency action plan” to ensure states meet a pending February deadline for dispersing billions in EPA water infrastructure funds under the economic stimulus law.

Failure to craft the backup plan could delay reallocation of the money, which would delay projects, hampering job creation and the economy, the report says.

The Dec. 17 report also says the law's new requirements for the funds have slowed progress on allocating the money, including strict “Buy American” rules, Davis-Bacon prevailing wage requirements and a set-aside for so-called green infrastructure projects. These provisions continue to pose a risk that states will not disperse the money by the deadline, according to the audit briefing report, which does not include an EPA response.

The stimulus law provides EPA with $2 billion for its drinking water state revolving loan fund (SRF) and requires EPA to reallocate funds where the project is not under contract or construction by Feb. 17.

OIG says EPA took a number of steps to ensure states met the deadline, but did not establish an “action plan” with milestone dates for states to implement. Further, the agency is not monitoring progress on specific projects, limiting its ability to identify states at risk of not meeting the deadline, the report says.

To rectify these oversights, OIG says EPA must now craft a last-minute backup plan to identify and monitor projects not under contract and finalize those projects by the pending deadline. If states that miss the deadline, and funds must be reallocated, that will delay the use of the money, “which will in turn delay the creation of jobs and the jumpstarting of the economy.”

EPA's Office of Water should also issue final written procedures for reallocating unspent funds from states that miss the deadline. EPA is already working on finalizing the reallocation procedure, the report says, indicating the agency may believe that outcome is likely.

Besides the $2 billion for the drinking water SRF, the economic stimulus law also allocated $2 billion to the clean water SRF, for a total of $6 billion in EPA water infrastructure funds. Under the SRF program, EPA awards the drinking water money to states by a funding formula, which the states award to local water infrastructure projects.

States have struggled to adapt their SRF programs to the new requirements in the stimulus law, including the “Buy American” language that requires stimulus-funded projects use 100 percent domestically produced iron, steel and manufactured goods.

EPA in a Dec. 15 report to the White House Office of Management & Budget said 41.9 percent, or around $764.7 million, of the drinking water SRF money is under contract, while 38.6 percent, or about $1.4 billion, of the clean water SRF money is under contract. At current rates of progress, based on a comparison between the percentage of projects under contract in early November and now, about 80 percent of drinking water SRF projects will be under contract by the Feb. 17 deadline. By that same comparison, about 70 percent of clean water SRF funds will be under contract.

The OIG report only looked at drinking water funding because “other teams” are focusing their reviews on clean water SRF funds.

OIG says EPA did not take more forceful steps to hold states accountable to an “action plan” in part because of a belief that states would meet the deadline. OIG notes that belief “contrasts starkly” with evidence, accumulating for months, that some states were running far behind.

An EPA spokeswoman did not reply to a request for comment by press time.

States Struggle To Implement Stimulus

States struggled to quickly implement the stimulus because of budget cuts and other resource issues, “difficulty understanding and implementing” new requirements -- including having to alter some state statutes to comply with the new law -- and general contracting delays. “Contracting with local government is not a speedy process,” the report notes.

OIG singles out the process to obtain waivers to the “Buy American” requirement in the stimulus as a continuing “potential risk” because the office witnessed the waiver process taking more than twice as long as it was supposed to take.

The report also says that because EPA is not monitoring project-level progress, the agency is unable to predict future progress. Because EPA is only monitoring the number of projects already under contract, it does not know how many projects are in the contracting pipeline, close to coming under contract. Therefore it is unable to identify states at risk of not having enough projects in their pipeline to fulfill the stimulus law's deadline.

“EPA cannot be informed of progress if they don't collect critical information from states to determine if projects will be under contract” by the deadline, the report says.

To help states meet the deadline, EPA took a number of steps, including providing information to states in webcasts, letters, meetings and phone calls. Some state officials said intensive reporting requirements on the funds distracted from the core effort of dispersing them by the deadline, the report says.

Further, two EPA regions and two states said the “green” infrastructure requirements and the tight deadline took priority over identifying projects that would have the greatest benefit to public health, the report says.

Monday, December 21, 2009, 2:52pm CST

EPA awards millions to Texas Water Development Board (*San Antonio Business Journal*)

The Environmental Protection Agency (EPA) awarded $31.1 million to the Texas Water Development Board to help the state agency provide loans and other financial assistance to local communities, municipal and state agencies.
The money will be used to fund wastewater improvements in communities throughout Texas. As water is treated, it gets released into the waterways.
The end result of the financing will be improved water quality in streams, lakes, rivers and bays. This should improve aquatic life as well as the quality of drinking water.

****

E-Clips contain copyrighted materials and are made available to designated recipients. Neither the E-Clips nor any individual article within may be further distributed.

****