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

Monday, March 18, 2013

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

Weekend Edition
April 11, 2009 & April 12, 2009

ADMINISTRATOR JACKSON 3
Late TV listings (*Boston Globe*) 3
AIR 3
Talks aimed at reducing emissions criticized (*The Columbian*) 3
EPA signals shift in state clean air case (*Birmingham News*) 6
$1.73M to be distributed in Wash. (*Associated Press*) This story also appeared: *Seattle Post Intelligencer* 8
Richmond region failing clean-air test (*Richmond Times-Dispatch*) 8
Aspen Power trying to block EPA's decision on construction (*Lufkin Daily News*) 10
Activists Vow To Push EPA To Expand Climate Rules Beyond Automobiles (*Inside EPA*) 12
BUDGET/STIMULUS 14
State gets $1.73 million for clean diesel projects (*Associated Press*) This story also appeared: *LSU The Reveille* 14
Stimulating Efficiency for the Long Term (*NewsBlaze*) 15
Oregon, Washington get money to cut diesel pollution (*Hillsboro Argus - OregonLive.com*) 18
EPA announces stimulus funds for water projects (*Water Technology Online*) 19
Five States so Far Committed to Using Stimulus Funds to Enhance Clean School Bus Projects (*School Transportation News*) 20
EPA awards Texas nearly $2 million in stimulus funds (*Bizjournals.com*) 21
CLIMATE CHANGE/GLOBAL WARMING 21
Obama, Who Vowed Rapid Action on Climate Change, Turns More Cautious (*New York Times*) 22

Earth’s constant temperature another natural resource (*Desert Valley Times*) 24
EARTH DAY 26
10 ways to make every day Earth Day (*Journal Times*) 26
Earth Day is among legacies of Cuyahoga River fire (*The Plain Dealer - cleveland.com*) . 29
EDITORIAL/COMMENTARY/OP ED/LETTERS 33
EPA's Bad Side (*Lufkin Daily News*) 33
Bay science (*Newport News Daily Press*) 34
ENERGY 36
S.D. braces for 'cap and trade' energy changes (*Sioux Falls Argus Leader*) 36
Vampires in The House "Energy Vampires" (*NewsBlaze*) 38
EPA unveils new energy requirements for appliances (*Waste News*) 39
FUEL 40
Don't overlook fuel fine print (*Detroit Free Press*) 40
HAZARDOUS WASTES 42
EPA settles cleanup of PCB-tainted Gary lagoon (*Associated Press*) This story also appeared: *Chicago Tribune* 42
Human excrement the least of our problems (*Jamaica Observer*) 43
MINING 45
Future Grows More Hazy For Mountaintop Mining (*Washington Post*) 45
PESTICIDES 48
Schwarzenegger urges U.S. to appeal ruling on pesticide permitting *(Greenwire)* 48
RECYCLING 49
Cell Phone Recycling Week ends today *(Hernando Today*) 50
SUPERFUND 50
EPA adds 2 county sites to Superfund cleanup list (*Tampa Tribune*) 50
Residents not shocked by landfill hazard (*Springfield News Sun*) 52
TOXICS 53
Draft Rule Will Require Toxic Reporting For Finished Wood Products (*Inside EPA*) 53
WATER 54
Unit added to bring wastewater plant to EPA code (*Wooster Daily Record*) 54
Public not allowed (*Gallup Independent*) 56
$66.5 million plan aims to clean up Ralston Lagoon (*Gary Post Tribune*) 58
Agency withheld evidence of D.C. water lead poisoning *(Greenwire)* 59
'Zoning' rules urged to protect offshore resources *(Greenwire)* 60

ADMINISTRATOR JACKSON

==========

Late TV listings (*Boston Globe*)

April 12, 2009

The Newsmakers. Topics: The Obama administration's approach to environmental issues and how the EPA will pursue policy on the environment under Lisa Jackson's watch. Guests: Lisa Jackson, EPA administrator. 10 a.m. (C-Span)

AIR

==========

Talks aimed at reducing emissions criticized (*The Columbian*)

Agency initially left out of TransAlta pact discussions

Saturday, April 11 | 11:56 p.m.
BY KATHIE DURBIN
COLUMBIAN STAFF WRITER

Washington

The Vancouver-based Southwest Clean Air Agency was not at the table in late 2007 as Gov. Chris Gregoire and the Department of Ecology spent months negotiating an agreement behind closed doors with Washington's only coal-fired power plant to reduce its mercury and nitrogen oxide emissions.

SWCA shares jurisdiction over TransAlta's 1,376-megawatt Centralia plant with Ecology and is responsible for issuing its federal air quality permit.

The secret agreement has drawn fire from environmentalists, because they too were left out of the early talks. The National Park Service has objected that it was not given a chance to assess how the emission reduction plan would affect air quality at nearby Mount Rainier National Park.

The Vancouver agency has long experience with the power plant, which was purchased by TransAlta, a Canadian energy company, in 2000.

Beginning in 1998, Bob Elliott, SWCA's executive director, and his staff led a similar closed-door effort to negotiate an agreement with PacifiCorp, the plant's owner at the time. Ecology and several other agencies also were involved.

Facing a lawsuit from environmentalists, the parties reached agreement that PacifiCorp would spend $235 million to install pollution control equipment to reduce sodium dioxide emissions and fine particulates.

"After a year's negotiation, we came out with a proposal that everyone was pretty happy with," Elliott said.

Since 2002, when scrubbers were installed in the plant's stacks, sodium dioxide emissions have dropped from 70,000 tons per year to about 3,000 tons per year, Elliott said.

The agreement also resulted in a 33 percent reduction in nitrogen oxide emissions at the coal plant. Both pollutants are major contributors to haze in the Columbia River Gorge.

In exchange for those reductions, the company won a state tax credit that has been worth tens of millions of dollars since it went into effect in 1997.

Late to the process

Yet despite the success of the 1998 agreement, Southwest Clean Air was not in on the initial discussions in the current round of negotiations. It was only brought in after several months.

"It's my understanding that TransAlta approached the governor with their concerns, and the governor's office identified the team," Elliott said.

The talks began in late 2007. Elliott said he learned of the discussions "sometime in the mid-2008 time frame."

"We were invited in the fall of 2008 to evaluate the technical aspects of the proposal that were being discussed. There was a policy group and a technical groups. SWCA was involved in the technical group."

Elliott said he was asked to sign the same confidentiality agreement that other parties to the negotiations signed. He declined to share his reaction to being left out of the early stages of the current negotiations other than to say, "SWCA achieved a lot back in 1998. It's difficult to improve on that."

Ecology spokesman Seth Preston said that after his agency, the governor's office and TransAlta "decided on the issues that would be included in a proposed agreement, Southwest Clean Air was asked to fill a key role in preparing technical documents related to the proposal."

Southwest Clean Air has been an important participant in that technical work since November, Preston said.

Closed-door meeting

At a stakeholder's meeting on March 31, the state declined to release any information about the plant's current emission levels, said Mark Riskedahl, director of the Northwest Environmental Defense Center in Portland, who attended the meeting.

Riskedahl called the meeting "an abject failure of the public process."

"We asked for their emission levels," he said. "They said it was confidential, they could not release it. No handouts were provided. The meeting wasn't announced to the public."

Ecology officials defended the process in a news release Thursday, saying that closed-door mediation is a legal and appropriate way to avoid litigation in certain cases.

They said they would begin a formal 30-day comment period within the next several weeks that would include a public hearing on the TransAlta proposal. No date for that hearing has been set.

"As with any proposed regulatory action, public comments could lead to changes in the proposal," the agency said.

In advance of that meeting, "the documents will be posted on our Web site and they will be readily available," Preston said.

TransAlta spokeswoman Marcy McAuley told the Seattle Times that the agreement gives the company more certainty about its future and is "something that works for government, works for Washington citizens and works for TransAlta."

Voluntary reduction

Stu Clark, Ecology's air quality manager, said discussions with TransAlta began after the company approached the governor's office with concerns about "uncertainty in the environmental world."

He said TransAlta officials initially argued that the plant already complied with a U.S. Environmental Protection Agency standard that requires coal plants to use "best available retrofit technology." He said Ecology informed them that further nitrogen oxide reductions were required.

Under the draft negotiated settlement, TransAlta will reduce its nitrogen oxide emissions further to comply with the best available retrofit technology standard, in part through the use of cleaner-burning coal that it ships by rail from Wyoming. The company closed its own coal mine near

Centralia in 2006.

The company also will agree to voluntarily reduce its mercury emissions by 50 percent, though it's unclear what baseline will be used to measure the reduction.

Mercury is a neurotoxin that can cause neurological damage, especially in children. Human exposure typically occurs when airborne mercury is deposited in lakes and rivers and enters the food chain through fish and other aquatic animals.

Clark said the scrubbers, coal-washing and other steps TransAlta has undertaken since 2001 to reduce sodium dioxide emissions have reduced mercury levels as well, by about 30 percent.

No national rule
Because neither the state of Washington nor the U.S. Environmental Protection Agency regulates mercury emissions from coal-fired power plants, a voluntary agreement by TransAlta to achieve further reductions is the best the state can hope for in the present regulatory environment, Clark said.

The state of Washington spent nearly two years working to develop such a rule, but it never went into effect. In February 2008, a federal court threw out the federal rule on which the state's draft rule was based.

For the state to start over and develop its own mercury standard "would take a couple of years," Clark said. "And then someone would sue us, and we'd have to defend that."

"A national rule would certainly make the playing field more level and set a base for everyone to meet," he said.

When the final agreement with TransAlta is reached, SWCA will be responsible for enforcing the new nitrogen oxide emission standard. For now, however, achieving the mercury reduction target will remain voluntary, Elliott said.

TransAlta "will be spending money to try to get to the 50 percent reduction, but if they don't get to it, there won't be the same regulatory enforcement."

Kathie Durbin: 360-735-4523 or kathie.durbin@columbian.com.

EPA signals shift in state clean air case (*Birmingham News*)

Agency may reconsider smokestack decision

Sunday, April 12, 2009

MARY ORNDORFF
News Washington correspondent
Alabama

WASHINGTON - The federal government may change course and stop defending a controversial air pollution rule that allegedly allows more emissions from smokestacks in Alabama.

The Alabama rule - which environmental groups believe leads to thicker plumes of smoke going up more often - was approved last fall by the U.S. Environmental Protection Agency. But in a new court filing, the EPA has asked a federal judge for the chance to reconsider that decision.

The apparent change of heart signaled a less industry-friendly direction for the EPA under President Barack Obama as opposed to former President George W. Bush, environmental groups said Friday.

"It is clearly a sign of a different way of thinking," said John Walke, an attorney for the National Resources Defense Council.

The EPA told the judge it wanted to reopen public comment because environmental groups raised "legal, technical and policy issues" that warranted a second look.

The rule, proposed by the Alabama Department of Environmental Management, allows companies to have more time periods during the day in which their emissions can be more opaque than otherwise allowed. National and state environmental groups argue the rule is a weakened standard that leads to more harmful emissions that can affect public health.

"Hopefully EPA's action today will lead them to clean up their act and the state's air," said Michael Churchman, executive director of the Alabama Environmental Council.

The EPA under Bush had concluded the new rule was in full compliance with the Clean Air Act and would not increase the average volume and thickness, the opacity, of plumes from industrial smokestacks over the course of a day.

Utility companies with coal-fired power plants, such as Alabama Power Co., have the most at stake, and they also dispute that the new rule is weaker and allows for more emissions.

A spokesman for Alabama Power said Friday it opposes EPA's decision to reopen a debate that has dragged on for six years.

"This rule protects the environment and also provides us the clarity we need," said Michael Sznajderman, spokesman for Alabama Power.

E-mail: morndorff@bhamnews.com

$1.73M to be distributed in Wash. (*Associated Press*) This story also appeared: *Seattle Post Intelligencer*

THE ASSOCIATED PRESS

Last updated April 11, 2009 10:57 a.m. PT

Washington

OLYMPIA, Wash. -- Gov. Chris Gregoire says that $1.73 million in federal grants will be distributed throughout Washington to reduce emissions from diesel engines.

An announcement Friday said the state Department of Ecology will receive the money from the U.S. Environmental Protection Agency. It will use the funds to bolster the Washington clean diesel program.

Ecology has identified diesel exhaust as the air pollutant most harmful to public health in Washington. Diesel exhaust causes 70 percent of the cancer risk from airborne pollutants.

Richmond region failing clean-air test (*Richmond Times-Dispatch*)

By REX SPRINGSTON

Published: April 10, 2009

Virginia

The Richmond area is flunking tough new limits on ozone, the main pollutant in smog.

That means the area will likely go back on the federal government's list of smoggy regions when the new list comes out next year, state officials say.

Regions on the dirty-air list have to reduce ozone levels. Among other requirements, new and expanding industries face tougher pollution controls than those outside the smoggy region.

"This is certainly not welcome news," said Hugh Keogh, president and CEO of the Virginia Chamber of Commerce. "Business needs to have the opportunity to exist, especially in these very difficult economic times. We don't need more penalties or hamstrings. We need a boost."

But David DeBiasi, director of public education for the American Lung Association in Virginia, said it's good the region will be reducing pollution. "Many cities have proved that air quality can be improved while moving forward economically."

Ozone is an invisible, toxic gas that can cause breathing problems and lung damage. It forms when pollutants from cars, factories and other sources cook in the summer sun.

Bill Hayden, a spokesman for the state Department of Environmental Quality, said yesterday that the Hampton Roads and Fredericksburg areas also are not meeting the ozone limits.

That means that when the U.S. Environmental Protection Agency creates its next dirty-air list in March, one continuous high-smog zone could stretch from Northern Virginia to the Tri-Cities area to Virginia Beach. That would be a first.

Smoggy Northern Virginia has been on the dirty-air list for about 20 years.

The EPA toughened its standard, or limit, for ozone last year to 75 parts per billion of air. The previous limit was 84 parts.

"We recognize that it's going to be difficult for all these areas of Virginia to meet the tougher standard, but we'll be working on it," Hayden said.

A region's clean-air status -- whether it's on or off the list -- is determined by ozone levels over three straight years. The four pollution monitors in the Richmond area found average ozone levels during the past three years between 78 and 85 parts per billion.

Hayden said state and local officials will determine over the next few years how to clean the region's air.

Options include putting even tougher pollution controls on existing industries and requiring emissions tests for cars. The tests have been required in Northern Virginia since the early 1980s.

State and local officials have long tried to avoid tests in this area, considering them bothersome for motorists.

The cleanup deadline will probably be around 2015, Hayden said.

The EPA has periodically toughened ozone limits as researchers have found that lower and lower levels can hurt people.

The Richmond area first went on the dirty-air list in 1996. The region cleaned up and went off the list in the late 1990s.

A few years later, the region went back on the list because the EPA toughened the limit. The region met that limit, too, and got off the list in 2007.

"Now the standard is tougher again and we have more work to do," Hayden said.

Cleanup measures initiated in the past include the required sales of cleaner-burning gasoline, which can cost up to 10 cents per gallon more than ordinary gas, and efforts to step up car-pooling.

The Richmond area, as defined by the federal government, encompasses the cities of Richmond, Hopewell, Petersburg and Colonial Heights and the counties of Henrico, Hanover, Chesterfield, Charles City and Prince George. Composition of the area has changed slightly over the years.

Contact Rex Springston at (804) 649-6453 or rspringston@timesdispatch.com

Aspen Power trying to block EPA's decision on construction (*Lufkin Daily News*)

By STEVEN ALFORD
The Lufkin Daily News

Friday, April 10, 2009

Weeks before Aspen Power is scheduled to have its day in court with the Texas Commission on Environmental Quality in Austin, the company is once again involved in litigation.

Following several meetings between the Environmental Protection Agency and Aspen Power over a proposed biomass plant slated for North Lufkin, it looked like construction could once again resume at the plant's site.

Construction was halted in February by the EPA after the agency was notified that Aspen Power's air quality permit has yet to be issued by the TCEQ.

The Federal Clean Air Act does not allow for companies to build facilities that may cause air pollution until after a valid permit has been issued.

However, after further review, officials at the EPA returned Aspen Power's requests to continue construction, and notified the company that the only thing they were allowed to build on their property is a security fence.

Officials at Aspen Power fired back this week with a motion of stay to block the EPA's decision.

The matter is due to be settled in the Fifth Circuit Court of Appeals in New Orleans next week.

"I anticipate the EPA is seriously reconsidering their original motion that was sent," said Danny Vines, president of Aspen Power, during a phone interview on Thursday.

"They never allowed us the opportunity for a hearing, which is principally against the law. They have to provide an entity with a hearing, which they did not provide, but I think we'll get this all worked out soon."

Vines said the EPA contacted Aspen Power and notified them that a team of engineers would be out to the biomass site to inspect their progress.

"They said they were coming on a Monday, and they didn't show. Then they said Tuesday — they didn't show. They did it again on Wednesday," Vines said. "Keep in mind I'm having to make plane arrangements for my engineers who fly in from Chicago."

The EPA eventually did send Aspen Power a cease-and-desist order, which Vines said was basically what had already been sent to them before.

"Aspen Power did ask that we amend our stop-work order to allow several things, only one of which we agreed to," said Dave Barry, a spokesman for the EPA Region 6. "That was the construction of a security fence for security purposes, which we amended last Thursday."

Barry said the EPA recently learned of the petition filed by Aspen Power, and are currently preparing their own legal briefs in response to the motion.

Aspen Power has asked for an expedited review by the court of appeals, with a decision expected around the 15th of April, Barry said.

But while the proposed biomass plant hangs in limbo, people are losing their jobs, Vines said.

"We've had to let 76 workers go in these terrible economic times," Vines said. "They no longer have a job because of this order. It's detrimental to the community and to Aspen Power. We incur costs of about $585,000 a month on construction that we'll never get back, and their order states they are doing this for our benefit?"

The TCEQ overturned an air quality permit it issued to Aspen Power in late July after it was informed that members of the company may have forged signatures in favor of the plant by residents who were actually in opposition.

A Texas Ranger is currently investigating allegations that Vines and his representative Eric Jones forged at least one signature on those documents. Both have denied any wrongdoing.

A TCEQ hearing to determine if Aspen Power will receive an air quality permit is scheduled for April 27 in Austin.

Vines has said he is confident that the matter will be resolved at the hearing next month.

Activists Vow To Push EPA To Expand Climate Rules Beyond Automobiles (*Inside EPA*)

Friday, April 10, 2009

EPA's pending finding that greenhouse gases (GHGs) endanger public health and welfare, which will spur emission rules for motor vehicles, is prompting environmentalists to call for broader regulation of other mobile sources including planes and ships, and to urge the agency to pursue separate rules to cut GHG emissions from power plants.

Activists say that swift issuance of agency regulations mandating cuts in GHG emissions from major mobile sources and power plants will address the most significant contributors to climate change while also adding to pressure on Congress to pass broad legislation creating a cap-and-trade program to cut GHGs.

However, industry sources counter that EPA's current plan to issue GHG rules only for motor vehicles hints at an optimism in the agency that Congress will take the lead on addressing all emissions sources, rather than have the agency conduct the extensive administrative process to issue a host of climate rules.

EPA is slated as early as next week to release a proposed endangerment finding for GHGs, which is expected to make a general finding that GHGs harm human health and the environment, and a more specific finding that motor vehicles "cause or contribute" to this pollution. The agency is not expected to issue a finding that other sources, such as ships or power plants, cause or contribute to the pollution, according to several sources.

The pending finding is a response to the Supreme Court's April 2007 ruling in *Massachusetts v. EPA*, which directed the agency to reconsider an earlier finding that GHGs from motor vehicles do not endanger human health or welfare and therefore do not need to be regulated under the Clean Air Act. A positive finding for endangerment to human health and/or welfare from GHGs under section 202 of the Clean Air Act, which sets motor vehicle emissions and fuel standards, would trigger first-time EPA GHG rules for vehicles.

After finalizing a positive endangerment finding the agency is expected to develop such rules for motor vehicles but not immediately for other sources. Activists are now vowing to push EPA to expand the proposed endangerment finding to include other mobile sources and pursue separate rules to cut GHG emissions from power plants.

One Earthjustice attorney says that if the endangerment finding is limited to motor vehicles, activists will immediately send a letter to EPA urging an expanded determination that finds ships and

airplanes also cause or contribute to climate change, in an effort to speed the agency's regulation of the sectors.

EPA should expand the finding because the agency already faces formal requests to regulate emissions from the ships and airplanes, the attorney says. Earthjustice, on behalf of Friends of the Earth, the Center for Biological Diversity and Oceana, in July filed a notice of intent to sue EPA for failing to regulate the sectors. In addition, emissions from the sectors are significant enough to be regulated, because aircraft contribute three percent of total U.S. GHGs and ships account for five percent of U.S. transportation GHGs, the attorney says.

According to a draft EPA presentation on the finding, the agency has in the past found that sources that account for as little as one percent of mobile source emissions of criteria pollutants have been found to contribute to pollution. But the document also shows that EPA may find that sources that emit a *de minimus* amount of GHGs do not cause or contribute to climate change, a move that clear the way for the agency to exempt small GHG sources from regulation.

Another key environmentalist is urging EPA to act quickly to regulate GHGs from power plants. Although the source does not suggest that the agency should broaden the upcoming endangerment finding to include the sector, the source believes that EPA should move to regulate power plants later this year.

In lieu of climate legislation, the best approach would be to issue emission standards for power plants -- most likely as a new source performance standard (NSPS) -- while not precluding the need for Congress to pass legislation creating a more comprehensive climate cap-and-trade program, the source says.

Activists see EPA's pending NSPS for coal-fired power plants -- which activists hope will be set to limit emissions at a level equivalent to a natural gas plant -- as a key tool in their efforts to regulate GHG emissions in part because it will set a standard that will be applied to both new and existing plants. The revision of the NSPS for electric generating units is currently before the agency, after a federal court remanded the 2006 standard back to EPA on the issue of whether it should include limits for carbon dioxide following the Supreme Court ruling in *Massachusetts v. EPA* that CO2 is an air pollutant.

One state officials notes that EPA does not need to expand the endangerment finding or issue a separate "cause or contribute" finding in order to begin regulating emissions from power plants. The Bush administration when it issued an advance notice of proposed rulemaking for regulating GHGs under the Clean Air Act late last year indicated that it could move forward with requiring carbon dioxide limits in NSPSs, which apply to stationary sources, regardless of whether an endangerment finding has been issued, the source says.

However, a third environmentalist is comfortable with EPA addressing only motor vehicles for now. It makes sense for EPA to focus on that sector because it was the basis for *Massachusetts*, and EPA's finding for motor vehicles will give the agency the authority to move on to other sectors, the source says.

If EPA focuses on mobile sources and power plants after issuing the finding it could also narrow agency "interference" with climate legislation that would create an emissions credit trading program covering a broad range of industrial sectors, the key environmentalist says.

One utility industry source says EPA may be taking a sector-by-sector approach in the hope Congress will enact comprehensive climate legislation. "There is some optimism on the part of EPA

that if by waiting for a while, Congress would enact something," the source says. Then EPA could concentrate on implementing climate legislation rather than pursuing rules for each sector, the source says. -- *Kate Winston & Jenny Johnson*

BUDGET/STIMULUS

==========

State gets $1.73 million for clean diesel projects (*Associated Press*) This story also appeared: *LSU The Reveille*

Associated Press

Published: Sunday, April 12, 2009

Updated: Sunday, April 12, 2009

Louisana

NEW ORLEANS (AP) — The U.S. Environmental Protection Agency has awarded $1.73 million to the state to support clean diesel engine projects.

The funds are coming from federal economic stimulus money.

The money will be used by the Louisiana Department of Environmental Quality to fund projects that reduce emissions from diesel equipment.

All 50 states and the District of Columbia are getting the same grant.

Contact The Daily Reveille news staff at news@lsureveille.com

Stimulating Efficiency for the Long Term (*NewsBlaze*)

By Stacy Angel and Larry Mansueti

Published: April 11,2009
California

Oil prices reached a record peak in mid-2008, then spiraled downward in tandem with world economies. A new president took office in the United States, and the economic crisis became Item One on his agenda. President Obama has vowed to place the conjoined issues of energy and economics at the forefront of his recovery plan. But years before this crisis erupted, the U.S. energy industry and the officials who regulate it joined forces to develop and implement new ways to bring greater efficiency to the nation's entire energy infrastructure.

Stacy Angel and Larry Mansueti oversee federal assistance to the National Action Plan for Energy Efficiency. Angel is in the Environmental Protection Agency's Climate Protection Partnerships Division, where she supports voluntary efforts to reduce carbon emissions through clean energy, including energy efficiency. Mansueti is in the Department of Energy's Office of Electricity, where he supports senior management on electricity policy matters and assists states working to enhance efficiency in electricity regulatory policies.

This article will appear in the April edition of eJournal USA, "Energy Efficiency: The First Fuel."

The American Recovery and Reinvestment Act of 2009 became law on February 17, stimulating an unprecedented level of energy efficiency investment in the United States.

Investing in more efficient technologies and practices in our homes, businesses, schools, governments, and industries - which account for 70 percent of natural gas and electricity consumption in the United States - is one of the most constructive, cost-effective ways to create new jobs. At the same time, such investment will address the challenges of high energy prices, energy security and independence, environmental concerns, and global climate change in the

near-term. Mining this efficiency could help the United States meet on the order of 50 percent or more of the expected growth in consumption of electricity and natural gas in the coming decades, saving billions of dollars in energy bills and avoiding significant emissions of greenhouse gases and other air pollutants.

Recognizing the large opportunity for energy efficiency, more than 60 leading organizations representing diverse stakeholders from across the country joined together to develop the National Action Plan for Energy Efficiency in 2006. Many of these stakeholders are the very groups that can deliver energy efficiency - electric and gas utilities, their corresponding state regulators, and others.

The Action Plan identifies the key barriers contributing to underinvestment in energy efficiency, outlines five key policy recommendations for achieving its goal of all cost-effective energy efficiency, and offers a policy framework - Vision for 2025 - to achieve and measure progress towards the goal. Barriers to greater investment in energy efficiency are widespread, among customer types and within the energy utility companies. For example, customers who do not pay their energy bills directly, such as in some rental housing, do not have an incentive to spend more on energy-efficient lighting or televisions because their landlord will reap the monthly utility savings. We call this the "split incentive" barrier to energy efficiency. In addition, utilities may be able to reduce their costs to serve all customer energy demands by supporting energy efficiency, but "best practices" program approaches for delivering these savings are not always well-documented and often not captured in utility energy planning or funding efforts.

The Action Plan has received broad support by states, utilities, and customers across the United States. To date, more than 120 organizations have endorsed the Action Plan recommendations and made public commitments that will help advance Vision for 2025. The U.S. Environmental Protection Agency and the U.S. Department of Energy only facilitate the work of this public-private initiative, and thus the positions and statements are those of the Action Plan members themselves. It's a powerful message endorsed by a wide cross-section of decision makers from across the United States.

Vision for 2025 is the flagship document of the Action Plan. Given the U.S. utility regulatory structure, many of the policies to remove barriers to energy efficiency must be advanced at the state level. Therefore, the Action Plan's Vision for 2025 offers a policy framework for advancing all cost-effective energy efficiency, while recognizing the diversity of regional, state, and local circumstances and regulatory structures. Thus, policy details and implementation decisions will be determined through appropriate state-level processes. It is a framework that can be updated and improved over time.

The vision leverages more than two decades of energy efficiency experience to craft its 10 implementation goals. Progress is measured across a comprehensive set of policy steps under these goals. As of the end of 2007, Vision for 2025 found much progress had been made, but more work is needed. About half of the states have established energy efficiency programs to reach all customers and adopted building codes requiring a higher degree of energy efficiency in construction of new homes and buildings. Further, about one-third of the states have established energy savings targets and addressed disincentives for utility companies to support energy efficiency efforts. For example, some states have established policies so that utility companies do not have their ability to earn profits linked to selling additional energy.

Less progress has been made by states in establishing consistent, stable funding for energy efficiency. Power plants, transmission lines, and pipeline construction by utilities receive steady funding through state regulatory processes that permit the recovery of approved capital improvement costs from customer rates. States could adopt policies to also fund efficiency measures through the utility rate structure to meet the Action Plan goals.

Given the success and challenges to date, states, utilities, and other organizations are currently spending about $2 billion per year on energy efficiency programs. This level of investment has avoided energy production equivalent to more than 30 power plants generating 500 megawatts of electricity and the greenhouse gas emissions equivalent to that of 9 million vehicles per year, while saving energy customers nearly $6 billion annually.

The economic stimulus funding approved by the Congress and authorized by President Obama's signature provides a much-needed increase in resources, several times above current levels, to

realize even greater benefits from energy efficiency. Even with this funding, the work of the Action Plan is not yet done. The potential for cost-effective energy savings in the nation's buildings and homes exceeds that which will be met through stimulus activities. Further, the trained and experienced energy efficiency workforce will grow under the stimulus and be ready to service the additional building stock. Policymakers can be taking action now so that the same barriers to energy efficiency originally recognized by the Action Plan continue to be removed over the long term. This will take a reexamination of how the incentives for energy efficiency investments are aligned across customers and energy suppliers, including how utilities can achieve lower costs by considering efficiency as they would electricity generation and natural gas supply in energy planning efforts. The Action Plan's Vision framework is offered to help states explore how they can continue to stimulate energy efficiency and maintain jobs over the long term.

As the economic stimulus is implemented, the Action Plan leadership will continue to make its wealth of reports, tools, and technical assistance available for states, local authorities, and energy efficiency programs. Existing best practices and expertise captured in these resources can be leveraged to help put stimulus funding to work quickly and effectively, while also supporting the development of a policy environment to support energy efficiency well after the economic stimulus funding has expired.

See the Action Plan Web site at www.epa.gov/eeactionplan.

(This is a product of the Bureau of International Information Programs, U.S. Department of State. Web site: http://www.america.gov)

Oregon, Washington get money to cut diesel pollution (*Hillsboro Argus - OregonLive.com*)

Posted by emortens April 10, 2009 14:19PM
Oregon

Oregon and Washington will receive a combined $3.4 million in federal stimulus grant money to retrofit diesel engines in trucks, loaders and construction equipment.

The distributions come from the U.S. Environmental Protection Agency under the American Reinvestment and Recovery Act. In both states, the grants are intended to reduce harmful emissions from diesel engines. Older diesels produce exhaust particles that can cause lung cancer and other diseases.

Locally, the Port of Vancouver will receive $357,500 in federal stimulus money to retrofit diesel engines on cargo-handling equipment such as trucks, loaders and forklifts. The work will involve approximately 65 vehicles. The rest of Washington state's grant will go to ports in Seattle and Tacoma.

"More than 4 million people in Washington live or work close to highways or other major roads, where they are likely to be exposed to diesel exhaust," Gov. Christine Gregoire said in a news release. "Funding under the Recovery Act will greatly benefit Washington's environment and people."

Oregon's share of the grant will be divided among the city of Portland, Multnomah County, Lake Oswego, Milwaukie and Lane County. The state Department of Environmental Quality and Gov. Ted Kulongoski's office were finalizing details of a formal announcement Friday.

In Oregon, the money will be used to retrofit the engines of municpal fleets, plus private construction and off-road equipment used by contractors working on public projects, the DEQ said.

--*Eric Mortenson*; ericmortenson@news.oregonian.com

EPA announces stimulus funds for water projects (*Water Technology Online*)

4/10/2009 10:53:23 AM

WASHINGTON — The US Environmental Protection Agency (EPA) continues to announce economic stimulus funds for water infrastructure projects in states throughout the nation.

● In Oregon, the EPA has awarded more than $28.5 million to the Oregon Department of Human Services' Drinking Water Program, according to an April 9 EPA press release.

● In Idaho, the EPA has awarded over $19.5 million to the Idaho Department of Environmental Quality, according to a separate April 9 EPA press release.

● In Washington State, the EPA has awarded over $41 million to the Washington State Department of Health, according to an April 9 EPA press release.

● In Kentucky, the EPA has awarded $20,450,000 to the Kentucky Infrastructure Authority, the EPA said in an April 9 press release.

The EPA said this new infusion of money will help the state and local governments finance many of the overdue improvements to water projects that are essential to protecting public health and the environment in each state.

The funds provided by the American Reinvestment and Recovery Act of 2009 (stimulus package) will go to each state's Drinking Water State Revolving Fund program.

EPA also announced stimulus funds for wastewater infrastructure projects in several states. To access that information and the aforementioned press releases, click here.

For related information, click here

Five States so Far Committed to Using Stimulus Funds to Enhance Clean School Bus Projects (*School Transportation News*)

(April 10, 2009) — The U.S. Environmental Protection Agency released $88.2 million for diesel emissions reduction projects to environmental agencies in all 50 states and the District of Columbia, the agency announced.

The funds provided by the American Reinvestment and Recovery Act of 2009 were equally divided, with each state getting $1.73 million. Funds can be used for retrofit and replacement and idle reduction grants and loans to school districts, local governments, businesses and truck owners and operators.

Some states have already committed this funding specifically to school bus projects. Hawaii announced it would replace many of the oldest diesel buses in operation and retrofit up to 400 school buses. California, Illinois, Nevada and Ohio also said the funds would go to existing and new clean school bus programs.

Those interested in applying for these grants can contact their state environmental or air quality agency.

School districts, local governments, states, tribal agencies and non-profits can also compete for a separate $206 million in national funding for similar projects. Applications for these federal grants are due on April 28. Question can be submitted via email to the EPA through April 17. The agency will post its final FAQs on the grant funds on April 22.

EPA awards Texas nearly $2 million in stimulus funds (*Bizjournals.com*)

San Antonio Business Journal

Friday, April 10, 2009, 10:47am CDT

The **Texas Commission on Environmental Quality** has received $1.73 million in stimulus funding from the **Environmental Protection Agency** to support various clean diesel projects and loan programs in the state.

The goal of the funding is to help clean-up the nation's existing fleet of more than 11 million diesel engines. The money is being supplied by the American Reinvestment and Recovery Act. The state plans on using part of the stimulus funds for its ongoing school bus emissions reduction program. School buses are being retrofitted with exhaust controls in order to reduce emissions of particulate matter.

"The Recovery Act will put Texas to work by improving water infrastructure, cleaning up and redeveloping Superfund and Brownfield sites, and developing clean-diesel technologies to bolster the state's economy," says EPA Regional Administrator Lawrence E. Starfield. "These projects not only create and protect jobs, but cut costs and increase demand for materials, goods and services across the state."

President Barack Obama signed the stimulus legislation into law on Feb. 17, which provided $88.2 million or $1.73 million equally to the states. States, local governments, nonprofit organizations and tribal agencies can also compete for a portion of $206 million under the stimulus plan's national clean diesel funding program.

CLIMATE CHANGE/GLOBAL WARMING

==========

Obama, Who Vowed Rapid Action on Climate Change, Turns More Cautious (*New York Times*)

By JOHN M. BRODER

April 11, 2009

WASHINGTON — President Obama came to office promising swift and comprehensive action to combat global climate change, and the topic remains a surefire applause line in his speeches here and abroad.

Yet the administration has taken a cautious and rather passive role on the issue, proclaiming broad goals while remaining aloof from details of climate legislation now in Congress.

The president's budget initially included roughly $650 billion in revenue over 10 years from a cap-and-trade emissions plan that he wants adopted. But the administration, while insisting that its health care initiative be protected, did not fight to keep cap-and-trade in the budget resolutions that Congress passed last week, and it wound up in neither the House's version nor the Senate's.

Overseas, American officials are telling their counterparts that they need time to gauge the American public's appetite for an ambitious carbon reduction scheme before leading any international effort.

Has the administration scaled back its global-warming goals, at least for this year, or is it engaged in sophisticated misdirection?

Maybe some of both. While addressing climate change appears to be slipping down the president's list of priorities for the year, he is holding in reserve a powerful club to regulate carbon dioxide emissions through executive authority.

That club takes the form of Environmental Protection Agency regulation of the gases blamed for the warming of the planet, an authority granted the agency by the Supreme Court's reading of the Clean Air Act. Administration officials consistently say they would much prefer that Congress write new legislation to pre-empt the E.P.A. regulatory power, but they are clearly holding it in reserve as a prod to reluctant lawmakers and recalcitrant industries and as evidence of good faith to other nations.

Industry lobbyists and members of Congress who are engaged in writing energy and global warming bills say they are well aware of the E.P.A. process bearing down on them.

"Once the Supreme Court declared carbon dioxide to be a pollutant under the Clean Air Act, E.P.A. had no choice but to act," said Representative Rick Boucher, a moderate Democrat from a

coal-producing region of Virginia. “Most people would rather have Congress act. We can be more balanced; we can take into account the effects on the economy. But if we don’t undertake this, E.P.A. certainly will.”

Still, the agency’s regulations would take months to write and years to become fully effective. Meanwhile, Congress is already starting work on energy and climate legislation, though without significant guidance from the White House, at least in public.

Carol M. Browner, the White House coordinator of energy and climate policy, issued a surprisingly bland statement last week when two top House Democrats unveiled a far-reaching plan to cap greenhouse gases and move the nation toward an economy less dependent on carbon-rich fuels like coal and oil.

Ms. Browner stopped short of endorsing that plan, issued by Representatives Henry A. Waxman of California and Edward J. Markey of Massachusetts, saying instead that Mr. Obama “looks forward to working with members of Congress in both chambers to pass a bill that would transition the nation to a clean-energy economy.” She gave little clue as to what she and the president believe such a measure should say.

At an international climate conference in Germany that ended Wednesday, some delegates said they were disappointed in the Obama administration’s lack of robust leadership. The explanation offered by Jonathan Pershing, a leader of the American delegation, was that the administration was waiting to measure the American technological and political capacity to address climate change and was looking to Congress to set specific targets for reducing carbon pollution.

Business lobbyists welcome the White House’s go-slow approach, saying the issue is too complicated and too costly to be rushed, especially in a recession.

“We have not until now had a national debate on a climate change proposal, period,” said Karen A. Harbert, a former senior Energy Department official who now heads the United States Chamber of Commerce’s energy institute. “That has to happen for any piece of legislation to achieve broad support across the country.”

Ms. Harbert and other business lobbyists also welcomed the administration’s hesitancy to undertake regulation of climate-altering gases under E.P.A. authority, saying the matter should be fully aired before Congress so that all interests and regions could be heard.

Keith McCoy, vice president for energy and resources policy at the National Association of Manufacturers, said his organization was “strongly opposed to an E.P.A. regulatory process for greenhouse gas emissions under the Clean Air Act.”

Mr. McCoy said his members would prefer a binding international treaty that would cover all nations, particularly those whose industries compete with energy-intensive American manufacturers. “Absent that,” he said, “we would prefer a robust and transparent debate within Congress.”

The administration's caution leaves many environmental advocates frustrated, although most are reluctant to speak on the record for fear of alienating their allies inside government.

One environmental and energy lobbyist with close ties to the White House said the administration had been inhibited by a number of factors, including vacancies in many top policy jobs, an intense early focus on the financial and economic crises, and an unwillingness to alienate business and Congressional leaders with a heavy-handed approach.

"With those realities, coupled with the fact that the president himself realizes this is harder to do in the midst of recession, they are basically content to see what Congress will do," this lobbyist said. "Plus, Henry Waxman has put together a very serious piece of legislation, and that in my mind justifies their lack of forceful intervention. That's just where they are now."

Earth's constant temperature another natural resource (*Desert Valley Times*)

Bob Challinor, Desert Valley Times

April 10, 2009

The earth absorbs nearly half of the sun's energy and is a storehouse that can be tapped for that renewable resource through a geo-exchange system.

A geo-exchange system draws stored energy from underground where the temperature is nearly constant – 69 degrees in Mesquite – to provide heating, cooling and hot water for homes and commercial buildings.

Dave and Kelly Charlton from Santa Clara-based Paxman Heating and Cooling taught Mesquite Energy Fair Subcommittee members the basics of geo-exchange systems Tuesday morning at city hall.

Geo-exchange systems use ground source heat pumps, electrically-powered systems that extract absorbed solar energy from the earth. Ground source heat pumps are linked to closed or open loops, and the loops can be installed horizontally, vertically or in a pond or lake. The type chosen depends on the available land areas and the soil and rock type at the installation site.

Water or an antifreeze solution is circulated through plastic pipes buried beneath the earth's surface in closed loop systems. During winter the fluid collects heat from the earth and carries it through the system and into the building. During summer the system reverses itself to cool the

building by pulling heat from the home or business, carrying it through the system and placing it in the ground. The process creates free hot water in the summer and delivers substantial hot water savings in the winter.

Open loop systems operate on the same principle as closed systems and can be installed where an adequate supply of suitable water is available and open discharge is feasible.

The ground source heat pump is one part of the three-part geo-exchange system. The system also includes an underground heat exchanger and a distribution system/.

“Surveys by utility companies indicate a higher level of satisfaction with geo-thermal,” Dave Charlton said. “There are over 1 million installations in the U.S. alone. The impact of that is the same as taking 1.7 million cars off the road or planting 400 million trees.

“It provides better air purification than a conventional heating/air conditioning system. Geo-exchange systems provide a more consistent air temperature throughout the home. Everything is inside. There’s less maintenance because the system is not exposed to harsh outdoor conditions.

“The number one maintenance call in air conditioning is the defrost board. Our unit does not have a defrost board. It doesn’t have the problems a regular system has.”

Because the geo-exchange system pumps water instead of air, it doesn’t have to work as hard as a conventional heating/cooling system, Charlton said.

“Our equipment lasts two to three times longer than in conventional systems,” he said. “You don’t have the temperature swings underground and when you’re pumping water instead of air.”

The average geo-exchange project costs about $16,000-$20,000, Charlton said.

“The stimulus bill of 2008 gives a 30 percent tax credit with no cap,” said Kelly Charlton. “That’s a screaming deal.”

“It’s easier to finance these installations,” Dave Charlton. Banks are starting to realize the value of these systems. They sometimes use an energy efficient mortgage.”

According to the U.S. Environmental Protection Agency, geo-exchange systems save homeowners 20-50 percent in cooling costs and 30-70 percent in heating costs, compared to conventional systems.

Installation usually takes about a week.

Charlton said his company comes out, goes over the site and performs a J-load assessment.

“That tells us how efficient your house is,” he said. “We do a room to room assessment so we know how much air a room needs.”

“The key is – for whichever company does the installation – to make sure they do their homework first and assess the house properly,” Kelly Charlton said. “Geo-thermal is so pure; it stays the same temperature. You set it and forget it.”

Loops in open or closed systems are made from high-density polyethylene, a tough plastic. Installers connect sections of pipe by heat fusing them. In homes where yard space is limited, contractors install vertical ground closed loop systems. Installers come in with a drilling rig and bore wells – each one is a five-inch diameter hole 300 feet deep in the yard. Each hole contains a single loop of pipe with a U-bend at the bottom. The rule of thumb is that one well equals a ton of cooling. A ton cools about 400 square feet. The typical home uses about a four- to five-ton unit, Charlton said.

Homes with larger yards can use horizontal ground closed loop, usually the most cost-effective system. Workers use trenchers or backhoes to dig ditches six feet deep, and then lay a series of parallel plastic pipes.

All Washington County schools use geo-thermal. The geo fields are installed beneath football fields or schoolyards.

“You want to make sure you get a big enough unit for your home,” said an audience member. “Builders dictate to mechanical engineers how big a unit you get. Builders don’t want to put in bigger units because it changes the feed and the transformer. It changes everything down the street and changes their cost.

“A proper size unit doesn’t run 24/7. It can rest. It can catch up.”

Paxman Heating and Cooling will be at the Mesquite Energy Fair May 9. The company website is www.paxmanheatingand cooling.com. Phone numbers: (435) 632-0069 and (435) 628-4172.

Additional online information about geo-exchange systems:

geoexchange.org

igshpa@okstate.edu

EARTH DAY

==========

10 ways to make every day Earth Day (*Journal Times*)

By Lee B. Roberts
Journal Times

Saturday, April 11, 2009 8:11 PM CDT

Wisconsin's history is rich with efforts to honor the planet we live on, including the founding of Earth Day by our state's former governor, Gaylord Nelson, on April 22, 1970.

Twenty million Americans made history that day by attending the innaugural event, and Racine residents will continue such traditions this month with a series of Earth Day related events ranging from a family-oriented Eco Fair to a variety of public work projects designed to improve and protect our environment (see accompanying stories on this page and Page 2D for details).

Meanwhile, here are 10 simple, money-saving steps each of us can take throughout the year to help preserve the planet for generations to come and keep the legacy of Earth Day alive.

1. Every drop counts

Reducing household water consumption will not only help conserve natural resources, but will soften the recent rate increase set by the Racine Water Utility (rates went up

19.5 percent at the end of March). Start with simple steps — such as turning the faucet off while brushing your teeth — and work your way up to repairing leaky faucets. One faucet, dripping 60 drips per minute all day long adds up to five gallons of water per day (2,082 per year), according to the U.S. Geological Survey.

Installing a low-flow shower head can significantly reduce the amount of hot water used. A family of four, each showering five minutes a day, uses about 500 gallons per week, and that amount can be cut in half with a water-conserving shower head, according to: http://www.energystar.gov

2. Unplug your life

Even when they are not turned on, appliances that are plugged in are using electricity. From air conditioners to VCRs, many appliances cannot be turned completely off unless they are unplugged, and therefore are drawing "stand-by" power as long as they are plugged in.

The amount consumed by each appliance may not be much, but when you add all the energy used by billions of appliances across the country each day, the amount is substantial. To see how much power your television, stereo system, internet terminal and microwave are using, even when you aren't using them, go to: http://www.consumerenergycenter.org/myths/appliances.html

3. Reuse (and recycle)

Recycling may already be a way of life, but reusing things saves even more energy and money. In addition to buying second-hand items, consumers should look into repairing an appliance

rather than replacing it. In doing so you can keep goods out of the waste stream, reduce strain on valuable resources, create less air and water pollution, save purchase and disposal costs, and more, according to: http://www.care2.com/greenliving

4. Park the car

Walking or biking to work not only reduces your gas and parking bills but improves cardiovascular health. If you don't have a bike, try carpooling or taking mass transportation. Those options may not strengthen your heart, but they can eliminate the stress of traffic jams.

5. Let there be light And let it be made with CFLs. Compact fluorescent light bulbs use 75 percent less energy than traditional bulbs, according to Energy Star, a joint program of the U.S. Environmental Protection Agency and the U.S. Department of Energy.

If every American home replaced just one incandescent light bulb with an Energy Star qualified CFL, it would save enough energy to light more than 3 million homes and prevent greenhouse gas emissions equivalent to that of 800,000 cars. For more, go to: http://www.energystar.gov

6. Eat smart

Even the foods we choose can make a difference. Eating locally produced food is not only good for you it is good for the environment and the economy, according to supporters of green living.

Buying food grown by local farmers saves transportation fuel costs and emissions, and more of your money goes directly to the farmer, rather than to processing, packaging, refrigeration and marketing.

7. Clean green

Take stock of the chemical cleaning agents used in your home. While some are necessary, chemical cleaning products can pose health and environmental concerns. according to the U.S. Environmental Protection Agency.

The EPA offers a lot of information about greening the purchase of cleaning products on its Web site at http://www.epa.gov, including the advice that trade-offs are inevitable.

While one product may be made with renewable resources, another may have a lower VOC content. "The overall best value takes into account performance, price, availability, regulatory requirements, and environmental impact."

8. Cool down

Simply changing your washer setting from hot to cold can save energy and money. As much as 90 percent of the cost of washing clothes by machine goes toward heating the water, according to the U.S. Department of Energy. Unless you're dealing with oily stains, the warm or cold water setting on your machine will generally do a good job of cleaning your clothes, the USDE says,

and by switching the temperature setting from hot to warm you can cut a load's energy use in half.

9. Borrowing vs. buying

A library book, for example, is not only free, it reduces the amount of paper and ink used. The public library is also a great resource for borrowing CDs, DVDs and, in the case of some children's libraries, puppets and games.

Occasional-use items, such as power tools, are items that can either be borrowed from neighbors, or rented. And, if you feel uncomfortable borrowing from neighbors and friends, offer a trade of some item, or some service, that they might need.

10. Don't toss that phone

The electronic components in cell phones, computers, etc., are harmful to the environment when put in a landfill. Recycling them is the best option and there are often non profit agencies that can benefit from collecting them and recycling them. Today ends is National Cell Phone Recycling Week. Go to: http://www.epa.gov/epawaste/partnerships/plugin/cellphone/index.htm

Editor's Note: What do you do to make every day Earth Day? Post your suggestions or tried-and-true eco-friendly efforts below.

Earth Day is among legacies of Cuyahoga River fire (*The Plain Dealer - cleveland.com*)

Sunday, April 12, 2009

ONLINE:

For a full environmental history timeline, go to:

ecotopia.org/ehof/timeline.html.

A steady stream of environmental events, legislation and agreements followed quickly after the June 22, 1969, Cuyahoga River fire.

While no one has argued that the river blaze caused all of these events (the federal law forming the Environmental Protection Agency after all, was passed earlier in 1969), there's little doubt that the Cleveland fire was right in the middle of a sweeping change in America.

The founder of the nation's first and largest environmental rally ever, however, did directly credit the shock of the Cuyahoga blaze.

The late Wisconsin Sen. Gaylord Nelson cited the Cuyahoga River disaster in some of the promotional material in advance of the first-ever Earth Day, and later in his 2002 book "Beyond Earth Day."

"Then, in June of 1969, the Cuyahoga River -- slick with oil and grease and littered with debris -- caught fire and shot flames high into the air in Cleveland," he wrote.

"That image, widely circulated in the popular press, burned its way into the nation's collective memory as the poster child for environmental atrocities of the time."

The 1970 Earth Day event that followed drew 20 million people -- about 10 percent of the nation's population in 1970.

Earth Day will celebrate its 39th anniversary this year on April 22.

New federal environmental regulations for air, water and land followed over the next decade, many in just a few years after the fire:

The federal Clean Air Act was passed in 1970, cracking down mostly on industrial polluters and coal-burning power plants.

The federal Clean Water Act (officially, the Amendments to the Water Pollution Control Act) was approved by Congress in 1972 (over President Nixon's veto), making it a national goal to make all waterways "fishable and swimmable."

Congress in 1972 also banned the chemical DDT, first shown in the mid-1960s to be damaging to wildlife (especially the American bald eagle) by environmental writer Rachel Carson's book "Silent Spring."

The Great Lakes Water Quality Agreement was agreed to by the United States and Canada in 1972 (and renewed in 1978), expressing the commitment of the two countries to "restore and maintain the chemical, physical and biological integrity" of the lakes and their watershed ecosystem.

The federal Endangered Species Act was passed in 1973, providing for the conservation of "ecosystems upon which threatened and endangered species of fish, wildlife, and plants depend."

-- Michael Scott

The river was increasingly filled with flammable liquids as it drained Cleveland industrial byproducts into an equally polluted Lake Erie.

Oil slicks on the river surface burned much worse in the past. Among them: A 1912 fire had killed five dock workers when the blaze spread to the shipyards and a 1952 fire caused an estimated $1.5 million in damage.

But while some of those earlier disasters had commanded banner headlines in The Plain Dealer and the now-defunct Cleveland Press, they didn't appear to dent the broader consciousness of an American public focused on economic progress.

"In both Cleveland papers, the news was the damaged trestles, not the burning river," write history professor David Stradling of the University of Cincinnati and brother-journalist Richard Stradling. The duo's paper, "Perceptions of a Burning River," was published in the July 2008 Environmental History magazine.

"Remember, a lot of people saw a filthy river as a sign of progress, not a problem at all," Adler said.

But Cleveland Mayor Carl Stokes didn't see progress - he saw trouble on the river in a city that had so far been unable to get much help from the state of Ohio.

The day after the 1969 fire, on June 23, Stokes announced that he was filing a formal complaint with the state, claiming that a clean river was beyond the city's control.

"We have no jurisdiction over what's dumped in there," he told The Plain Dealer that day.

The state's response? A dirty river was the fault of a failing city sewer system.

The city's rejoinder: We can't fully upgrade our sewers unless the state kicks in more money to help us.

But state help never came - although the governor's office did threaten to put a stop to all construction in Cleveland unless the city cleaned up its wastewater even more.

So while the city was already making plans to upgrade its sewer systems with the $100 million bond issue approved by voters in November 1968, it would have to wait a few years more for any significant help from a larger government entity.

That help, eventually, would come in the form of the federal Clean Water Act in 1972 - supported by U.S. Rep. Louis Stokes, the mayor's brother - which demanded that all waterways should eventually become "fishable and swimmable."

But even that didn't happen until after the fire on the Cuyahoga gained a much larger cultural currency.

Nation's eyes already

on environment

The timing was just right for that to happen.

The Cuyahoga River fire gained that notoriety because it came right in the midst of the 1960s - the decade of change.

Even ahead of the civil rights movement, the sexual revolution and the space race, came Rachel Carson's "Silent Spring," a landmark book that chronicled the effect of pesticides on bird populations, published in September 1962.

Then, in January 1969, the world watched for 11 days as more than 200,000 gallons of crude oil gushed up from a blown-out well off the coast of Santa Barbara, Calif. The spill killed 3,600 birds, nearly a dozen seals and dolphins and countless fish and other sea creatures.

It was an environmental disaster that President Richard Nixon said "touched the conscience of the American people" as he called for a better way to use resources while protecting our natural surroundings.

So only six months later, on June 22, when a flotilla of oily debris near Republic Steel caught a spark from an overhead rail car and briefly burned as it floated down the Cuyahoga in the summer of '69, America was primed to react.

Even if it meant reacting to the wrong photo.

No fire historians have been able to produce a photo of the Cuyahoga fire. There likely aren't any.

The fire, which broke out at midday on a slow-news day Sunday, was put out in a half-hour after causing less than $100,000 in damage.

Neither of Cleveland's daily papers produced any images of the 1969 fire, instead publishing the next day photos of the effect of the fire. The Plain Dealer showed crews hosing down the smoldering timbers of the railroad bridge; the Press showed rails on the bridge above the river, bent by the heat from the blaze.

But two months later, when Time magazine ran a brief essay mentioning the Cuyahoga River fire, its editors instead published a Plain Dealer photo from the 1952 fire showing a towering blaze and firefighters dousing the conflagration as it engulfed a tugboat.

In today's internet vernacular, you might say that the fiery (if misleading) photo "went viral," showing up on news broadcasts nationwide and likely worldwide, the historians say.

"I will never forget a photograph of flames, fire, shooting right out of the water in downtown Cleveland," former EPA Administrator Carol Browner said in a later interview, apparently referring to that 1952 image. "It was the summer of 1969 and the Cuyahoga River was burning."

Indeed, the fire had begun to take on "mythic status, and errors of fact became unimportant to the story's obvious meaning," the Stradlings wrote.

National Geographic followed in December 1970, more than a year later, publishing a cover story, "Our Ecological Crisis." The feature included a graphic showing a six-mile segment of the river that "receives the wastes of steel mills, chemical and meat-rendering plants and other industries."

Mythical details aside, the fact that the Cuyahoga River had caught fire at all had quickly become a well-known and oft-repeated truth - among not only ardent environmentalists, but also a previously ignorant public.

"I mean a river lighting on fire was almost biblical," Sierra Club President Adam Werbach said in a CNN interview in 1997. "And it energized American action because people understood that that should not be happening."

Tomorrow: What did the 1972 federal Clean Water Act accomplish for the Cuyahoga River - then and now?

To reach this Plain Dealer reporter:

mscott@plaind.com, 216-999-4148

EDITORIAL/COMMENTARY/OP ED/LETTERS

==========

EPA's Bad Side (*Lufkin Daily News*)

It's not a place Aspen Power should want to be

The Lufkin Daily News

Sunday, April 12, 2009

We hope, particularly for the sake of North Lufkin, that all the regulatory haze surrounding the proposed Aspen Power biomass plant blows over. At the moment, it's a big cloud.

Aspen Power has had to halt construction on the plant because the Environmental Protection Agency found out the company was building the facility without an air quality permit — a big

no-no in the feds' minds, apparently. As we understand it, the Texas Commission on Environmental Quality held off on issuing the permit until it completed an investigation into forgery allegations against the company; Danny Vines, president of Aspen Power, said his company had an agreement with the TCEQ that let Aspen continue its construction work. The 67-acre site for the proposed power plant, which would turn wood waste into electricity, is on Kurth Drive, just inside Loop 287 in North Lufkin.

We are concerned about the latest development in the Aspen Power process: The company has filed an appeal with the Fifth Circuit Court of Appeals in New Orleans to block the EPA's most recent edict to Aspen Power that it stop building the planned plant, with the hope of being able to immediately resume construction.

"We've had to let 76 workers go in these terrible economic times," Vines said in a story we published Friday. "They no longer have a job because of this order. It's detrimental to the community and to Aspen Power. We incur costs of about $585,000 a month on construction that we'll never get back, and their order states they are doing this for our benefit?"

We feel for the people who thought they had good jobs with Aspen, but were laid off so soon into the construction process. At the same time, we don't think that getting on the EPA's bad side — a likely result of suing the agency — is a wise long-term plan for the power plant. You don't want to tick off the feds.

Certainly every day that Aspen Power is not building its plant is a setback for the company, which had hoped to have the facility operational by the end of this year. A best-case scenario, at this point, would be that Aspen Power is able to get its air permit in its April 27 hearing with the TCEQ; the workers get their jobs back, and are able to build the thing in record time; and the plant really is able to provide jobs to North Lufkin residents and clean energy for decades to come.

A poor relationship between Aspen Power and the EPA could jeopardize all of that.

Bay science (*Newport News Daily Press*)

April 10, 2009

Virginia

It's been a good week for science. And for the Chesapeake Bay, at least as far as reminding the public, and the groups that want decisions about the bay to accommodate their special interests, that science has to be in the driver's seat.

After years of study, the U.S. Army Corps of Engineers finally announced its decision about the best way to try to restore the bay's decimated oyster population. It ruled in favor of natives, and

against Asian oysters.

That was a victory for science. Because the rationale was basically that our knowledge of the foreign species hasn't advanced enough to answer questions that must be answered before it's turned loose in the bay: What will be the effect? Will it become invasive? What will happen to native oysters? To other inhabitants of the bay's food chain? Will it bring diseases?

That the final decision would show such respect for science and reason was by no means a foregone conclusion. Virginia officials seemed to lean toward inviting in the Asian oyster, while Maryland was against it.

But it's the right decision. Because the risks of these particular unknowns are too great. Now, even the experiments that had been under way are over, at least temporarily. They grew crops of the hearty foreign species, using sterilized oysters confined to bags. But not without danger, as it became clear that some of those sterile oysters would likely regain fertility, some might escape from confinement, and some enchanted evening two oysters looking for love might encounter each other. And the bay might never be the same.

This should be an interim decision. Research should go on, as long as it's risk-free, to learn more about the Asian oyster. Because there's a real need to restore a healthy oyster population in the bay. Not only because it would revitalize a struggling industry, but because just by going about their business, oysters filter vast amounts of water. Given how thoroughly man's activities are polluting the bay and how ineffectual man's efforts have been at clean-up, a helping hand from a prolific natural water cleaner is needed.

Another iconic and troubled bay inhabitant — the blue crab — was the focus of the second affirmation of science's role in addressing bay issues.

Last year, the Virginia Marine Resources Commission stopped winter crab dredging. With the blue crab population having fallen precipitously, how could it justify continuing to let watermen scrape up the hibernating females, most of them pregnant, who pass the cold months dug into the bottom? That's like making up a business plan for the golden egg trade that begins, "First, kill the goose."

So the VMRC ban was right. But not proper. Responding to a challenge by watermen, a judge ruled that the commission can't ban the winter dredge permanently. The need for a long-term ban isn't evident. Crabs are hearty critters, and the VMRC estimates that with just a few years of protection they can come bounding back.

So the judge's admonition makes sense. Take it one year at a time. Do an annual scientific assessment of the crab population and hold public hearings. Based on that, make a decision about implementing a dredge ban for another year — or not, depending on the need.

The VMRC has been showing a new inclination to inform its decisions with expert assessments. It based the current dredge ban, and other measures to protect crabs from overharvesting, on the work of a panel's systematic look.

This focus on science is a step forward. Even though it has access to the Virginia Institute of Marine Science, for too many years and in too many ways, the commission based its decisions less on science than on what suited the (often short-term) interests of the seafood industry. The overfishing it allowed is part of the reason why oysters and crabs are in trouble.

It did the same thing in the other area it is responsible for: approving structures such as docks and piers that encroach on or over state-owned river, bay and creek bottoms. It too often rushed in to accommodate well-heeled applicants, instead of listening to its own staff, who know something about habitat protection.

Under Commissioner Steve Bowman, there's a new air at the VMRC. Respecting science isn't a problem, but a way of doing business — the state's and the bay's.

ENERGY

==========

S.D. braces for 'cap and trade' energy changes (*Sioux Falls Argus Leader*)

Congressional delegation split on strategy

LEDYARD KING
Argus Leader Washington Bureau

April 12, 2009

South Dakota

WASHINGTON - Climate change legislation that Congress is expected to take up later this month would raise energy prices for millions of Americans; there's little dispute about that. The issue for South Dakota lawmakers is how it should be crafted to reduce the pain to state pocketbooks.

President Obama and congressional leaders are focusing on a plan dubbed "cap and trade," which by 2020 would cut greenhouse gases that cause global warming to 20 percent below 2005 levels. Companies, particularly coal-burning power plants, would have to spend on technology to cut emissions or be forced to buy pollution allowances from emitters that are well below new Environmental Protection Agency standards.

South Dakota utility and cooperative managers estimate that a cap-and-trade system would increase residential electric bills a minimum of 41 percent by 2015.

About 47 percent of the state's electricity came from coal in 2006, a little less than the national average of 49 percent, according to the U.S. Energy Information Administration.

Sen. John Thune, R-S.D., has joined the power industry and other Republican critics in deriding the cap-and-trade plan as a "national energy sales tax" that should be scrapped. Instead, he wants to move ahead with market-based incentives to expand the use of solar, wind and other alternative energy sources.

But Rep. Stephanie Herseth Sandlin, D-S.D., said such an approach would harm the state even more by making sure its interests are ignored, as Obama and Capitol Hill leaders are committed to passing a bill by year's end.

Either "the strong hand of EPA is going to come in and tell you what has to be done with incentives to reduce carbon, or we can work to set up a system that creates enormous economic opportunities across the country," she said. "But we have to make sure that we get it right, and it's going to take us some time to do that."

At its core, the plan would drive up the price of carbon fuels as a way to force changes in personal behavior and business practices. Coal is central to the debate because generating electricity using coal created about 28 percent of all greenhouse gas emissions in the U.S. in 2007, according to the EPA.

Stephen Smith, executive director of the Southern Alliance for Clean Energy, said energy prices must go up to force change.

"We've enjoyed artificially low rates over the years. That has been irresponsible," he said. "It's time we step up and do our fair share to solve this national and international problem."

South Dakota could play a key role in how the legislation is shaped. Lawmakers from rural states are considered crucial to any coalition needed to pass the bill. And they view it as an opportunity to expand the market for renewable fuels that reduce the need for carbon-generating power.

"Passing the right type of climate-change bill can lower greenhouse gas emissions while also including safeguards on the price South Dakotans pay for energy," Sen. Tim Johnson, D-S.D., said in a prepared statement. "I am working with a group of senators to address climate change challenges to ensure that any final bill recognizes the particular circumstances of South Dakota and the Midwest."

Contributing: Bill Theobald, Gannett Washington Bureau. Contact Ledyard King at lking@gannett.com.

Vampires in The House "Energy Vampires" (*NewsBlaze*)

Published: April 11,2009

Many common household appliances consume energy even when they are not in use.

Millions of Americans are paying for electricity they don't really know they're using. The electronics boom of recent decades has led to the invention of a variety of household appliances and devices that guzzle down energy just when they are plugged in, even though they are not being actively used. In fact, the Environmental Protection Agency reports that these devices cost Americans almost $10 billion a year in electricity, and they account for almost 11 percent of all U.S. energy use.

They've been called "energy vampires" because of the way they suck down energy for no productive use but only to sustain their own existence. Americans have invited them into their homes, seduced by the convenience, entertainment, and fun these gadgets introduce to their lives.

For example, a television always uses a little power so it can always receive the "on" signal from the remote control. Charging accessories also use power when not plugged into their devices but remain plugged into an outlet.

These are some of the product features that will continually consume electricity when the device is not in active use:

. Remote control

. External power supply

. Digital display, LED status light, or digital clock

. Battery charger

. Soft-touch keypad

You can check your home for energy vampires by using a power meter. Turn everything off as if you were leaving home for the day. Then go look at your electric meter. If it is still spinning, you have vampires in the house.

Here's how to reduce power consumption from these devices:

. Unplug products that are rarely used. In many American homes, a good example is a television and DVD player in a rarely used guest room.

. Use a power strip with a switch that controls clusters of products. The most likely targets are computer clusters (computer, printer, scanner, speakers, wireless transmitter, etc.).

. Entertainment clusters (television, DVD player, speakers, game consoles, etc.).

. Audio clusters (receiver, amplifier, CD players, etc.).

Adapted from U.S. Department of Energy and Environmental Protection Agency Web sites.

(This is a product of the Bureau of International Information Programs, U.S. Department of State. Web site: http://www.america.gov)

This article will appear in the April edition of eJournal USA, "Energy Efficiency: The First Fuel."

EPA unveils new energy requirements for appliances (*Waste News*)

April 10 -- The U.S. Environmental Protection Agency has unveiled new Energy Star requirements for commercial refrigerators and freezers.

The appliances will be 33% more energy efficient, on average, than standard models. If all commercial refrigerators and freezers sold in the United States meet the new Energy Star specification, the energy savings would grow to $275 million per year and prevent greenhouse gas emissions equivalent to those from nearly 400,000 vehicles, according to the EPA.

The requirements are effective Jan. 1, 2010.

Information about Energy Star-qualified commercial kitchen products is available at www.energystar.gov/cfs.

Contact Waste & Recycling News senior reporter Bruce Geiselman at 330-865-6172 or bgeiselman@crain.com

FUEL

==========

Don't overlook fuel fine print (*Detroit Free Press*)

BY MARK PHELAN
FREE PRESS COLUMNIST

Asterisks 'R' Us.

April 12, 2009

They're everywhere, footnotes that practically beg to be ignored, but failing to read the fine print on one could cost you money at the gas pump.

An increasing number of new vehicles come with an asterisk regarding what kind of fuel you should use. The specifications often say that while premium gasoline is recommended for peak performance, burning less-expensive mid-grade or regular fuel will not damage the engine.

There's not much data available on this, but what there is suggests that downgrading from premium to mid-grade can reduce horsepower and torque by 2% to 3%.

That's a paltry difference virtually no driver will ever notice in a powerful modern car. Failure to note it, however, could get an automaker into trouble. It would be deceptive to advertise power figures generated with premium fuel while recommending drivers buy regular.

Premium fuel cost about 20 cents more a gallon than regular this week, both nationwide and in Michigan, according to AAA's Web site www.fuelgaugereport.com.

Hence the asterisk. The difference between fuel grades can add up to significant costs over a vehicle's lifetime.

A number of readers have asked if switching from the recommended premium gasoline to regular gasoline that generates less power also reduces fuel economy.

Nobody's giving an absolute answer, but it appears that it can.

First things first. If the manufacturer says your vehicle requires premium, you must use that fuel. Using a lower grade could damage the engine**.** The choice of fuels applies only when premium is recommended but not required.

The fuel-economy ratings in every new vehicle's window sticker are generated through a carefully designed laboratory test. The Environmental Protection Agency tests some vehicles itself. It accepts test data automakers provide for most vehicles, as long as the automaker has a proven record of generating honest numbers that match the results of the EPA's own tests.

The window-sticker figures, you must remember, are for comparison, not a guarantee of real-world fuel economy. You can use them to figure out if car A will save you money versus car B. Your mileage may vary, as the fine-print note with the asterisk says.

The EPA uses a special lab-quality gasoline for the tests it conducts itself. The fuel is painstakingly prepared so every gallon is identical to the one before it. That makes sense, because the only thing that matters is whether car A and car B were tested under identical conditions.

When automakers test vehicles, the EPA requires they use 93 octane -- premium -- fuel for the window-sticker number, but it also mandates a second test with 91 octane. That's still pretty high-test gasoline, higher than what most filling stations sell as mid-grade or regular.

The EPA won't certify the window sticker number -- the only fuel economy figure automakers are allowed to advertise -- if fuel economy falls more than 3% using the lower grade of fuel.

This is to satisfy the EPA that the automaker built a system that's robust enough to function in the real world, not a dynamometer darling that generates good test numbers but falls apart in everyday use.

However, it supports the inference that if an engine functions slightly less efficiently -- producing lower horsepower or torque -- on lower-grade gasoline, other aspects of its efficiency may decline, too.

Neither the automakers nor the EPA has done anything inappropriate here. The window-sticker numbers are solely to compare one vehicle with another. The only thing that matters is that those numbers be generated with 100% consistency from car to car.

However, it's worth considering when buying a car -- or refueling the one you already own -- that the comparison may be less accurate if you use fuel that's lower than the automaker recommended.

If the sticker says "premium recommended," you're free to pump lower grades. Just keep in mind horsepower isn't the only aspect of performance that could decline.

Contact MARK PHELAN: phelan@freepress.com or 313-222-6731.

HAZARDOUS WASTES

==========

EPA settles cleanup of PCB-tainted Gary lagoon (*Associated Press*) This story also appeared: *Chicago Tribune*

Associated Press

2:44 PM CDT, April 12, 2009

GARY, Ind.

The U.S. Environmental Protection Agency has settled on a $66.5 million plan to clean up a Gary lagoon that contains sludge and water contaminated by PCBs.

The 19-acre lagoon between the Gary-Chicago International Airport and the Indiana Toll Road is tainted with polychlorinated biphenyls, which are classified as a probable cause of cancer.

The EPA weighed nine cleanup proposals, choosing one that calls for the relocation of residents in the area and the demolition of some homes.

Under the plan announced Friday, the pollution will be contained with an underground wall and the water will then be drained. The surface water at the site also will be treated.

About 553,000 cubic yards of sludge in the lagoon will be solidified with cement and capped.

The site has to be ready for construction by Sept. 30, 2010.

The cleanup is required by a 2002 legal agreement between the EPA and lagoon owners, the city of Gary and the Gary Sanitary District. The city and the sanitary district are responsible for the contamination and will pay for the cleanup.

The sanitary district will also purchase six acres of residential property for use as a contractor's staging area and for water pretreatment.

The district is required to finish the job within five years of EPA approval, but district attorney Hamilton Carmouche said the city could have problems getting an affordable bond in tough economic times.

Human excrement the least of our problems (*Jamaica Observer*)

BY WARREN BLAKE
Sunday, April 12, 2009
Jamaica

In the 1980s the USA had a major waste disposal problem. This was evidenced by the difficulties the USA had in trying to export its hazardous waste.

It was negatively in the news for trying to pay Third World countries to take its waste.

It rapidly gave up on this endeavour. So what happened to this waste and why is it no longer a problem to the USA? The Environmental Protection Agency (EPA) of the USA, in a wonderful sleight of hand, has changed the definition of fertiliser to one that includes any compound that contains substances that can be used for plant health, eg, potassium, nitrogen, etc regardless of what else it may contain.

This has paved the way for once designated toxic wastes to be used for fertiliser. The EPA promotes spreading it as fertiliser, calling it the preferred disposal option. This option now beats landfilling and incineration which are the other options also approved for toxic waste disposal.

So far the local debate has centred on the "human" content of the waste. We need to consider much more seriously the non-human content, the so-called bio-solids (nothing but a delicate name for sewage sludge - a term coined to linguistically detoxify sludge) that the fertiliser is made from. What constitutes bio-solids? Sewage is what flows through the sewer mains and includes everything that you can flush down a toilet. It includes stuff like household waste, cleaning fluids, industrial waste, hospital waste, chemical waste, waste oils, embalming fluids, etc. The more industrialised the area, the more toxic the waste. Sewage enters a waste-water

treatment works (WWTW) where processing takes place. This basically entails separating the water from the solids. Treatment simply aims to clean the water which is usually then purified and discharged back to a nearby body of water. The remaining sludge with all its industrial, hospital and household contaminants is what is further treated to become bio-solids. The treatment process includes digesting, heating, spinning and the addition of a polymer solution which causes solidification, ie, bio-solids. These are divided into two classes, A and B, by the EPA. Class B is potentially pathogenic and is only intended for restricted use. Class A bio-solids on the other hand have lower levels of pollutants. The Centers for Disease Control have found the following pathogens in class B bio-solids: typhoid fever, dysentery, gastroenteritis, diarrhoea, cholera, hepatitis, meningitis, pneumonia, paralysis, encephalitis. Class A is supposed to be safe but has been found to cause severe upper respiratory problems. Despite this, the EPA has been accused of being unable to produce one scientific study to support its position that sludge can safely be used on farmland. The EPA also has a startling lack of data on unknown toxic pollutants in sludge.

Whilst the human content can enrich the soil and dramatically increase agricultural yield, there is the real potential that live viruses and pathogenic bacteria can cause serious harm to humans. There is also the very real probability that the non-household content of the bio-solid which typically has large quantities of heavy metals will contaminate the soil and ground water and pose a massive health risk.

The Bureau of Standards and the Scientific Research Council (SRC) who both have passed the fertiliser safe for use in a remarkably short time span should release the full results of the "tests" that they have done on this bio-solid (toxic waste) based fertiliser and let us all see what is in the fertiliser and in what quantities, rather than simply reassuring us that it is safe. We need to know the radioactivity levels, and all the metals that it contains and the quantities. We should perhaps get independent assay tests to detect stuff like arsenic, mercury, plutonium, lead and other poisons. Whilst our regulators are hurriedly proclaiming the safety of this fertiliser, the American National Resource Defence Council in a 2004 paper has accused the EPA of using faulty science and bowing to the wishes of industry. Is this what is happening locally? Where is the voice of the local environmental lobby in what has the potential to be the greatest single assault to date on our local environment and an obvious danger to the health of all?

Some countries that use bio-solid-based fertiliser have (like Canada) precautionary measures in place to try to protect their populace. These include a mandatory safety period between application of the fertiliser and actual cropping and pasturing. The application and use of fertiliser is governed by guidelines of the Ministry of Environment and the Ministry of Agriculture, Food and Rural Affairs. In an obvious recognition of the possible dangers, the ministry also officially discourages its use for home gardening and vegetable production. Our ministries issue no such guidelines and recklessly tell us that it is safe.

Mr Kaminski of Diamond-R Fertiliser Company, Inc must take us all for fools when he states that "we do not have waste in our fertiliser", yet he goes on to add that his company's fertiliser contains granulite which comes from bio-solids and disingenuously adds that bio-solids come from the word biology. I repeat, bio-solid is a very euphemistic term for the solid material that is left over from the processing of sewage. This same material was formerly known as toxic waste.

I challenge Mr Kaminski or anyone else to truthfully state otherwise and will debate him on the veracity of this anytime and anywhere that he so chooses.

Ironically, whilst in the '80s Third World countries were being paid to take this waste we are now paying to take this rebranded toxic waste from them. Using this cheap fertiliser can be likened to flushing a toilet, all the excrement washes downstream to us.

Dr Warren Blake is a local consultant orthopaedic surgeon.

MINING

==========

Future Grows More Hazy For Mountaintop Mining (*Washington Post*)

EPA's Fluctuating Messages Concern W.Va. Residents

By David A. Fahrenthold
Washington Post Staff Writer
Saturday, April 11, 2009; B01

ETHEL, W.Va. -- In one of the deepest, steepest corners of Appalachia, where the most important industry is shearing mountains down to flat-top stumps, everybody wants the same answer.

What did Washington just do?

About two weeks ago, the Environmental Protection Agency seemed poised to crack down on the "mountaintop" coal mines that are common in this region, which industry officials say would threaten thousands of jobs. The EPA said it had "significant concerns" about the mines -- in which peaks are legally blasted off to get at coal seams inside -- because neighboring streams are buried under displaced rock.

But later that day, the EPA suddenly seemed to play down its own worries, saying it thought the bulk of the projects would "not raise environmental concerns."

The episode has been seen as an early unsteady attempt by a White House with environmental ambitions to confront one of its most vexing problems: polluting, carbon-heavy, economically vital coal.

This week, EPA Administrator Lisa P. Jackson -- making her first public comments about the letters -- said her agency did not intend to send a mixed message. She said that the EPA was not trying to stop all mountaintop removal but that it "is going to do its job" in checking 150 to 200 projects for environmental impact.

"This was not about making any kind of value judgment on a practice of mining," Jackson said in an interview. "This is about science. And what the law tells us to do is review these permits."

But here in southern West Virginia, the EPA's moves have left a powerful sense of uncertainty about the future of mountaintop mining. People also see this issue as a microcosm of the nation's ambivalence about coal.

"We don't have a clue" what the federal government is planning, said Roger Horton, a truck driver at a West Virginia mine who heads the group Citizens for Coal. "We want clarity. To do this, to me, is inhumane."

As Washington has become more focused on climate change, coal has become something like the new tobacco: publicly reviled, at least by some, but still deeply embedded in the economy. Coal produces dirty water when it is mined and greenhouse gases when it is burned, but it also accounts for about half of U.S. electric power, and coal mining provides about 82,000 jobs.

What happens here, in the heart of mountaintop-mining country, might be considered coal's unfiltered version.

"You know 'Almost heaven, West Virginia'? Well, now it's 'Almost level, West Virginia,' " said Teresa Perdue, 50, a resident of Ashford, W.Va., who has spoken out against mountaintop removal. Perdue was looking down at a vista that once included a rounded mountain and a valley, Bull Creek Hollow.

But the peak was blasted and scooped away by heavy machinery to get at thin seams of coal near the surface. Excess rock was dumped into the valley. The resulting landscape was flatter and browner, with plenty of bare rock.

"Who said it's okay to bury streams, it's okay to cut the tops off mountains to get coal?" Perdue said. She still takes senior photos for local high-schoolers there, but now she has to crop the photos tighter: The background has an unnatural amount of sky, at least for West Virginia.

Some environmentalists think the science is overwhelming that mountaintop mining is harmful. Pro-coal people think the economy trumps everything: "There's nothing to replace [coal] right now," said Jim Taylor, a 73-year-old with long, white George Jones sideburns who manages a hydraulic and machine repair shop in Logan, W.Va.

Sitting in front of a former service station in Blair, W.Va., Carlos Gore, 57, a mountaintop mining opponent, said previous experience shows that mining companies usually win: "They take the rules, and they bend it and twist it like a pig's tail."

Mountaintop mining is also called "mountaintop removal," although in most cases, rock is piled up to re-create the mountain's contours and replanted with grass and trees. The practice is centered in eastern Kentucky and southern West Virginia, although there are some mines in Tennessee, southeast Ohio and southwest Virginia. At the EPA's last count, in 2001, the mines' "valley fills" had buried 724 miles of stream valleys, about 1.2 percent of the region's total.

The industry says the mines produce about 10 percent of the country's coal. Last year, a Washington Post analysis found that the area's coal-burning power plants purchased 32 percent of their fuel from surface mines in this region, which often involve mountaintop mining.

Lately, mountaintop mining's opponents had been on a losing streak. In December, the Bush administration approved a rule that environmentalists said would make it easier to dump waste rock near streams. And in February, a U.S. appeals court rejected environmental groups' challenges to certain mining permits.

Then, on March 24, EPA officials released two letters that had been sent to the U.S. Army Corps of Engineers, which handles permits for valley fills. The letters said that two mines -- one here near Ethel and the other in Pike County, Ky. -- could harm aquatic life in the buried valleys and downstream. It sent three more letters this week, expressing concerns about valley fills at a mine in southwest Virginia and two in West Virginia.

To the coal-industry, it looked like a torpedo, aimed at mountaintop mining.

"EPA: End Production in America," said Chris Hamilton, a vice president at the West Virginia Coal Association. He said it is wrong that in a worldwide economic crisis, "here we're almost trying to find a way to force these, you know, mining jobs to go elsewhere."

In her interview with The Post, Jackson said that the EPA had just begun to review these permit applications and that although "the sense right now is that the vast majority of them are not significant" concerns, she could not predict the final outcome. She said that the White House Council on Environmental Quality has convened officials from the EPA, the Army Corps of Engineers and other federal agencies to talk about the future of mountaintop mining more generally.

In Logan County, W.Va., County Commission President Art Kirkendoll said he was worried that the EPA will eventually turn against coal mining in general, which would remove his area's economic bedrock. He said each mining job supports six or seven jobs in other sectors -- and provides another valuable service in a highly vertical area.

"We need this flat land" to build new factories and stores on, Kirkendoll said. "For our county, it's everything."

A few miles away, though, the town of Ethel -- nearest the mine that the EPA singled out -- shows that, although coal mines have long made this area work, they have never made it rich. Ethel is a string of mobile homes along a narrow valley floor, with the most prominent building a

decades-dead Methodist church, with tablecloths still on the tables and a loaf of bread turning to dust in a dark hall.

Across the street, a rock the diameter of a large pizza and six inches thick slammed into 81-year-old Madelena Hanshaw's bedroom while she slept. Hanshaw thought it might have been dislodged from a vast mining site just over the next hill.

"I don't sleep good of a night. I just take pills," Hanshaw said. "I moved into the living room. I sleep there now."

Staff photographer Michael Williamson contributed to this report.

PESTICIDES

==========

Schwarzenegger urges U.S. to appeal ruling on pesticide permitting *(Greenwire)*

Colin Sullivan, E&E reporter

04/10/2009

SAN FRANCISCO -- California's governor pressed U.S. EPA yesterday to help overturn a recent court decision that could limit the use of some pesticides and possibly lead to an outbreak of the West Nile virus.

In a letter to the agency administrator, Gov. Arnold Schwarzenegger (R) took issue with a 6th U.S. Circuit Court of Appeals decision handed down in January that subjects some previously exempt pesticides to permit reviews under the Clean Water Act.

Schwarzenegger said the ruling, which routes some pesticides through the National Pollutant Discharge Elimination System for permitting, amounts to "unnecessary and duplicative" bureaucracy, as the chemicals are already regulated under the Federal Insecticide, Fungicide and Rodenticide Act.

The ruling could also hurt the state's effort to control mosquito populations that have been linked to the West Nile virus by diverting resources from key agencies, Schwarzenegger said. He urged EPA Administrator Lisa Jackson to request a rehearing of the case.

"It is imperative that the Sixth Circuit decision be overturned to allow effective mosquito control to continue to protect the public health of Californians," Schwarzenegger wrote. "Failure to defend the rule will almost certainly lead to severe unintended consequences for public health programs."

The governor went on to cite the "dire" economic situation among farmers in the Central Valley and said the permits would add enormous costs. Moreover, Schwarzenegger said the court decision would impair the state's ability to control invasive species such as the gypsy moth, the medfly and the Asian citrus psyllid.

"The Asian citrus psyllid has nearly destroyed Florida's citrus industry, and the gypsy moth has stripped large swaths of forests in several states," the letter says. "The application of various pesticides to eradicate invasive species on a timely basis is a critical tool."

A recent post on the court's decision by the "Environmental Law & Climate Change Law Blog" seems to downplay the significance of the decision, saying one solution that may satisfy California is for EPA to issue a general permit for application of pesticides, rather than twin permits under the competing federal statutes.

The blog post added that the court may have ruled in favor of environmental groups that pushed the matter, but it also noted the proposed fix.

"The court, despite ruling in the environmentalists' favor, showed the EPA the way out of the wilderness," the blog says.

The 6th Circuit in January, in *National Cotton Council of America v. U.S. EPA*, overturned a 2007 decision at EPA to exempt some pesticides from the Clean Water Act's permitting requirements. The court rejected EPA's claim that the rule was a "reasonable construction" of the act.

Even so, a spokeswoman for the governor insisted the best action is to take the matter back to court.

"The recent Sixth Circuit Court decision, if not overturned, would impose a series of unnecessary, redundant, costly and burdensome requirements, delaying action to irradiate adult mosquitoes that carry the deadly West Nile virus," Schwarzenegger spokeswoman Lisa Page wrote in an e-mail.

RECYCLING

==========

Cell Phone Recycling Week ends today *(Hernando Today*)

By HERNANDO TODAY STAFF

Florida

Today is the last day for Cell Phone Recycling Week, a project started by the Environmental Protection Agency that brings together manufacturers and service providers.

The program is a partnership between government and business to encourage customers to recycle used cell phones, which would reduce the piles of reusable materials in landfills.

AT&T offers two ways to donate phones - drop-off points at any of the 2,000-plus AT&T Wireless stores or by downloading free shipping labels from www.att.com/wireless.

The phones would be shipped to Cell Phones for Soldiers (CPFS), a charity that recycles used phones and uses the proceeds to purchase phone cards for troops overseas.

For more information about Cell Phone Recycling Week, visit www.epa.gov/cellphones.

SUPERFUND

==========

EPA adds 2 county sites to Superfund cleanup list (*Tampa Tribune*)

By MIKE SALINERO

msalinero@tampatrib.com

Published: April 11, 2009

Florida

The federal government has added two Hillsborough County toxic waste sites to the Superfund list for cleanup.

The Raleigh Street Dump, half a mile west of U.S. 41 in Tampa, and the Arkla Terra property, at 11706 U.S. 301 in Thonotosassa, both pose health and environmental risks to surrounding areas and residents, according to the U.S. Environmental Protection Agency. State environmental authorities recommended that EPA put both sites on the Superfund list.

Arkla Terra was an underground storage tank refurbishing facility from 1976 to 2006. Solvents, including tetrachloroethene, or PCE, were used to clean the tanks prior to repair. PCE has been found in soil, groundwater monitoring wells and private drinking wells.

Tetrachloroethene at high exposure levels can cause dizziness, headaches, confusion, nausea, difficulty in speaking and walking, unconsciousness and death. Long-term exposure can cause cancer.

A plume of PCE that exceeds EPA and state maximum contaminant levels has migrated 7,500 feet into an adjacent residential area. The Hillsborough County Public Health Department sampled 200 private wells around the facility and found 78 had PCE at levels higher than federal limits. The state Department of Environmental Protection installed commercial water-treatment systems for residents with contaminated wells and gave $1 million to the county to extend public water lines into the area.

The property is on the Superfund list because the companies responsible for the contamination are not financially viable, according to an EPA news release.

The Raleigh Street Dump is next door to a former battery recycling operation, Chloride Metals. Employees at the recycling company dumped incinerator slag and battery casings at the dump.

Contaminants found include metals, pesticides, polycyclic aromatic hydrocarbons, known as PAHs, and polychlorinated biphenyls, or PCBs. The contaminants were found in the soil near surface water and in shallow groundwater.

PCBs and PAHs are considered cancer-causing and can cause other health problems.

In June 2007, EPA issued a proposed plan for cleaning up the soil and water at the Raleigh Street Dump. The companies responsible for the contamination are unwilling to conduct the cleanup, according to EPA.

Residents not shocked by landfill hazard (*Springfield News Sun*)

National recognition not surprising

By Matt Sanctis
Staff Writer
6:54 PM Friday, April 10, 2009

Ohio

NEW CARLISLE — The U.S. Environmental Protection Agency has plans to clean up an aging Bethel Twp. landfill, but area residents have been aware of possible well contamination at the site for more than a decade.

The landfill, at 715 N. Dayton Lakeview Road, was recently added to the U.S. EPA's national priorities list of sites in which hazardous substances have been released. Being on that list makes the landfill a priority for cleanup through the EPA's Superfund Program, which cleans up hazardous waste sites nationwide.

Erica Islas, a site assessment manager at the U.S. EPA, said roughly15 residential wells that could be affected are all within a half mile of the landfill. She said residents in that area have not been using drinking water from those wells because a municipal water line from New Carlisle was extended to the area in 2005.

Peter Scarff, president of Scarff's nursery near the landfill, said his business has been monitoring the wells in the area for years and he has been sending information to the Ohio Environmental Protection Agency.

He said vinyl chloride began to show up in trace amounts in the late 1990s. The state EPA soon began testing the area more extensively, and earlier this decade, he was forced to shut down three of the wells on his property because of contamination as the levels of the chemical began to increase.

Before the municipal water was extended into the area a few years ago, Scarf said his business was required to drill new wells further from the site, which he estimated would have cost as much as $20,000 and $25,000. Since his business now used municipal water, he no longer has to monitor the wells.

Elizabeth Tucker-Lince, of N. Dayton-Lakeview Road, also lives near the landfill.

She said the Ohio EPA has been monitoring the wells closely since at least 2004, and has been providing her with periodic test results a year. Only trace amounts of the chemicals, she said, have been discovered, which she is not overly concerned. She said she has never had problems with the water in her home.

"For the most part, I'm not worried,' she said. "I guess I'll be concerned when they tell me I should be concerned," she said.

Contact this reporter at (937) 328-0355 or msanctis@coxohio.com.

TOXICS

==========

Draft Rule Will Require Toxic Reporting For Finished Wood Products (*Inside EPA*)

Friday, April 10, 2009

EPA is preparing to propose a rule in the coming months to codify a controversial agency memo requiring wood treatment facilities to include finished products that they store on site in their annual reports to the agency's Toxic Release Inventory (TRI) program in response to a successful industry lawsuit challenging the memo.

Ingrid Rosencrantz, of EPA's TRI division, said March 31 that EPA has developed a draft rule codifying the so-called "articles exemption" policy detailed in the memo. The draft rule is currently going through EPA's internal review process, and the agency hopes to propose it in the *Federal Register* in "early summer," Rosencrantz told attendees of the 2009 TRI National Training Conference in Bethesda, MD.

Last year the U.S. District Court for the District of Columbia ruled in *Creosote Council, et al. v. Johnson, et al.,* that industry did not have to comply with the memo because EPA had not conducted a proper notice-and-comment process before issuing the document. The ruling left open the possibility that EPA could seek to codify the memo's requirements through a formal rulemaking process, but until recently it was unclear whether the agency would do so.

The issue of including finished articles in TRI reporting could have broad implications for a number of industries outside of the treated wood industry, a lawyer familiar with the case previously told *Inside EPA*. If EPA prevails with a rulemaking on the treated wood issue, virtually any industry that invokes the type of exemption the wood industry has claimed could be subject to TRI reporting for its finished products, the lawyer said.

At issue is a memo that EPA sent in October 2007 to the Treated Wood Council -- a trade organization representing the wood treatment industry -- stating that finished products the wood treatment facilities store on-site are not exempt from section 313 toxics reporting under the Emergency Planning & Community Right-to-Know Act (EPCRA), as the industry had previously assumed.

Industry, however, argued the memo marked a significant shift in agency policy that had previously said such finished products fall under EPCRA's articles exemption, which states that companies are not required to include finished products in their TRI reports if the product "does not release a toxic chemical under normal conditions of processing or use of that item at the facility or establishment." Such a change in policy necessitates a formal rulemaking, industry said.

District Court Judge James Robertson agreed. "Because the [memo] marked a significant change in the agency's understanding of the scope and applicability of the [finished] articles exemption, plaintiffs have made a strong showing that they are likely to prevail on their notice and comment challenge," Robertson wrote in his May 15 decision, adding that EPA's arguments in favor of the TRI mandate were "unconvincing."

WATER

==========

Unit added to bring wastewater plant to EPA code (*Wooster Daily Record*)

April 11, 2009

By BRYAN SCHAAF

Staff Writer

Ohio

WOOSTER -- A unit designed to reduce the amount of biological oxygen demand of effluent coming from the city's largest wastewater customer is expected to be the final step toward putting the new wastewater treatment plant in full compliance with Ohio Environmental Protection Agency standards.

Jim Borton, manager of the wastewater treatment plant on Old Columbus Road, gave a presentation to City Council on Monday afternoon, outlining some of the issues that have kept the plant out of EPA compliance, and how constructing a biotower to remove the carbon load from liquid waste from Frito Lay will remedy those problems.

"The intent is to make sure everything here is adequate for what's coming in the door," said Borton.

Council members approved a contract for engineering services to design the $2 million biotower on Monday evening, which is expected to be a long-term fix.

Scott Ankrom of ATS Engineers said he's so confident the tower will solve the plant's problems, the company has agreed not to bill for the design work until after the plant is in compliance.

The cost of the design work is estimated at $122,000.

Council approved $800,000 for the purchase of certain chemicals to try to keep the plant in EPA compliance each of the last two years. Borton said the plant has been in compliance for just two months overall, but the city has not had any fines levied against it, presumably because it has been working toward a permanent solution.

A biotower is essentially a tank containing certain types of media which grow algae. Wastewater is then funneled into the tank on top of the algae, which then eat the carbon emitted from the effluent.

Mike Sigg, director of administration, said Frito Lay is the city's largest producer of wastewater because of the nature of its food processing business.

Sigg stressed Frito Lay is the city's best wastewater customer, not its worst problem. The potato chip manufacturer, located on Old Mansfield Road, pays the city $500,000 a year for its wastewater removal. Of that, $250,000 is the base price, and the other is an additional $250,000 surcharge because of the strength of its waste.

"They're our biggest customer, which is why pre-treating their waste makes sense," Sigg said. "They take so much capacity, this is the easiest way of treating it."

Sigg said the process that takes place inside a biotower is very much the same as what happens in nature. Animals defecate into a stream, algae grows on rocks and eats the waste.

"You can call it a tracking filter, a nitrification tower, a biotower -- all those names are interchangeable," Sigg said. "It's old technology. Its moving parts consist of two pumps and a bearing. (Frito Lay) has already settled out all the solid waste, so we're getting the dissolved BOD."

Borton said the city saw an increase of about 4,000 pounds per day of loading coming in to the plant shortly after construction was completed. While he said there isn't one definitive reason for the load increase, he said there were about "six different things" that happened which he believes contributed to the increase, but none of which would cause the spike on their own.

"Some were maybe only a pound, some were 2,000 pounds, but all came together about the same time," Borton said.

Borton said one event that happened involved leaking joints in one old effluent pipeline, with water getting away before it reached the flow meter.

"That load may have been coming to the plant all along, but we had a leak and had no way of knowing that. Some of it was masked from Day 1," Borton said. "But that doesn't fully account for the whole 4,000 pounds. We may never know the complete answer."

Finance Director Andrei Dordea said he could secure a 15-year loan at 3 percent interest to finance the tower.

Councilman Jon Ulbright, D-at large, added, "I have to admit I was a skeptic. I think a lot of people, including council and the public, were wondering why the price tag on (the wastewater treatment plant) kept going up and up. The way this was explained makes it more acceptable on part of the constituents. I'm quite impressed."

The biotower would be placed on the Ohio Department of Transportation site on West Old Lincoln Way, across from Frito Lay.

Borton said the engineering portion of the project is expected to take about 12 weeks, plus an additional six months for construction.

Borton said the biotower will not affect wastewater treatment rates for customers.

Reporter Bryan Schaaf can be reached at 330-287-1645 or bschaaf@the-daily-record.com.

Public not allowed (*Gallup Independent*)

EPA says policy is enough to close GWTP hearing

Gallup Independent
By Kathy Helms
Diné Bureau

Weekend
April 11-12, 2009

New Mexico

GALLUP — Even if members of Congress wanted to listen in on a show-cause hearing between the U.S. Environmental Protection Agency and the city of Gallup regarding a June spill at the Gallup Wastewater Treatment Plant, they would not be allowed to do so.

David Bary, public information specialist for EPA, Region 6, in a previous interview, said provisions of the Clean Water Act allow for the city of Gallup to present its information in a show-cause meeting. “These meetings are not open to the public because of the sensitive nature of potential enforcement action,” he said.

The closed show-cause conference call is scheduled for April 14. EPA’s decision to close such meetings is based on a memorandum from EPA headquarters in Washington issued during the tenure of former EPA Administrator Stephen L. Johnson under the Bush administration and is supported by memos issued by EPA as far back as 1990.

“The memorandum for the agency’s national office in Washington points out that some of the negotiations between the city and the agency are not a public forum, and the agency has, for many years, adhered to its policy of these show-cause meetings being closed, and it’s a very good reason,” Bary said.

“The violation that’s of issue here is between the Environmental Protection Agency and the city of Gallup, New Mexico. Nobody else is involved here. In order to have frank and candid discussions during settlement discussions, it’s critical that these hearings are available only to stakeholders, in this case, the city of Gallup and the Environmental Protection Agency.

“It’s not open to members of the public. If a member of Congress were to ask to participate, or sit in on, or listen to our discussions during these enforcement activities, we would have to tell them the same thing. This is a closed meeting and is between the Environmental Protection Agency and the respondent — in this case the city of Gallup, New Mexico, only,” he said.

In a Dec. 4 administrative order, EPA cited the city with violations of the Clean Water Act following a June 24 spill that dumped about 1,800 gallons of raw sewage went into the Rio Puerco River.

Patrick Rogers, attorney for the Independent, contacted the EPA and requested any specific law or legal precedent that requires these conferences to be held in secret.

Rogers said, “While the policy of the EPA states that it is the EPA policy to provide for an open process, the EPA thus far has not provided any specific law or regulation to explain why the ‘open process’ will be secret in this instance. The matters under consideration have a great impact on the people of Gallup and something more than a policy that says the EPA will proceed in the open but close this meeting should be provided from the EPA.”

Leonard DeLayo, executive director for the New Mexico Foundation for Open Government, said recently that he believes the meeting should be open. “I think something of this magnitude, when it’s public health, it should be open and they should not be allowed to close the conference call or any other meeting concerning it.”

U.S. Rep. Ben Ray Luján, New Mexico-District 3, was observing Good Friday with his family and was unavailable for comment. Lance Allgood, executive director for Gallup Joint Utilities Administration, was in meetings Friday and did not return two calls made to his office by the Independent.

According to the 2006 memorandum from Granta Y. Nakayama entitled “Restrictions on Communicating with Outside Parties Regarding Enforcement Actions,” when sensitive enforcement information is released by EPA through either discussions or written communications, it may result in less protection of public health and the environment and jeopardize settlement negotiations.

The memo states that central to EPA’s enforcement work is the need to keep information that is not already in the public domain confidential while EPA is engaged in an enforcement matter. “Although

oftentimes the existence of an enforcement action is widely known, specific and sensitive enforcement information should be closely guarded. Therefore, communication with outside parties about enforcement-sensitive information should not occur."

Outside parties include members of Congress and congressional staff, representatives of state or local governments that do not enter into a joint prosecution or confidentiality agreement with EPA or the federal government, representatives of the media, industry, trade associations, environmental or public interest groups, and members of the general public.

"It is common practice that once settlement negotiations begin in any given enforcement matter, that the parties agree, in writing, that such communications will be held confidential between the parties to the fullest extent allowed by law," the memo states, adding that the agreements are not only for the protection of the party subject to the enforcement proceeding, but also to protect EPA if the matter is not settled and proceeds to adjudication.

Congress should not be a party in enforcement actions and should not be privy to settlement exchanges on the appropriate remedy required to settle an enforcement matter, the memo states.

$66.5 million plan aims to clean up Ralston Lagoon (*Gary Post Tribune*)

April 11, 2009
By Gitte Laasby

Post-Tribune staff writer

Indiana

The U.S. Environmental Protection Agency has settled on a $66.5 million plan to clean up the PCB-contaminated Ralston Street Lagoon in Gary, the agency announced Friday.

The 19-acre lagoon is located between the Gary/Chicago International Airport and the Indiana Toll Road and contains sludge and water contaminated by polychlorinated biphenyls (PCBs).

Exposure to PCBs can cause acne-like skin conditions in adults and neurobehavioral and immunological changes in children. PCBs have also been found to cause cancer in animals, according to the Agency for Toxic Substances & Disease Registry.

The EPA has proposed the pollution be contained with an underground wall and that the water be drained from it. The lagoon will be drained and the surface water treated to prevent it from running into the Grand Calumet River nearby. About 553,000 cubic yards of sludge in the lagoon will be solidified with cement and capped.

Residents in the area will be relocated and some homes demolished, the EPA said. The site has to be ready for construction by Sept. 30, 2010. The EPA?did not return calls seeking comment on which residents would be relocated and whether those residents have been notified.

The cleanup is required by a 2002 legal agreement between the EPA and lagoon owners, the city of Gary and the Gary Sanitary District. The city and the sanitary district are responsible for the contamination and will pay for the cleanup.

"Gary Sanitary District has recently submitted a detailed design work plan and must complete the project according to an EPA-approved schedule," the EPA said in a news release.

The sanitary district will also purchase 6 acres of residential property for use as a contractor's staging area and for water pretreatment.

GSD attorney Hamilton Carmouche said at a hearing in November that the district hopes to ask the state for a loan from its revolving loan fund to complete the cleanup.

The district is required to finish the job within five years of EPA approval, but Carmouche said the city could have problems getting an affordable bond in tough economic times. He did not return calls Friday.

EPA evaluated nine proposals, held a public hearing in Gary on Nov. 18, 2008, and took public comments before settling on the plan.

Learn more about the plan at tinyurl.com/dhls73.

Contact Gitte Laasby at 648-2183 or glaasby@post-trib.com.

Follow her on Twitter @GitteLaasbyPT.

Agency withheld evidence of D.C. water lead poisoning *(Greenwire)*

04/10/2009

Elevated lead levels in Washington, D.C., water between 2001 and 2004 may have been the highest in city water on record, with some tap water containing enough lead to be classified as hazardous waste.

A 2004 Centers for Disease Control and Prevention study said the water contamination "might have contributed a small increase in blood lead levels," a mild statement that provided

justification for school officials in other cities not to aggressively respond to high levels of lead in their water.

But the report was missing the results of blood tests from thousands of children, potentially skewing the findings. The CDC also found in 2007 that many young D.C. children living in homes with lead pipes had been poisoned by drinking water, but did not notify public health officials in D.C. or federal regulatory agencies, and did not publicize the findings.

A separate study published in January found that hundreds or possibly thousands or children were adversely affected by lead in D.C. water, contradicting CDC's 2004 conclusions and sparking new scrutiny of the agency's findings.

Mary Jean Brown, the principal author of the 2004 CDC study, acknowledges that thousands of blood tests were lost in the study, but defends the conclusion that the children's exposure to lead and consequent harm was slight. Only low-level test results were lost, she said (Rebecca Renner, Salon, April 10). **– TL**

'Zoning' rules urged to protect offshore resources *(Greenwire)*

Allison Winter, E&E reporter

04/10/2009

Congress should create an ocean zoning system to protect marine resources from expanded offshore energy development, according to Duke University researchers.

Their paper, published today in *Science*, says federal policymakers must extend public-trust doctrine used for settling legal disputes on land to the sea. The doctrine could provide an effective and ethical answer to questions about how to regulate offshore areas for oil and gas drilling and wave and wind development while protecting fisheries and marine habitat, the researchers write.

At issue is how to address demands for energy development on the outer continental shelf.

Some lawmakers have proposed offshore zoning, or "marine spatial planning." Several advocacy groups are working to put marine zoning language that would mandate an ecosystem-based management approach into an energy bill this year.

But the authors of the new report say U.S. ocean governance cannot easily accommodate ecosystem management. To do so, they say, Congress should employ the public trust doctrine, which obliges the government to manage natural resources in the best interest of its citizens.

"The public trust doctrine could provide a practical legal framework for restructuring the way we regulate and manage our oceans. It would support ocean-based commerce while protecting marine species and habitats," said Mary Turnipseed, a doctoral student at Duke's Nicholas School of the Environment and the study's main author.

Many analysts and the U.S. Commission on Ocean Policy have assumed the public trust doctrine already extends to federal waters. But Stephen Roady, a fellow at Duke's School of Law and a lawyer at Earthjustice, said that doctrine must be "formally articulated" by Congress, the White House or the federal courts.

President Obama could use an executive order to extend the doctrine offshore, or Congress could write it into oceans law, Roady said. Alternatively, federal courts could extend the doctrine to the oceans by using the same precedents and statutes that states have used, according to the report.

States that use the public trust doctrine on land have started to try to extend it to the ocean. The Massachusetts Ocean Partnership recently wrote legislation saying the state should manage its waters according to the doctrine. Rhode Island and New York are in the process of drafting similar comprehensive plans for managing state waters.

The Duke report says the doctrine should be extended to U.S. ocean waters to help federal agencies manage conflicting demands in 3 million nautical square miles of the Exclusive Economic Zone.

Currently, more than 20 different federal agencies, operating under dozens of laws, regulate species and activities in these waters, without any mandated, systematic effort to coordinate their actions for the public good, according to the report.

'Frontier' zoning

Once established, ocean zoning could protect vital wildlife habitat and site specific areas for energy development.

Larry Crowder, a marine biology professor at Duke's Nicholas School of the Environment, envisions using the public trust doctrine to create a "marine special management plan" that has input from all of the relevant federal agencies. Ecosystems management would be a guiding principle.

Crowder predicts that as the debate over how to regulate uses of offshore areas matures, historically influential players -- such as oil and gas producers -- could exercise undue influence. Start-up industries, such as wave and tidal energy producers, may have less power.

"People still think of the oceans as a frontier," Crowder said. "When the West was a frontier, there wasn't zoning. The guy with six bullets won."

He added, "We've done this on land with comprehensive plans. You don't put a porn shop next to an elementary school."

Senior reporter Michael Burnham contributed.

****

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.

****