

01268-EPA-4868

"Browner, Carol M."

(b) (6) Privacy

08/14/2009 03:19 PM

To Richard Windsor

cc

bcc

Subject Can you do a conference call re: air Mon or Tues?

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

From: Windsor.Richard@epamail.epa.gov <Windsor.Richard@epamail.epa.gov>

To: Browner, Carol M.

Sent: Fri Aug 14 14:17:53 2009

Subject: Re: Mtg schedule

Cell (b) (6) Privacy

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

From: "Browner, Carol M." [(b) (6) Privacy]

Sent: 08/14/2009 02:16 PM AST

To: Richard Windsor

Subject: Re: Mtg schedule

What's the best number to reach you on?

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

From: Windsor.Richard@epamail.epa.gov <Windsor.Richard@epamail.epa.gov>

To: Browner, Carol M.

Sent: Fri Aug 14 14:07:48 2009

Subject: Re: Mtg schedule

Tx. Sorry to bother you on the road. (b) (5) Deliberative

Safe travels.

From: "Browner, Carol M." <(b) (6) Privacy>

To: Richard Windsor/DC/USEPA/US@EPA

Date: 08/14/2009 02:05 PM

Subject: Mtg schedule

Heard you and Jody connected re: mtg. We are working on trying to figure out folks availability and will be back to your folks as soon as

we have good information. Carol

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

From: Browner, Carol M.  
To: 'Windsor.Richard@epamail.epa.gov' <Windsor.Richard@epamail.epa.gov>  
Sent: Thu Aug 13 18:15:36 2009  
Subject: Re: Suggestion

This is funny I thought you were going. I think it is next week.

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

From: Windsor.Richard@epamail.epa.gov <Windsor.Richard@epamail.epa.gov>  
To: Browner, Carol M.  
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Subject: Re: Suggestion

Oh. I thought you were there! Or I would have called. Sorry. And I thought you were going to Alaska with the Coast Guard.

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

From: "Browner, Carol M." [REDACTED] (b) (6) Privacy  
Sent: 08/13/2009 06:04 PM AST  
To: Richard Windsor  
Subject: Re: Suggestion

I am not in Alaska. Or even going. But we are going to Mass. How about you? Are you getting away

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

From: Windsor.Richard@epamail.epa.gov <Windsor.Richard@epamail.epa.gov>  
To: Browner, Carol M.  
Sent: Thu Aug 13 18:01:34 2009  
Subject: Re: Suggestion

Cool. How's Alaska?

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

From: "Browner, Carol M." [REDACTED] (b) (6) Privacy  
Sent: 08/13/2009 06:00 PM AST  
To: Richard Windsor; "Rouse, Peter M." <[REDACTED] (b) (6) Privacy>  
"Messina, Jim" <[REDACTED] (b) (6) Privacy> "Sutphen, Mona K." <[REDACTED] (b) (6) Privacy>  
<[REDACTED] (b) (6) Privacy> "Sutley, Nancy H." <[REDACTED] (b) (6) Privacy>  
<[REDACTED] (b) (6) Privacy> "Schiliro, Philip M." <[REDACTED] (b) (6) Privacy>  
Subject: Re: Suggestion

Lisa -- thanks. we will work your folks to get it set up. Carol

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

From: Windsor.Richard@epamail.epa.gov <Windsor.Richard@epamail.epa.gov>  
To: Rouse, Peter M.; Messina, Jim; Sutphen, Mona K.; Browner, Carol M.;  
Sutley, Nancy H.; Schiliro, Philip M.

Sent: Thu Aug 13 17:55:55 2009  
Subject: Suggestion

Hi Folks,

EPA has a spate of actions coming up that affect climate. it would be great if we could meet to walk through them. May I work with Carol's office to set sthat up? Lisa Jackson

01268-EPA-4869

Richard Windsor/DC/USEPA/US  
08/14/2009 03:24 PM

To "Carol Browner"  
cc  
bcc

Subject Re: Can you do a conference call re: air Mon or Tues?

Yes. Will re-arrange schedule as needed.

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

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Sent: 08/14/2009 03:19 PM AST  
To: Richard Windsor  
Subject: Can you do a conference call re: air Mon or Tues?

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01268-EPA-4870

**Bob Sussman/DC/USEPA/US**

08/19/2009 03:29 PM

To "Lisa P. Jackson", "Seth Oster", "Diane Thompson"

cc

bcc

Subject Fw: Labor Day Coal Industry Protest

Gregory Peck

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

**From:** Gregory Peck

**Sent:** 08/19/2009 12:05 PM EDT

**To:** Peter Silva

**Cc:** Bob Sussman; Arvin Ganesan; (b) (6) Privacy ; (b) (6) Privacy

**Subject:** Labor Day Coal Industry Protest

---

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

202-564-5778

Coal industry planning big Labor Day event  
by Ken Ward Jr.

This just in from the folks at Massey Energy:

\*Working Families to Hold "Friends of America" Rally\*

\*Featured Guests to Include Sean Hannity, Ted Nugent, and Hank Williams Jr.\*  
\*Free Labor Day Festival to Support American Jobs\*

A coalition of local employers, associations, and elected officials will honor American working families with a free Labor Day "Friends of America" concert and rally near Holden, West Virginia.

"Now more than ever, it is the time for working people and businesses to join together and speak up about the economic damage caused by an overreaching government. For our communities to grow and prosper, our people need freedom," said Art Kirkendoll, president of the Logan County Commission. "The Friends of America rally is about standing up for our freedoms, our families and the American way of life." \*\*

The rally will feature nationally-recognized musical entertainers and speakers. Featured speakers include Sean Hannity, a nationally-syndicated radio host and Fox television host, and Lord Christopher Monckton, a former science adviser to former British Prime Minister Margaret Thatcher. Featured entertainers include country music legend Hank Williams Jr., Halfway to Hazard, Taylor Made and others.

American icon Ted Nugent will emcee the event.

\* \*

"America's working families are under attack from several fronts. America's job providers and American workers must rally together and let our voices be heard," said Don Blankenship, CEO of Massey Energy and lead organizer of the Friends of America Rally. "We are proud to provide Central Appalachia with good-paying jobs that cannot be outsourced, and we will continue to fight to make sure they aren't taxed or regulated out of existence."

\* \*

"Keeping jobs in America has to be the top priority for our leaders in Washington. American job providers and workers need to join together to ensure we can continue to provide for our families. This rally is being held to let Washington know that we support policies that support American jobs," said Ruth Lemmon, President of the WV Automobile & Truck Dealers Association, one of the many state organizations supporting the event.

"We are glad to support the Friends of America rally. It's a perfect opportunity to honor the contribution hard working Americans make to our economy, our communities and our country, and to let those people have a voice in the public debate that affects them so deeply," said Ben Hatfield, CEO of International Coal Group. "We are proud to stand with the men and women that fuel American industry, create American jobs and grow the American economy."

"Our responsibility to the people of Southern West Virginia is to protect jobs not only here in West Virginia but America as well, being the son and grandson of West Virginia coal miners, we must keep these jobs from being regulated out of existence by policies that would harm working families," added John Hubbard, president of the Mingo County Commission.

"Friends of America" rally will be held on Monday, September 7, 2009, from 10:30 a.m. to 8:00 p.m. The event will be free and open to the public. You must register online for your free guest pass.

To register for your guest pass and for more information visit the Friends of America Rally online.

Logan Banner  
New rally a Labor Day alternative  
by PAUL ADKINS, Sports Editor

HOLDEN - The battle lines are being drawn on Labor Day in southern West Virginia.

There will be one rally in Racine in Boone County.

And then there will be another near Holden in Logan County.

Red vs. Blue.



Left vs. Right.

For 70 years most Democrats in southern West Virginia knew where they were going to be on Labor Day. They would gather in Racine for the United Mine Workers of America (UMWA) Labor Rally.

The annual event has played host to many local, state and national Democrats, especially in election years. The 2004 event attracted Democratic presidential candidate and Massachusetts Senator John Kerry.

But this year, there's competition.

A coalition of employers, coal mine operators, businessmen, elected officials and national figures calling themselves "Friends of America," are hosting a day-long event, concert and rally on a reclaimed coal mine site on 22 Mine Road near Holden.

"The Friends of America rally is about standing up for our freedoms, our families and the American way of life," said Democrat Art Kirkendoll, president of the Logan County Commission, in a prepared statement.

The Friends of America Rally will have as its special guests, Fox News commentator and syndicated radio host Sean Hannity, country music legend Hank Williams Jr., and conservative and gun rights activist and rock legend Ted Nugent, who will serve as the event's emcee.

The rally is being sponsored and funded by Massey Energy CEO Don Blankenship. The Logan and Mingo county commissions are also sponsors.

Talkline radio host Hoppy Kercheval interviewed Blankenship on Tuesday about the event. He asked Blankenship what the message would be at Holden.

"I think the message is that American workers are being squeezed from every direction," Blankenship said. "On the left side of the isle they are being squeezed by excessive regulation and work rules. On the right side of the isle they are being squeezed by free trade exporting jobs to China. At some point the American worker, American prosperity and the American way of life must be supported. That's what this is about. We're sort of caught between one side trying to regulate us out of business and the other side trying to export us out of business."

Blankenship said there will be a stark contrast between Holden and Racine.

"Essentially, there's a belief of those on the middle to the left that the EPA and the government are doing their jobs, unless the government's job is to make us more dependent on foreign energy, unless the government's job is to export our jobs, unless the government's job is to increase pollution in the atmosphere around the world, while proporing to be improving it. I think they are doing a bad job," he said. "We heard too much that the 'enviros' are doing their jobs but in fact it is costing our jobs.

"We're getting too far on the side of environment extremism and too much away from what has made America great. Coal, the workers and industry is what made America great."

Having Nugent, Hannity and Williams Jr., will help get the conservative message out, Blankenship said.

"This will give us the publicity and will help us get the message out," he said. "The people who attend will hear our side of the story, which they are not getting out of our media. We will also be able to get some coverage on a national scale about issues like cap-and-trade and energy independence which are key to household budgets and to national security."

The conservative website wvared.com says the rally will draw big crowds in the thousands to Holden.

"One has to assume that organizers of the Labor Rally in Racine are concerned that the Friends of America Rally will cause low attendance at their event. In recent years the biggest name on the agenda was Joe Manchin, who is probably too closely aligned with big business interests for most liberal pro-union Democrats. The lack of attendance from big name Democrats could spell doom for the Racine rally this year. Pictures from last year's event show how sparse attendance. Names like Hank Williams, Jr. and Ted Nugent are likely to draw large crowds from the southern West Virginia mountains and coal fields," the website writes.

But not everyone is welcoming the event or the invited guests or speakers.

An on-line writer for wvablue.com, wvared.com's liberal counterpart, was not that impressed.

The blogger wrote, "In an attempt to combat what he wrongly cites as out-of-state activists fighting MTR (mountain top removal), AP reports Don Blankenship is bringing in out-of-state GOP hacks and washed-up musicians, along with an out-of-country global warming denier of questionable credibility. And then the anti-union folks wrap the whole thing, held on an MTR site, up in a fake 'Labor Day' message about workers. Massey supporters told Daryl Hannah and James Hansen to 'go home' and leave the issue to West Virginians. Will they say the same to Long Island Sean? Oh, and let's not forget what kind of scum this supposed 'American icon' Nugent is."

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The event is free and open to anyone.

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The event is scheduled to begin at 10:30 a.m. on Labor Day and end at 8

p.m.

To get tickets visit the official website at: [friendsofamericarally.com](http://friendsofamericarally.com).

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

From: Peck.Gregory@epamail.epa.gov [mailto:Peck.Gregory@epamail.epa.gov]

Sent: Wednesday, August 19, 2009 11:38 AM

To: Adler, Ann

Subject: Re: I suck at math

Ann

You mentioned a labor day protest when we spoke yesterday - any details?

Thanks,  
Greg

---

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

202-564-5778

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| From: |  
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| "Adler, Ann" <Ann.Adler@mail.house.gov>  
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| To: |  
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| Gregory Peck/DC/USEPA/US@EPA  
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| 08/19/2009 09:06 AM  
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| Subject: |
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| I suck at math
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Hi, Greg! Hopefully my subject line gave you a smile, but, honestly, I DO suck at math, like most journalists. We keep hearing different numbers and it is driving us (OK, the Chairman) nuts. Here's my new question.

Earlier this year EPA cleared 42 (of 48) permits in a first batch (which I assume we're ignoring for mathematical purposes).

On June 1, at the time of the signing of the MOU, there were 108 permit applications that the letter accompanying the MOU stated would be "subject to review in accordance with these procedures" referring to the "coordinated process."

Yesterday you told me that there were now 86 permit applications that are subject to the "coordinated process" being reviewed by EPA.

That leaves 22, of the 108, unaccounted for.

Am I to assume that those 22 have not been transmitted to the EPA? If that is an accurate assumption, do you expect to them to be transmitted to EPA for review, or are they essentially not of concern. This is NOT for public consumption, but just so we know what to expect.

Thanks, Greg. I hope this is the last time I have to bother you with this until after I get back from vacation (but bet it won't be). Ann

Ann Adler  
 Deputy Chief of Staff  
 Natural Resources Committee  
 U.S. House of Representatives  
 202-226-7256 (direct)  
 202-225-6065 (main)  
 //http.resourcescommittee.house.gov

01268-EPA-4871

**Richard Windsor/DC/USEPA/US**  
08/19/2009 04:02 PM

To Bob Sussman, Seth Oster, Diane Thompson, "Allyn Brooks-Lasure", "David McIntosh", "Peter Silva", "William Early", "Stan Meiburg"

cc

bcc

Subject Re: Labor Day Coal Industry Protest

Thx Bob. This is very helpful and paints a very different picture of what is really happening there. Lisa  
Bob Sussman

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

**From:** Bob Sussman  
**Sent:** 08/19/2009 03:29 PM EDT  
**To:** Richard Windsor; Seth Oster; Diane Thompson  
**Subject:** Fw: Labor Day Coal Industry Protest

Gregory Peck

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| To: |  
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| Gregory Peck/DC/USEPA/US@EPA  
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|I suck at math  
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Thanks, Greg. I hope this is the last time I have to bother you with this until after I get back from vacation (but bet it won't be). Ann

Ann Adler  
Deputy Chief of Staff  
Natural Resources Committee  
U.S. House of Representatives  
202-226-7256 (direct)  
202-225-6065 (main)  
//http.resourcescommittee.house.gov

01268-EPA-4872

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

To Richard Windsor

08/19/2009 04:05 PM

cc

bcc

Subject Re: Labor Day Coal Industry Protest

Returned your earlier call and left you a VM on your cell. Let me know if you want me to try you again. Otherwise, I'm in the office.

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

Richard Windsor

Thx Bob. This is very helpful and paint...

08/19/2009 04:02:53 PM

From: Richard Windsor/DC/USEPA/US  
To: Bob Sussman/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, "Allyn Brooks-Lasure" <Brooks-lasure.allyn@epa.gov>, "David McIntosh" <mcintosh.david@epa.gov>, "Peter Silva" <Silva.Peter@epamail.epa.gov>, "William Early" <Early.William@epamail.epa.gov>, "Stan Meiburg" <Meiburg.Stan@epamail.epa.gov>  
Date: 08/19/2009 04:02 PM  
Subject: Re: Labor Day Coal Industry Protest

Thx Bob. This is very helpful and paints a very different picture of what is really happening there. Lisa

Bob Sussman

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

**From:** Bob Sussman  
**Sent:** 08/19/2009 03:29 PM EDT  
**To:** Richard Windsor; Seth Oster; Diane Thompson  
**Subject:** Fw: Labor Day Coal Industry Protest

Gregory Peck

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

**From:** Gregory Peck  
**Sent:** 08/19/2009 12:05 PM EDT  
**To:** Peter Silva  
**Cc:** Bob Sussman; Arvin Ganesan; (b) (6) Privacy ; (b) (6) Privacy  
**Subject:** Labor Day Coal Industry Protest

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

202-564-5778

Coal industry planning big Labor Day event  
by Ken Ward Jr.

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\*Working Families to Hold "Friends of America" Rally\*

\*Featured Guests to Include Sean Hannity, Ted Nugent, and Hank Williams Jr.\*  
\*Free Labor Day Festival to Support American Jobs\*

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"Now more than ever, it is the time for working people and businesses to join together and speak up about the economic damage caused by an overreaching government. For our communities to grow and prosper, our people need freedom," said Art Kirkendoll, president of the Logan County Commission. "The Friends of America rally is about standing up for our freedoms, our families and the American way of life." \*\*

The rally will feature nationally-recognized musical entertainers and speakers. Featured speakers include Sean Hannity, a nationally-syndicated radio host and Fox television host, and Lord Christopher Monckton, a former science adviser to former British Prime Minister Margaret Thatcher. Featured entertainers include country music legend Hank Williams Jr., Halfway to Hazard, Taylor Made and others. American icon Ted Nugent will emcee the event.

\* \*

"America's working families are under attack from several fronts. America's job providers and American workers must rally together and let our voices be heard," said Don Blankenship, CEO of Massey Energy and lead organizer of the Friends of America Rally. "We are proud to provide Central Appalachia with good-paying jobs that cannot be outsourced, and we will continue to fight to make sure they aren't taxed or regulated out of existence."

\* \*

"Keeping jobs in America has to be the top priority for our leaders in Washington. American job providers and workers need to join together to ensure we can continue to provide for our families. This rally is being held to let Washington know that we support policies that support American jobs," said Ruth Lemmon, President of the WV Automobile & Truck Dealers Association, one of the many state organizations supporting the event.

"We are glad to support the Friends of America rally. It's a perfect opportunity to honor the contribution hard working Americans make to our economy, our communities and our country, and to let those people have a voice in the public debate that affects them so deeply," said Ben Hatfield, CEO of International Coal Group. "We are proud to stand with the men and women that fuel American industry, create American jobs and

grow the American economy."

"Our responsibility to the people of Southern West Virginia is to protect jobs not only here in West Virginia but America as well, being the son and grandson of West Virginia coal miners, we must keep these jobs from being regulated out of existence by policies that would harm working families," added John Hubbard, president of the Mingo County Commission.

"Friends of America" rally will be held on Monday, September 7, 2009, from 10:30 a.m. to 8:00 p.m. The event will be free and open to the public. You must register online for your free guest pass.

To register for your guest pass and for more information visit the Friends of America Rally online.

Logan Banner  
New rally a Labor Day alternative  
by PAUL ADKINS, Sports Editor

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But this year, there's competition.

A coalition of employers, coal mine operators, businessmen, elected officials and national figures calling themselves "Friends of America," are hosting a day-long event, concert and rally on a reclaimed coal mine site on 22 Mine Road near Holden.

"The Friends of America rally is about standing up for our freedoms, our families and the American way of life," said Democrat Art Kirkendoll, president of the Logan County Commission, in a prepared statement.

The Friends of America Rally will have as its special guests, Fox News commentator and syndicated radio host Sean Hannity, country music legend Hank Williams Jr., and conservative and gun rights activist and rock legend Ted Nugent, who will serve as the event's emcee.

The rally is being sponsored and funded by Massey Energy CEO Don

Blankenship. The Logan and Mingo county commissions are also sponsors.

Talkline radio host Hoppy Kercheval interviewed Blankenship on Tuesday about the event. He asked Blankenship what the message would be at Holden.

"I think the message is that American workers are being squeezed from every direction," Blankenship said. "On the left side of the isle they are being squeezed by excessive regulation and work rules. On the right side of the isle they are being squeezed by free trade exporting jobs to China. At some point the American worker, American prosperity and the American way of life must be supported. That's what this is about. We're sort of caught between one side trying to regulate us out of business and the other side trying to export us out of business."

Blankenship said there will be a stark contrast between Holden and Racine.

"Essentially, there's a belief of those on the middle to the left that the EPA and the government are doing their jobs, unless the government's job is to make us more dependent on foreign energy, unless the government's job is to export our jobs, unless the government's job is to increase pollution in the atmosphere around the world, while porporting to be improving it. I think they are doing a bad job," he said. "We heard too much that the 'enviros' are doing their jobs but in fact it is costing our jobs.

"We're getting too far on the side of environment extremism and too much away from what has made America great. Coal, the workers and industry is what made America great."

Having Nugent, Hannity and Williams Jr., will help get the conservative message out, Blankenship said.

"This will give us the publicity and will help us get the message out," he said. "The people who attend will hear our side of the story, which they are not getting out of our media. We will also be able to get some coverage on a national scale about issues like cap-and-trade and energy independence which are key to household budgets and to national security."

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"One has to assume that organizers of the Labor Rally in Racine are concerned that the Friends of America Rally will cause low attendance at their event. In recent years the biggest name on the agenda was Joe Manchin, who is probably too closely aligned with big business interests for most liberal pro-union Democrats. The lack of attendance from big name Democrats could spell doom for the Racine rally this year. Pictures from last year's event show how sparse attendance. Names like Hank Williams, Jr. and Ted Nugent are likely to draw large crowds from the southern West Virginia mountains and coal fields," the website writes.

But not everyone is welcoming the event or the invited guests or speakers.

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The blogger wrote, "In an attempt to combat what he wrongly cites as out-of-state activists fighting MTR (mountain top removal), AP reports Don Blankenship is bringing in out-of-state GOP hacks and washed-up musicians, along with an out-of-country global warming denier of questionable credibility. And then the anti-union folks wrap the whole thing, held on an MTR site, up in a fake 'Labor Day' message about workers. Massey supporters told Daryl Hannah and James Hansen to 'go home' and leave the issue to West Virginians. Will they say the same to Long Island Sean? Oh, and let's not forget what kind of scum this supposed 'American icon' Nugent is."

Friends of America rally organizers expect the crowd to be in the thousands.

Hannity is scheduled to speak at the event as well as global warming critic Lord Christopher Monckton, a former science adviser to former British Prime Minister Margaret Thatcher.

The event is free and open to anyone.

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"We're going to allow the communities to benefit from this," Blankenship said on his radio interview. "We're going to allow schools, cheerleading groups, basketball teams and football teams and so forth to have stands where they can make enough money to support their academic or athletic programs. We think this will create a windfall for the area school systems and organizations. Of course, we'll be footing the bill for the entertainment."

The event is scheduled to begin at 10:30 a.m. on Labor Day and end at 8 p.m.

To get tickets visit the official website at: [friendsofamericarally.com](http://friendsofamericarally.com).

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

From: Peck.Gregory@epamail.epa.gov [mailto:Peck.Gregory@epamail.epa.gov]

Sent: Wednesday, August 19, 2009 11:38 AM

To: Adler, Ann

Subject: Re: I suck at math

Ann

You mentioned a labor day protest when we spoke yesterday - any details?

Thanks,  
Greg

---

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

202-564-5778

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| From: |
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| "Adler, Ann" <Ann.Adler@mail.house.gov>
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| To: |
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| Gregory Peck/DC/USEPA/US@EPA
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| Date: |
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202-226-7256 (direct)  
202-225-6065 (main)  
[//http://resourcescommittee.house.gov](http://resourcescommittee.house.gov)

01268-EPA-4873

**Richard Windsor/DC/USEPA/US**  
08/19/2009 04:16 PM

To Seth Oster  
cc  
bcc

Subject Re: Labor Day Coal Industry Protest

I'm trying (desperately) to remember why I called!  
Seth Oster

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

**From:** Seth Oster  
**Sent:** 08/19/2009 04:05 PM EDT  
**To:** Richard Windsor  
**Subject:** Re: Labor Day Coal Industry Protest

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Seth Oster  
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(202) 564-1918  
oster.seth@epa.gov

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**From:** Richard Windsor/DC/USEPA/US  
**To:** Bob Sussman/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, "Allyn Brooks-Lasure" <Brooks-lasure.allyn@epa.gov>, "David McIntosh" <mcintosh.david@epa.gov>, "Peter Silva" <Silva.Peter@epamail.epa.gov>, "William Early" <Early.William@epamail.epa.gov>, "Stan Meiburg" <Meiburg.Stan@epamail.epa.gov>  
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**Cc:** Bob Sussman; Arvin Ganesan; (b) (6) Privacy ; (b) (6) Privacy  
**Subject:** Labor Day Coal Industry Protest

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Chief of Staff  
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202-564-5778

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Greg

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Gregory E. Peck

Chief of Staff  
Office of Water  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

202-564-5778

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| From: |  
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| "Adler, Ann" <Ann.Adler@mail.house.gov>  
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| Gregory Peck/DC/USEPA/US@EPA  
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Ann Adler  
Deputy Chief of Staff  
Natural Resources Committee  
U.S. House of Representatives  
202-226-7256 (direct)  
202-225-6065 (main)  
[//http://resourcescommittee.house.gov](http://resourcescommittee.house.gov)



01268-EPA-4874

**Daniel Gerasimowicz/DC/USEPA/US**  
08/26/2009 06:41 PM

To Michelle DePass, Steve Owens, Peter Silva, Peter Grevatt, Sarah Pallone, Mathy Stanislaus, Cynthia Giles, Gina McCarthy, Alicia Kaiser, Lawrence Elworth, Seth Oster, Katharine Gage, Stephanie Washington, Diane Thompson, Arvin Ganesan, Marcus McClendon, Ray Spears, Sarah Dale, Georgia Bednar, Carla Veney, Scott Fulton, Bob Sussman, Allyn Brooks-LaSure, Richard Windsor, Eric Wachter, (b) (6), Robert Goulding, Lisa Heinzerling, David McIntosh

cc

bcc

Subject Thursday, August 27, 2009 Schedule for Lisa P. Jackson

\*\*\* do not copy or forward this information \*\*\*

**Schedule for Lisa P. Jackson EPA Administrator  
Thursday, August 27, 2009**

Notes:

Drivers

AM (b) (6) Privacy  
[Redacted]

Shift Leaders

AM (b) (6) Privacy (b) (6) Privacy  
PM (b) (6) Privacy (b) (6) Privacy

Staff Contact

Robert Goulding  
202-596-0245

07:30 AM - 08:15 AM	Residence	Depart for Ariel Rios
08:15 AM - 08:45 AM	Administrator's Office	1 on 1 with Steve Owens Ct: Joyce Crowley (OPPTS) 564-2902  Optional attendees: Bob Sussman, Diane Thompson (OA)
08:45 AM - 09:15 AM	Administrator's Office	Daily Meeting
09:25 AM - 09:35 AM	Administrator's Office	Phone Interview Subj: Joe Madison, WOL-AM/XM satellite radio Ct: Brendan Gilfillan (OPA) 564-2081  Topic: EJ Issues  Call in time: The Administrator should call into the call-in number below a few minutes before 9:30 AM  Interviewer: Joe Madison  Call-in number: (b) (6) Privacy  Backup - (b) (6) Privacy (assistant producer's cell)  Staff: Brendan Gilfillan (OPA)
09:40 AM - 10:00 AM	Ariel Rios	Depart for EEOB Craig Hooks will travel with the Administrator

10:00 AM - 11:45 AM	EEOB 350	Recovery Act Meeting with VPOTUS Ct: Ben Milakofsky (WH), (b) (6) Privacy
		Call time is 10 AM - the meeting will begin at 10:15 AM
		Craig Hooks will attend this meeting with the Administrator
11:45 AM - 12:00 PM	EEOB	Depart for Four Seasons Hotel
12:15 PM - 12:45 PM	Four Seasons Hotel Washington, DC	Remarks at the US Army Corps "Collaborating for a Sustainable Water Resources Future" Conference Logistical Ct: Ada Benavides (Army Corps) (b) (6) Privacy Advance Ct: Megan Cryan (OA) 564-1553
12:45 PM - 01:00 PM	Four Seasons Hotel	Depart for The Oval Room
01:00 PM - 02:00 PM	The Oval Room Restaurant 800 Connecticut Avenue, NW	Lunch Subj: Dr. Cici Rouse  Ct: Lisa Branch (Rouse's Office), (b) (6) Privacy
		Reservations for 2 under Daniel Gero
02:00 PM - 02:15 PM	The Oval Room	Depart for Ariel Rios
02:30 PM - 03:15 PM	Bullet Room	Briefing to discuss the Surface Coal Mining MOU Permit Review Update Ct: Lori Keyton (OW) 564-5768  Staff: Bob Sussman, Diane Thompson, Lynn Zipf (OA) Bill Early, John Pomponio (R3) Stan Meiburg, Jim Giattina (R4) Bharat Mathur, Kevin Pierard (R5) Pete Silva, Mike Shapiro, Greg Peck, Suzanne Schwartz, Jim Hanlon, David Evans, Brian Frazer, Ann Campbell (OW) Catherine McCabe, Susan Bromm (OECA) Pat Hirsch, Steve Neugeboren, Kevin Minoli, Karyn Wendelowski (OGC)  (hookup to Admin's conference line needed for Regions)
03:15 PM - 03:25 PM	5400 ARN	Stop-by Meeting with Reed Hunt Ct: Shela Poke-Williams (OAR) 564-1850  This meeting will be led by Gina McCarthy and OAR. The Administrator will stop in briefly as a courtesy
03:30 PM - 03:40 PM	Administrator's Office	Meet and Greet with John "Buddy" Andrade Ct: Shakeba Carter-Jenkins (OPA) 564-6385  Staff:  Allyn Brooks-LaSure, Shakeba Carter-Jenkins (OPA)

---

Ron Slotkin will be on hand to take a photograph of the meeting

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03:40 PM - 04:00 PM    Administrator's Office    Interview  
Subj: Forbes Magazine - In-person Interview with Brian Wingfield  
  
Ct: Adora Andy (OPA) 564-2715  
  
Staff:  
Adora Andy (OPA)

---

04:00 PM - 04:45 PM    EOC - SCIF    Monthly Homeland Security Briefing  
Ct: Caroline Brown (OHS) 564-2893  
  
Staff:  
Juan Reyes, Johnc Martin, Steven Williams (OHS)  
Scott Fulton, (b) (6) Privacy

---

05:00 PM - 05:30 PM    Bullet Room    Review of Congressional Oversight Materials  
Ct: Arvin Ganesan (OCIR) 564-4741  
  
Staff:  
  
Diane Thompson, Scott Fulton (OA)  
Lisa Heinzerling (OPEI)  
Seth Oster, Allyn Brooks-LaSure (OPA)  
Arvin Ganesan (OCIR)  
Gina McCarthy (OAR)

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\*\*\* 08/26/2009 06:37:24 PM \*\*\*

01268-EPA-4875

**Diane  
Thompson/DC/USEPA/US**  
08/31/2009 10:21 AM

To "Carson, Jonathan K."  
cc Chuck Fox, Richard Windsor  
bcc

Subject Jackson calls to Cabinet on Chesapeake Bay draft reports

Jon,

I want to give you a heads-up about calls the Administrator will be placing today to the Federal Leadership Committee for the Chesapeake Bay. [REDACTED] (b) (5) Deliberative

[REDACTED]

Just FYI, she has placed a call to Sec. Locke but also will be calling Administrator Lubchenko. Also, we are doing some additional coordinating at the staff level with Ag before that call gets made, which likely will not be until tomorrow.

Thanks,  
Diane

(b)(5) Deliberative

CB rept tp for Adm call to cab 8.31.doc

\*\*\*\*\*

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

01268-EPA-4877

David  
McIntosh/DC/USEPA/US

To Richard Windsor

08/31/2009 06:51 PM

cc

bcc

Subject Fw: some clips from last week's CO energy/climate event

FYI, please see below. I'll print these out and include them in the binder that I hand you for the plane.

----- Forwarded by David McIntosh/DC/USEPA/US on 08/31/2009 06:50 PM -----

From: David McIntosh/DC/USEPA/US  
 To: Katharine Gage/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Eric Wachter/DC/USEPA/US@EPA, Aaron Dickerson/DC/USEPA/US@EPA  
 Date: 08/31/2009 06:50 PM  
 Subject: Fw: some clips from last week's CO energy/climate event

Here are the clips from last week's version of the event that the Administrator will do tomorrow. I'll print these out and get them to her.

----- Forwarded by David McIntosh/DC/USEPA/US on 08/31/2009 06:49 PM -----

From: "Maher, Jessica A." <(b) (6) Privacy>  
 To: "Belive, Lauren" <(b) (6) Privacy>, "Aldy, Joseph E." <(b) (6) Privacy>, "Brian Kennedy" <Kennedy.Brian@dol.gov>, <Christopher\_Mansour@ios.doi.gov>, "Cobb Mixer" <Cobb.mixer@do.treas.gov>, "Courtney Gregoire" <CGregoire@doc.gov>, <Dan.Utech@hq.doe.gov>, "Dana Gresham" <Dana.Gresham@dot.gov>, <david.kim@dot.gov>, <David.Vandivier@do.treas.gov>, <Donny.R.Williams@hud.gov>, <Grant.Leslie@osec.usda.gov>, "Heimbach, James T." <(b) (6) Privacy>, <HobgoodTD@state.gov>, "Hurlbut, Brandon K." <(b) (6) Privacy>, "Jonathan.Levy@hq.doe.gov" <Jonathan.Levy@hq.doe.gov>, "Krysta Harden" <Krysta.Harden@osec.usda.gov>, <MacDonald.Laura@dol.gov>, David McIntosh/DC/USEPA/US@EPA, <OgdenPR@state.gov>, <PedersonED@state.gov>, <Peter.Kovar@hud.gov>, "Richard Verma" <vermarr@state.gov>, <Sarah\_Bittleman@ios.doi.gov>, "Sepulveda, Daniel A." <(b) (6) Privacy>, "Stacey Rolland" <Stacey.Rolland@do.treas.gov>, <Uzzell.Megan@dol.gov>, "Zichal, Heather R." <(b) (6) Privacy>  
 Date: 08/31/2009 04:14 PM  
 Subject: some clips from last week's CO energy/climate event

Here are the clips I have from last week's event in CO at the Regional Governors Forum (Christopher/Sarah – am guessing you all have more):

Thanks.

Jess

**Denver Post, Denver Examiner ( Lynn Bartels)**

**"Salazar vows pragmatic slant on climate":**)FORT COLLINS — Interior Secretary Ken Salazar stressed Thursday that any legislation dealing with climate change must consider the impact on water and agriculture.

[Link](#)**KCNC CBS 4, KDVR FOX 31, Denver Examiner, KUSA NBC 9 (AP)**

**"Salazar Defends President's Energy Politics":** FORT COLLINS, Colo. (AP) — Interior Secretary Ken Salazar has joined Gov. Bill Ritter and Democratic congresswoman Betsy Markey at a forum to promote President Barack Obama's clean-energy policies.

[Link](#)

**Coloradoan (Bobby Magill)**

**“Salazar: Let’s take renewable energy lead”**: The United States can fall behind the rest of the world in addressing renewable energy and climate change, or it can take the lead, Interior Secretary Ken Salazar told a large group of students and area residents at Fossil Ridge High School on Thursday

[Link](#)

**Northern Colorado 5 CBS (Staff Written)**

**“Interior Secretary Salazar Pushes Clean Energy”**: It was invitation only as Interior Secretary Ken Salazar made a trip home to Colorado along with the Governor and Congresswoman Betsy Markey to discuss President Obama's clean energy policies.

[Link](#)

**Loveland Reporter-Herald (Jon Pilsner)**

**“Salazar, lawmakers and environmental officials bring energy to public discussion”**: FORT COLLINS — In the first of four national forums on the “New Energy Economy,” Interior Secretary Ken Salazar, Gov. Bill Ritter and Rep. Betsy Markey, along with others, held an open forum to give residents an opportunity to chime in on that new, proposed economy.

[Link](#)

**KUNC Radio (Kirk Siegler)**

**“Salazar, Ritter Tout Federal Climate Bill”**: FORT COLLINS, CO (KUNC) - Interior Secretary Ken Salazar and key Colorado democrats are defending a controversial clean energy bill pending in Congress that aims to curb greenhouse gas emissions. Those calls came at a White House forum on the so-called clean energy economy in Fort Collins Thursday.

[Link](#)

Jess Maher  
CEQ Legislative Affairs

**From:** Belive, Lauren

**Sent:** Monday, August 31, 2009 11:39 AM

**To:** Aldy, Joseph E.; Belive, Lauren; Brian Kennedy; Christopher\_Mansour@ios.doi.gov; Cobb Mixer; Courtney Gregoire; Dan.Utech@hq.doe.gov; Dana Gresham; david.kim@dot.gov; David.Vandivier@do.treas.gov; Donny.R.Williams@hud.gov; Grant.Leslie@osec.usda.gov; Heimbach, James T.; HobgoodTD@state.gov; Hurlbut, Brandon K.; 'Jonathan.Levy@hq.doe.gov'; Krysta Harden; MacDonald.Laura@dol.gov; Maher, Jessica A.; McIntosh.David@epamail.epa.gov; OgdenPR@state.gov; PedersonED@state.gov; Peter.Kovar@hud.gov; Richard Verma; Sarah\_Bittleman@ios.doi.gov; Sepulveda, Daniel A.; Stacey Rolland; Uzzell.Megan@dol.gov; Zichal, Heather R.

**Subject:** 4PM Call Today

Hope everyone had a great weekend.

Just a reminder, we will host our legislative energy call this afternoon at 4:00pm. The Dial in number is:

(b) (6) Privacy, Code: (b) (6) Privacy

Looking forward to talking with you.

Lauren

Lauren E. Belive | The White House | Office of Legislative Affairs

01268-EPA-4881

Gina McCarthy/DC/USEPA/US      To "Richard Windsor"  
09/03/2009 04:18 PM      cc  
bcc  
Subject Fw: Waiver Challenge

(b)(5) Deliberative

---

**From:** "Freeman, Jody L." [redacted] (b) (6) Privacy  
**Sent:** 09/03/2009 04:05 PM AST  
**To:** Gina McCarthy; John Hannon; "Perrelli, Thomas J." <Thomas.J.Perrelli@usdoj.gov>; "Lorenzen, Thomas (ENRD)" <Thomas.Lorenzen@usdoj.gov>  
**Cc:** "Chun, A Marisa" <A.Marisa.Chun@usdoj.gov>  
**Subject:** Waiver Challenge

All,

After some conversations, I just want to let you know that neither the Alliance nor AIAM will be filing a challenge to the waiver.

(b)(5) Deliberative

Of course, [redacted] (b)(5) Deliberative

Big thanks to Marisa Chun at DOJ, who has been terrific throughout.

Jody Freeman

Counselor for Energy and Climate Change  
The White House  
(b) (6) Privacy



01268-EPA-4882

**Richard Windsor/DC/USEPA/US**  
09/03/2009 04:28 PM

To: Gina McCarthy  
cc  
bcc

Subject: Re: Waiver Challenge

Tx

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**From:** Gina McCarthy  
**Sent:** 09/03/2009 04:18 PM EDT  
**To:** Richard Windsor  
**Subject:** Fw: Waiver Challenge

(b)(5) Deliberative

---

**From:** "Freeman, Jody L." [redacted] (b) (6) Privacy  
**Sent:** 09/03/2009 04:05 PM AST  
**To:** Gina McCarthy; John Hannon; "Perrelli, Thomas J." <Thomas.J.Perrelli@usdoj.gov>; "Lorenzen, Thomas \ (ENRD)" <Thomas.Lorenzen@usdoj.gov>  
**Cc:** "Chun, A Marisa" <A.Marisa.Chun@usdoj.gov>  
**Subject:** Waiver Challenge

All,

After some conversations, I just want to let you know that neither the Alliance nor AIAM will be filing a challenge to the waiver.

(b)(5) Deliberative

Of course, [redacted] (b)(5) Deliberative

Big thanks to Marisa Chun at DOJ, who has been terrific throughout.

Jody Freeman

Counselor for Energy and Climate Change  
The White House  
(b) (6) Privacy

01268-EPA-4883

**Richard Windsor/DC/USEPA/US**  
09/04/2009 11:16 PM

To "Tom Vilsack"  
cc "Nancy Sutley", "Jon Carson", "Diane Thompson"  
bcc  
Subject Draft Chesapeake Bay Documents

Tom,

As we discussed, the proposed topline messages for the Chesapeake Bay rollout next week are listed at the bottom of this email.

Also, attached are the proposed press rollout strategy and the draft joint press release. (b)(5) Deliberative

[Redacted]

Having read through all the items, I believe (b)(5) Deliberative

[Redacted]

Finally, my understanding is that the Exec Summary is still being reviewed by our staffs.

I look forward to discussing and finalizing these documents on Tuesday in advance of the Wednesday rollout.

Have a great weekend, Lisa

HERE ARE THE TOPLINE MESSAGES -

(b)(5) Deliberative  
[Redacted]

[Redacted]

[Redacted]

[Redacted]

01268-EPA-4884

Richard Windsor/DC/USEPA/US  
09/04/2009 11:18 PM

To "Bob Sussman", "Chuck Fox", "Peter Silva", "Larry Elworth", "Seth Oster", "Allyn Brooks-Lasure"  
cc "Diane Thompson"

bcc

Subject Fw: Draft Chesapeake Bay Documents

All,

I just sent the following to Secretary Vilsack. Note to Allyn/Seth - I made 2 minor changes to the draft press release you forwarded to me. Tx, Lisa

Richard Windsor

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

From: Richard Windsor

Sent: 09/04/2009 11:16 PM EDT

To: "Tom Vilsack" <(b) (6) Privacy>

Cc: "Nancy Sutley" <(b) (6) Privacy>; "Jon Carson"

<(b) (6) Privacy> "Diane Thompson" <thompson.diane@epa.gov>

Subject: Draft Chesapeake Bay Documents

Tom,

As we discussed, the proposed topline messages for the Chesapeake Bay rollout next week are listed at the bottom of this email.

Also, attached are the proposed press rollout strategy and the draft joint press release. (b)(5) Deliberative

[Redacted]

Having read through all the items, I believe (b)(5) Deliberative

[Redacted]

Finally, my understanding is that the Exec Summary is still being reviewed by our staffs.

I look forward to discussing and finalizing these documents on Tuesday in advance of the Wednesday rollout.

Have a great weekend, Lisa

HERE ARE THE TOPLINE MESSAGES -

(b)(5) Deliberative  
[Redacted]

[Redacted]

[Redacted]

(b)(5) Deliberative



01268-EPA-4885

**Diane  
Thompson/DC/USEPA/US**  
09/08/2009 04:02 PM

To cbrowner  
cc Richard Windsor, Seth Oster  
bcc

Subject Proposed Jackson Op-ed on LDV and PSD

Carol,  
Sorry I missed you today. I stopped by after my Cabinet Affairs meeting. Attached is the draft op-ed the Administrator mentioned to you earlier today. Our communications folks are scheduled to discuss the proposed roll-out strategy with Anita this afternoon, but all with the caveat that this is a very close hold for now. The Administrator seems to be stuck in NC because of flight delays but I know she wants to talk with you about this further.

Best,  
Diane

(b)(5) Deliberative

Proposed Rules on PDS and Autos -- Op-Ed Draft.doc  
\*\*\*\*\*

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

01268-EPA-4886

David McIntosh/DC/USEPA/US  
09/09/2009 10:39 AM

To Richard Windsor, Diane Thompson  
cc  
bcc  
Subject Fw: We will have our 11 am call this morning

----- Forwarded by David McIntosh/DC/USEPA/US on 09/09/2009 10:39 AM -----

From: "Hurlbut, Brandon K." (b) (6) Privacy  
To: <Nate.Turnbull@Dot.Gov>, <Brian\_Screnar@ios.doi.gov>, "Gregoire, Courtney" <CGregoire@doc.gov>, <James.C.Lopez@hud.gov>, <kathryn.thomson@dot.gov>, "Kenneth Lane" <kenneth\_lane@ios.doi.gov>, "Leslie, Grant" <Grant.Leslie@osec.usda.gov>, "MacDonald, Laura - OCIA" <MacDonald.Laura@dol.gov>, David McIntosh/DC/USEPA/US@EPA, "O'Connor, Rod" <Rod.Oconnor@hq.doe.gov>, "Owens, Missy" <Missy.Owens@hq.doe.gov>, "Shah, Parita" <PShah@doc.gov>, "Uzzell, Megan - ASP" <Uzzell.Megan@dol.gov>  
Cc: "Agnew, David P." <(b) (6) Privacy> "Belive, Lauren" <(b) (6) Privacy> "Carson, Jonathan K." <(b) (6) Privacy> "Dillon, Patrick" <(b) (6) Privacy> "Glunz, Christine M." <(b) (6) Privacy> "Heimbach, James T." <(b) (6) Privacy> "Hurlbut, Brandon K." <(b) (6) Privacy> "Lee, Hannah" <(b) (6) Privacy> "Lehrich, Matthew A." <(b) (6) Privacy> "Levine, Jacob C." <(b) (6) Privacy> "Maher, Jessica A." <(b) (6) Privacy> "McGrath, Shaun L." <(b) (6) Privacy> "Morris, Jonathan G." <(b) (6) Privacy> "Nelson, Gregory S." <(b) (6) Privacy> "Salzman, Amelia S." <(b) (6) Privacy> "Shah, Tarak N." <(b) (6) Privacy> "Wicks, Buffy" <(b) (6) Privacy> "Zichal, Heather R." <(b) (6) Privacy> "Lu, Christopher P." <(b) (6) Privacy> "Milakofsky, Benjamin E." <(b) (6) Privacy>  
Date: 09/09/2009 10:01 AM  
Subject: We will have our 11 am call this morning

We will have a short call today to give you the heads up on what will take place at the noon Energy Cabinet meeting. Attached is an electronic version of the briefing packet that your Cabinet member will receive.

We hope to have a longer in-person meeting on Friday to discuss follow up from our visits to your agencies.

Brandon Hurlbut  
Deputy Director, Cabinet Affairs  
Direct: (b) (6) Privacy  
Cell: (b) (6) Privacy  
(b) (5) Deliberative

01268-EPA-4889

Diane  
Thompson/DC/USEPA/US  
09/15/2009 08:10 AM

To Richard Windsor  
cc  
bcc  
Subject Fw: Copenhagen Guidance

FYI\_ - guidance from WH

COPENHAGEN GUIDANCE

(b)(5) Deliberative  
[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

(b)(5) Deliberative

[Redacted]

\*\*\*\*\*

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

----- Forwarded by Diane Thompson/DC/USEPA/US on 09/15/2009 08:09 AM -----

From: David McIntosh/DC/USEPA/US  
To: Gina McCarthy/DC/USEPA/US@EPA, Lisa Heinzerling/DC/USEPA/US@EPA, Michelle DePass/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA  
Date: 09/15/2009 07:53 AM  
Subject: Fw: Copenhagen Guidance

FYI

----- Forwarded by David McIntosh/DC/USEPA/US on 09/15/2009 07:52 AM -----

From: "Levine, Jacob C." <(b) (6) Privacy>  
To: "Hurlbut, Brandon K." <(b) (6) Privacy>, "DL-WH-ENERGY" <(b) (6) Privacy>  
Cc: "Milakofsky, Benjamin E." <(b) (6) Privacy> <Nate.Turnbull@Dot.Gov>, <Brian\_Scenaar@ios.doi.gov>, "Gregoire, Courtney" <CGregoire@doc.gov>, <James.C.Lopez@hud.gov>, <kathryn.thomson@dot.gov>, "Kenneth Lane" <kenneth\_lane@ios.doi.gov>, "Leslie, Grant" <Grant.Leslie@osec.usda.gov>, "MacDonald, Laura - OCIA" <MacDonald.Laura@dol.gov>, David McIntosh/DC/USEPA/US@EPA, "O'Connor, Rod" <Rod.Oconnor@hq.doe.gov>, "Owens, Missy" <Missy.Owens@hq.doe.gov>, "Shah, Parita" <PShah@doc.gov>, "Uzzell, Megan - ASP" <Uzzell.Megan@dol.gov>  
Date: 09/14/2009 06:51 PM  
Subject: Copenhagen Guidance

Hi All –

At the end of last week there seemed to be an appetite for guidance on Copenhagen. Attached is some paper and Q&A that should hopefully address some of the questions you and your bosses have received on Copenhagen.

I should also say, on the question of your bosses' attendance/participation, the direction we've received so far is that no final decisions have yet been made, but please stand by for additional guidance.

As always, let us know if there are any questions or concerns.

Thanks,

Jake  
(b)(5) Deliberative

Copenhagen Guidance.doc



01268-EPA-4890

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

09/15/2009 02:00 PM

To Richard Windsor

cc Allyn Brooks-LaSure, Adora Andy, David McIntosh, Arvin Ganesan, Diane Thompson, Lisa Heinzerling, Margo Oge  
bcc

Subject Fw: Announcement and briefing by Secretary of Transportation LaHood and EPA Administrator Jackson

Transcript of the press conference with you and LaHood is below.

Seth

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

----- Forwarded by Seth Oster/DC/USEPA/US on 09/15/2009 01:59 PM -----

From: "Lu, Christopher P." <[REDACTED] (b) (6) Privacy >  
To: Seth Oster/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA  
Date: 09/15/2009 01:57 PM  
Subject: FW: Announcement and briefing by Secretary of Transportation LaHood and EPA Administrator Jackson

FYI

**From:** Suntum, Margaret M.  
**Sent:** Tuesday, September 15, 2009 1:56 PM  
**Subject:** Announcement and briefing by Secretary of Transportation LaHood and EPA Administrator Jackson

THE WHITE HOUSE

Office of the Press Secretary

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For Immediate Release  
September 15, 2009

PRESS BRIEFING BY  
SECRETARY OF TRANSPORTATION RAY LaHOOD  
AND  
ENVIRONMENTAL PROTECTION AGENCY ADMINISTRATOR LISA JACKSON

James S. Brady Press Briefing Room

12:09 P.M. EDT

MR. EARNEST: Good afternoon, everybody. I appreciate everybody being here on relatively short notice. We're going to have a quick briefing today to talk about an announcement that the President actually originally made in his remarks in Youngstown, Ohio, today about some national standards related to fuel efficiency and emissions for vehicles.

So obviously joining with me today is EPA Administrator Lisa Jackson and Secretary LaHood from the Department of Transportation. So they'll each make some opening remarks, and then we'll open it up for questions after that.

Administrator Jackson.

ADMINISTRATOR JACKSON: Hello, everyone. First, hello to Secretary LaHood and his team, and to my own team from the EPA.

In May of this year, we met here with President Obama, automakers, autoworkers, governors from across the country, and others to announce a historic agreement about the future of our automobile industry. That announcement was also a directive to get to work, and we're here today to announce the next step in fulfilling the promise of that historic agreement.

Today, EPA and NHTSA are proposing a new national program to reduce greenhouse gas emissions and significantly improve fuel economy from cars, SUVs and small trucks. This marks a significant advance in our work to protect health in the environment, and move our nation into the sustainable, energy-efficient economy of the future.

The groundbreaking standards require an average fuel economy of 35.5 miles per gallon in the year 2016. That standard will reduce oil consumption by an estimated 1.8 billion barrels. It will prevent greenhouse gas emissions of approximately 950 million metric tons, and at the same time save consumers more than \$3,000 in fuel costs.

This proposal emerges from an unprecedented coalition, one formed of diverse groups with a range of different and often competing interests. Under President Obama's leadership, we brought together people who, in many cases, had spent the previous decade at odds with each other over this very issue. We sought, and discovered common ground, and we built a path forward that is win-win for our health, for our environment, and for our economy.

Automakers will be able to build a single national fleet that satisfies requirements under both federal programs and the standards of California and other states. That ensures that the car of the future will be built by American workers right here in the United States.

Consumers will be able to keep their money in their pockets, put less pollution in the air, and help reduce a dependence on imported oil that sends billions of dollars out of our economy every year. Overall, consumers would save more than \$3,000 in fuel costs over the lifetime of a model year 2016 vehicle. The majority of you as consumers would start seeing immediate savings of roughly \$130 to \$160 a year from lower fuel costs. And the new standards will conserve 1.8 billion barrels of oil, significantly reducing our dependence on foreign fuel. That will help protect us from oil price spikes that shook our economy last summer.

Along with more money in their pockets, consumers will also have a stronger, more stable economy. And every American will benefit from having less pollution in the air, especially our youngest Americans who are more vulnerable to smog and other pollution in the air they breathe. And over the long term, they are the ones who will face the effects of global climate change.

Emission reductions from this program will be equivalent to taking 42 million cars off the road. I am very proud to note that this partnership of workers, American automakers, government officials, and others have come together to establish the nation's first ever national greenhouse gas standards. And I'm glad that we can all take credit for this historic step forward in confronting global climate change. And it serves as powerful evidence that we don't have to choose between our economy and our environment.

The program is designed to ensure a cleaner, more sustainable transportation sector for America. The new standards are aggressive and achievable, and ensure that consumers have a full range of vehicle choices. We're also factoring in necessary flexibilities and lead times to allow for technology improvements and cost reductions without compromising overall environmental and fuel economy objectives. That all translates into tremendous benefits for the American people.

So I'm now happy to introduce our partner in this effort, Secretary of Transportation Ray LaHood.

SECRETARY LaHOOD: Well, this is truly a green letter day for President Obama's administration. I am delighted to join Administrator Jackson in announcing our joint action to improve

energy security. The program we're proposing today would bring our nation a step closer to a future where the vehicles we drive actually help us to solve our energy and environmental challenges, rather than contribute to them.

Economically and socially, we cannot continue down a path where the United States is so dependent on oil. It's time for us to break away and take control of our own destiny. That's exactly what we propose to do today -- putting millions more fuel-efficient cars, SUVs and small trucks on the road is a huge step forward. As Administrator Jackson said, consumers would reap the benefits by spending less on fuel. And we'd all enjoy cleaner air and a healthier environment, thanks to a significant reduction in pollution and greenhouse gas emissions. This move would also unleash a new era for the automobile industry.

To meet the proposed new fuel-efficiency standard, auto manufacturers are likely to introduce all sorts of innovations, such as new kinds of transmissions and tires, new stop-start technologies, and more efficient air-conditioning systems. We're confident that this program when finalized will open the door to more widespread use of advanced hybrid vehicles, clean diesel engines, and other alternatives to traditional gas-powered engines.

I'm proud that the Department of Transportation is a part of this productive and historic partnership involving the administration, the automobile industry and other stakeholders who care deeply about energy security, the environment, and the future of the country. Together we're going to make America cleaner and greener, and usher in a whole new century of automobile innovation and manufacturing.

Thank you.

MR. EARNEST: We'll open it up to a couple of questions.

Q I'm a little confused, because you talk about \$3,000 over the lifetime of a car, but then somebody doing -- saving \$160 a year. So if you could just explain the numbers a little. Thanks.

ADMINISTRATOR JACKSON: Sure. The \$3,000 is for someone who buys a model year 2016 car. So that's looking into the future, knowing what the standards will be in 2016 and saying, what will you save because of the increased gas mileage over what you have available to buy today.

The other number, the \$160 is the estimate of savings on average for the American consumer, starting with model year 2012, and

realizing that, of course, not everyone will go out -- as much as we would like -- and buy a new car on the first day of that model year. So this will phase in over time.

Q How soon would automakers have to comply with this? This is -- 2012 is the first models that you would be 35 miles to the gallon, is that correct?

SECRETARY LaHood: Twenty -- 25 in 2012 and 35 in 2016.

Q It's been quite a few months since the President laid out sort of broad strokes and made the proposal you're putting out with some more detail now. During that period two automakers have filed for bankruptcy. Has there been any consideration given -- or how much consideration has been given during that period to the fact of the cost impact this might have on those ailing automakers?

SECRETARY LaHOOD: Well, I would note since we were involved with it, in less than 30 days automobile manufacturers sold 700,000 cars in the United States. Ford has called back workers to begin building new automobiles. GM has called back workers to build new automobiles. I think the automobile industry was thrown a lifeline with the Clunkers program.

And when you sell 700,000 cars in less than 30 days that means that new cars need to be built. And we've worked long and hard with our friends at EPA to get where we're at today. And we also worked with the automobile manufacturers through the Clunkers program to make sure they could sell cars.

Q What do you say about the fact that this regulation will grant smaller automakers a less stringent stance to meet in the first few years of the program?

ADMINISTRATOR JACKSON: You know, this regulation -- one of the reasons we're so proud and one of the reasons we worked so hard is that it melds the best of the authorities that NHTSA already has and that EPA foresees possibly having under the Clean Air Act. And in doing that, we have to recognize that, yes, smaller manufacturers are given flexibility for 25 percent of their fleet over the years, up until 2016, to be slightly less fuel-efficient than the overall standard. That was an effort to get them to do something. And that means the other 75 percent of their fleet are going to be brought up to standard; otherwise they could potentially have not made any changes at all, because NHTSA rules do allow them to simply pay a penalty, which is more economical in some ways because they don't sell as many automobiles.

So we recognize that we had to give a little bit. The good news is that by 2016 we will have caught up and all autos sold in the country are going to have to meet this.

Q Which cars that are currently sold in the U.S. meet the 2016 standards? And this might already be out, but I don't recall -- can you break out -- there's an average 35.5 standard, but how will that apply to small cars versus SUVs and others?

SECRETARY LaHOOD: We'll be happy to provide that to you. I mean, I don't have that with me here today, but we'll happy to get it to you.

Q Do you anticipate this would lead to fewer SUVs and light trucks proportionally that are driven by Americans? Do you think Americans --

SECRETARY LaHOOD: Well, you know, this is the standard across trucks and automobiles. So I think we'll wait and see. I mean, time will tell. I don't know that anyone knows the answer to that at this point.

Q How do you respond to critics that say when gas prices stay low that consumers aren't going to buy these more fuel-efficient cars? And would the administration look at any incentives to get to -- such as a rebate system or a long-term gas tax increase to get consumers to buy these cars?

SECRETARY LaHOOD: Well, look, I don't know anybody who thinks that oil prices and gasoline are going to stay low -- particularly by 2016. We know that gasoline per gallon will be higher in 2016 than it is today. And we also know that fuel-efficient automobiles are wildly popular right now with people. And I think that people are -- look, in the different modes that we deal with, I mean, people are tired of paying high price for a gallon of gasoline. And it's not going to go down either by 2012 or 2016.

ADMINISTRATOR JACKSON: One of the things the President made clear is that this program as we developed our rules together to preserve Americans' ability to choose a car -- a vehicle, I should say -- that suits their needs. And certainly there are Americans whose needs are going to vary, depending on what they do, where they work, family size -- all those things.

The good news about this program is that it gives regulatory certainty, which is always something that business asks us for. But it also gives them the ability to make changes over time.

And I'm with the Secretary. I don't think we know right now how cars will change in their entirety. What we've said is, here is the standard you have to meet. Go ahead and make a product that people want to buy that meets their needs, and that's what car companies do best -- or hopefully should do best.

Q Would the administration look at some sort of incentive on the consumer side?

SECRETARY LaHOOD: I think what we want to do is implement these standards and see how they work, and then look at what the price of a gallon of gasoline is.

Q You said that the Cash for Clunkers program threw out a lifeline to -- a lifeline for many dealerships. What's the status of the repayment for the Cash for Clunkers program?

SECRETARY LaHOOD: We have paid out \$2.5 billion as of today. We have 5,000 people processing the remaining applications. All dealers will be paid by or before the end of September; probably before. We're down to the last applications that are deficient, and we want to work with the dealers to make sure that their applications are correct, so we can pay them.

Q So some dealers have been saying that they wish they never got involved in the program. Some dealers have said that they put out as much as a half a million dollars to front this program, when the money had not come in. And you're saying it's been a lifeline. How is it a lifeline when they --

SECRETARY LaHOOD: This is a wildly popular program. Nowhere in the history of any stimulus opportunity -- you look at any stimulus program that's been enacted since I've been a part of the President Obama team -- 700,000 cars sold in less than 30 days. So you go ask any salesman in the showroom if they sold a car in January, February, or March, they'll tell you absolutely not. Some showrooms had to close. You ask people who run scrap yards, they have, now, vehicles that they can sell -- used tires, used batteries, oil pumps, water pumps. You go to any credit union or bank that financed these -- there's a lot of loans that were made that would have never been made. And then ask state and local government, who collected sales tax on the sale of this -- look, this is a win-win-win-win for our economy, for the automobile industry, for the little people who work in the industry -- who sell cars, who are mechanics, who practically were out of work. And every dealer will be paid on or before the end of September -- \$3 billion.

Q Do you think the administration should do it again, considering you're saying it's a win-win-win?

SECRETARY LaHOOD: You know what, I'm going to leave that up to Congress.

Q This is a question for Administrator Jackson. You mentioned the Clean Air Act authority, and you've been sending over some preliminary work over to OMB regarding Clean Air Act carbon regulations, including for PSD. Are you laying the groundwork for Clean Air Act's carbon regulations throughout the economy, should Congress not act on climate change legislation?

ADMINISTRATOR JACKSON: I prefer to frame it as that EPA will continue to do its job, which is to respond to the now two-plus-year-old Supreme Court ruling that EPA needed to make determinations about whether or not the Clean Air Act authorities applied to greenhouse gases. And that's based on whether or not greenhouse gases endanger public health and welfare.

I think it is fair to say that today's announcement -- which is about automobiles, and I think is path-breaking -- if you had told me a year ago that we would get to this point, I don't think anyone would have laid money on it. But not to take away from it, but that it is the beginning of regulations that we should expect EPA to continue to do its job with respect to --

Q If Congress doesn't come through, though, on some sort of climate legislation, would you be ready to pull the trigger using the Clean Air Act with some of the work that you're doing right now?

ADMINISTRATOR JACKSON: I have said before that I actually hope that doesn't come to pass. I believe very strongly that legislation is the preferable route. It allows for a comprehensive economy-wide discussion of the issues that are going to make for a successful program. That being said, the Clean Air Act is a strong and extraordinarily successful piece of legislation. It has made huge differences in air quality in our country.

And we have an obligation under the law, based on the Supreme Court ruling, to continue to do our job. And that is what we will do. I have also said that I believe strongly that that job can be done in a way that's, step one, that's reasonable, that complies with all administrative processes.

MR. EARNEST: We have time for a couple more. Yes, sir.

Q Following up on that last question, some of these regulations on factories and buildings and so on, need to be in place when the car rules are finalized. Are you going to propose



those in concert with this, or some time in the next few days?

ADMINISTRATOR JACKSON: I'm sorry, I don't quite get the question.

Q The PSD rules and those things -- are you going to propose those in the next couple days, or perhaps later today?  
(Laughter.)

ADMINISTRATOR JACKSON: I can only make the news to say that unless something drastic happens, nothing more will happen than this historic announcement today.

Q You won't be back here at 4:00 p.m.? (Laughter.)

ADMINISTRATOR JACKSON: But I think it is not a secret that there are rules that we have worked on that we are working now with the White House through a review process on. And so I have no announcement to make with respect to any additional rules today.

Q And one other question. This proposal doesn't address the growth in vehicle miles traveled. Does the administration have policies aimed at that?

ADMINISTRATOR JACKSON: Maybe you want to talk a little bit about the --

SECRETARY LaHOOD: I don't want to get off message.

ADMINISTRATOR JACKSON: Okay, never mind. (Laughter.)

Q Any estimate on what happens with fatalities, highway fatalities under this rule? Do they go up?

SECRETARY LaHOOD: Well, look, we've really -- safety is the number-one priority at DOT, okay -- trains, planes, and automobiles. That's what we think about every day. When we get up every day, we think about safety.

I think between our two departments, we have really pushed the automobile industry -- by the way, every one of them was represented here by their CEO when the President made his announcement on these standards -- and we're going to push them very hard on safety. Safety has to be uppermost in the minds of people who build any kind of a vehicle that people are going to ride in, whether it's a train, plane, or automobile. And so we're going to push the industry on this. It's a priority.

Q But as you make vehicles lighter to save fuel, sometimes that means fatalities go up, and you often estimate

that in your --

SECRETARY LaHOOD: You know, it's going to be up to the automobile manufacturers to decide the weight and how they're going to meet these standards, and I guarantee you, they're going to be concerned about safety. They want to build cars that are safe because that's one of the things that people will look at when they buy an automobile. And we're going to push them on that also.

MR. EARNEST: Thanks, everybody.

END

12:29 P.M. EDT

01268-EPA-4891

Scott Fulton/DC/USEPA/US

To "Bob Perciasepe"

09/16/2009 02:26 PM

cc "Richard Windsor"

bcc

Subject Fw: EPA Overtarget request

Fyi. [REDACTED] (b)(5) Deliberative [REDACTED] We can fill in the details when we have 2010/2011 crosswalk more clearly framed. Positive response from Sally as you can see.

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

From: "Ericsson, Sally C." [REDACTED] (b) (6) Privacy [REDACTED]

Sent: 09/16/2009 01:46 PM AST

To: Scott Fulton

Subject: RE: EPA Overtarget request

Couldn't miss it. [REDACTED] (b)(5) Deliberative [REDACTED]

Sally

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

From: Fulton.Scott@epamail.epa.gov [mailto:Fulton.Scott@epamail.epa.gov]

Sent: Wednesday, September 16, 2009 1:44 PM

To: Ericsson, Sally C.

Subject: Re: EPA Overtarget request

Sure. Fyi, don't know whether you saw the piece in the Times over the weekend about water enforcement, [REDACTED] (b)(5) Deliberative [REDACTED]

Until soon, Scott

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

From: "Ericsson, Sally C." [REDACTED] (b) (6) Privacy [REDACTED]

Sent: 09/16/2009 12:48 PM AST

To: Scott Fulton

Cc: Maryann Froehlich; Bob Perciasepe; Peter Silva; Gina McCarthy

Subject: RE: EPA Overtarget request

Thanks. This is helpful!

Sally

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

From: Fulton.Scott@epamail.epa.gov [mailto:Fulton.Scott@epamail.epa.gov]

Sent: Wednesday, September 16, 2009 11:52 AM

To: Ericsson, Sally C.

Cc: Froehlich.Maryann@epamail.epa.gov; Perciasepe.Bob@epamail.epa.gov;  
Silva.Peter@epamail.epa.gov; McCarthy.Gina@epamail.epa.gov  
Subject: Fw: EPA Overtarget request

Hi Sally: Thank you again for the opportunity to discuss EPA's FY 2011 budget request with you and your staff.

As I mentioned in our briefing with you last week, (b)(5) Deliberative

[REDACTED]

Our senior leaders will provide information about these areas at their hearings which begin this week, but of course I am happy to discuss them directly with you as well.

(See attached file: EPA\_FY\_2011\_Overtarget\_Proposals.pdf)

01268-EPA-4892

**Richard Windsor/DC/USEPA/US**  
09/16/2009 03:05 PM

To Scott Fulton, Bob Perciasepe  
cc  
bcc  
Subject Re: EPA Overtarget request

Tx!

----- Original Message -----  
From: Scott Fulton  
Sent: 09/16/2009 02:26 PM EDT  
To: Bob Perciasepe  
Cc: Richard Windsor  
Subject: Fw: EPA Overtarget request

Fyi. [REDACTED] (b)(5) Deliberative We can fill in the details when we have 2010/2011 crosswalk more clearly framed. Positive response from Sally as you can see.

----- Original Message -----  
From: "Ericsson, Sally C." [REDACTED] (b) (6) Privacy  
Sent: 09/16/2009 01:46 PM AST  
To: Scott Fulton  
Subject: RE: EPA Overtarget request

Couldn't miss it. [REDACTED] (b)(5) Deliberative

Sally

-----Original Message-----  
From: Fulton.Scott@epamail.epa.gov [mailto:Fulton.Scott@epamail.epa.gov]  
Sent: Wednesday, September 16, 2009 1:44 PM  
To: Ericsson, Sally C.  
Subject: Re: EPA Overtarget request

Sure. Fyi, don't know whether you saw the piece in the Times over the weekend about water enforcement, [REDACTED] (b)(5) Deliberative

[REDACTED]

Until soon, Scott

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From: "Ericsson, Sally C." [REDACTED] (b) (6) Privacy  
Sent: 09/16/2009 12:48 PM AST  
To: Scott Fulton  
Cc: Maryann Froehlich; Bob Perciasepe; Peter Silva; Gina McCarthy  
Subject: RE: EPA Overtarget request

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Sally

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From: Fulton.Scott@epamail.epa.gov [mailto:Fulton.Scott@epamail.epa.gov]

Sent: Wednesday, September 16, 2009 11:52 AM

To: Ericsson, Sally C.

Cc: Froehlich.Maryann@epamail.epa.gov; Perciasepe.Bob@epamail.epa.gov;

Silva.Peter@epamail.epa.gov; McCarthy.Gina@epamail.epa.gov

Subject: Fw: EPA Overtarget request

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As I mentioned in our briefing with you last week, (b)(5) Deliberative

Our senior leaders will provide information about these areas at their hearings which begin this week, but of course I am happy to discuss them directly with you as well.

(See attached file: EPA\_FY\_2011\_Overtarget\_Proposals.pdf)

01268-EPA-4893

**David McIntosh/DC/USEPA/US**  
09/17/2009 11:11 AM

To Richard Windsor, Diane Thompson, Scott Fulton, Bob Sussman, Bob Perciasepe, Arvin Ganesan, Lisa Heinzerling, Seth Oster, Allyn Brooks-LaSure

cc

bcc

Subject Fw: whip counts on approps riders

FYI. Pls don't forward.

----- Forwarded by David McIntosh/DC/USEPA/US on 09/17/2009 11:10 AM -----

From: David McIntosh/DC/USEPA/US  
To: "Heimbach, James T." <(b) (6) Privacy> "Maher, Jessica A." <(b) (6) Privacy>  
Date: 09/17/2009 11:10 AM  
Subject: whip counts on approps riders

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I think (b)(5) Deliberative  
[Redacted]

I think (b)(5) Deliberative  
[Redacted]

I think (b)(5) Deliberative  
[Redacted]

01268-EPA-4894

**Katharine  
Gage/DC/USEPA/US**  
09/18/2009 07:25 PM

To "Richard Windsor", "Bob Sussman"  
cc "Diane Thompson", "Aaron Dickerson", "Georgia Bednar"  
bcc

Subject Fw: Read Ahead For TSCA Meeting

Please see below for the read-ahead materials for the TSCA mtg at CEQ on Monday.

Please let me know if you have any questions or if anyone else needs this material.

Kate

---

**From:** "Avery, Kristin E." <(b) (6) Privacy>  
**Sent:** 09/18/2009 06:51 PM AST  
**To:** Katharine Gage; "McPhillips, Alex" <(b) (6) Privacy>; "Ortiz, Michael"  
<(b) (6) Privacy>; "Milakofsky, Benjamin E." <(b) (6) Privacy>; "Dunn,  
Lauren P." <(b) (6) Privacy>; "Jones, Lisa M." <(b) (6) Privacy>; "Siegel, Julia  
B." <(b) (6) Privacy>; "McLaughlin, Patricia M." <(b) (6) Privacy>; "Jung,  
Bryan" <(b) (6) Privacy>; <shanedda.bogan@usdoj.com>  
**Cc:** "Carson, Jonathan K." <(b) (6) Privacy>; "Buffa, Nicole" <(b) (6) Privacy>  
**Subject:** Read Ahead For TSCA Meeting

Hi All:

We look forward to our conversation of EPA's Principles for TSCA Reform. The issue for discussion is highlighted in EPA's memo to the Chief of Staff's office, which is attached. Also attached are a variety of documents that may help inform the discussion.

Please let us know if you have any questions or concerns.

Date: Monday, September 21<sup>st</sup>  
Time: 2:00pm-3:00pm  
Location: EEOB 234

Attached documents:

Materials from EPA:

- Confidential Memo Sent to COS Office and others from EPA (TSCA Memo)
- EPA's Principles for TSCA Reform (TSCR Reform Prins)
- EPA's analysis of the current TSCA statute (Corrosion Proof critique)
- EPA's draft Q&A's developed to respond to questions on principle 1 (~WRD3471)

Other Administration Principles (for comparison purposes)

- The Food Safety Working Group: Key Findings ([http://www.foodsafetyworkinggroup.gov/FSWG\\_Key\\_Findings.pdf](http://www.foodsafetyworkinggroup.gov/FSWG_Key_Findings.pdf))
- Obama-care 101: The president's 8 principles (<http://www.politico.com/news/stories/0209/19362.html>)



- Letter to Chair Boxer concerning the Clean Water Act (May 20, 2009 CWA Letter)

Other materials that may be of interest:

- GAO Highlight Report on TSCA (<http://www.gao.gov/highlights/d09428thigh.pdf>)
- The American Chemistry Council's 10 Principles for Modernizing TSCA (sec\_mediakits.asp)
- Safer Chemicals Healthy Families Platform for Reform of TSCA ([http://www.saferchemicals.org/images/homepage/SCHF\\_Release\\_080409.pdf](http://www.saferchemicals.org/images/homepage/SCHF_Release_080409.pdf))
- Recent WaPo article on TSCA reform (<http://www.washingtonpost.com/wp-dyn/content/article/2009/08/08/AR2009080802566.html>)

(b)(5) Deliberative

(b)(5) Deliberative

(b)(5) Deliberative

TSCA Memo.9.15.09.REV2.doc TSCA reform prins interagy 8-3-09.doc Corrosion Proof critique LH 9-18.doc

(b)(5) Deliberative



WRD3471.doc May 20, 2009 CWA Letter Boxer.pdf sec\_mediakits.asp.pdf



May 20, 2009

Senator Barbara Boxer  
Chair  
Committee on Environment and Public Works  
United States Senate  
Room 410  
Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Chair Boxer:

In response to your request for the Administration's views, this letter briefly outlines issues related to problems and needed clarification on waters protected by the Clean Water Act and identifies certain principles that may help guide legislative and other actions to address these issues.

## **Problem Statement**

The Clean Water Act is one of the Nation's most effective environmental laws. Since its enactment in 1972, the condition of rivers, lakes, streams, wetlands, and coastal waters across the country has dramatically improved. Today, millions of Americans are able to enjoy swimming, fishing, boating, and other recreational activities because of the cooperative efforts by Federal, State, Tribal, and local governments to implement the Clean Water Act. In addition, by protecting the health of the Nation's aquatic ecosystems, the Clean Water Act has helped assure that water is safe to drink and that fish and shellfish are safe to eat. Along with these vital environmental and public health benefits, clean and safe water is critical to the economic well-being of the Nation, providing significant economic benefits associated with activities ranging from recreation to urban revitalization.

Supreme Court decisions in 2001 and 2006 narrowed the prior interpretation of the scope of waters protected by the Clean Water Act. (*Rapanos v. United States*, 547 U.S. 715 (2006); *Solid Waste Agency of Northern Cook County v. United States Army Corps of Engineers*, 531 U.S. 159 (2001)) Federal agencies have faced significant challenges implementing these recent decisions. In addition, U.S. Circuit Courts of Appeal have taken different positions in interpreting the Supreme Court decisions, further complicating implementation. Current agency guidance implementing the decisions contemplates complex findings that sometimes result in jurisdictional determinations that lack consistency across the country and can be time-consuming and expensive. Delayed and unpredictable decisions are frustrating and costly to persons seeking approval of projects related to these waters.

It is important to note that although the Supreme Court decisions arose in the context of the Clean Water Act dredged or fill program, they affect all Clean Water Act protections because the Act has a single definition for "waters of the United States". As a result, these decisions affect the National Pollutant Discharge Elimination System (NPDES) program, water quality standards program, oil spill prevention and clean-up program, as well as the permit program for discharges of dredged or fill material. Taken together, these programs are the heart of the Clean Water Act

We are committed to resolving key issues with respect to the scope of the Clean Water Act in order to provide a solid foundation for addressing continuing challenges to the health of aquatic ecosystems. We are focused on the importance of coordination among Federal, State, and local programs related to wetlands, floodplain management, water quality protection, and habitat restoration. We also recognize that the impacts of a changing climate, including changes in precipitation patterns and rising sea levels, will pose difficult challenges for protection of aquatic ecosystems. Finally, as we work to meet goals for wetlands protection nationwide, we need to identify opportunities to expand protection of wetlands and other aquatic resources that are especially vulnerable or critical to sustaining the health of these systems.

## Principles

As we work to address the issues associated with the scope of the Clean Water Act, we urge you to consider the general principles described below.

- 1) **Broadly Protect the Nation's Waters:** It is essential that the Clean Water Act provide broad protection of the Nation's waters, consistent with full Congressional authority under the Constitution. All of the environmental and economic benefits that these aquatic ecosystems provide are at risk if some elements are protected and others are not.
- 2) **Make Definition of Covered Waters Predictable and Manageable:** The definition of waters protected by the Clean Water Act should be clear, understandable, well-supported, and transparent to the public. Legislation

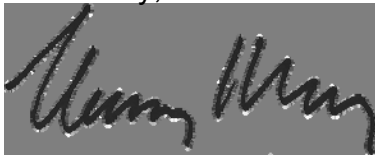
and supporting guidance concerning waters covered by the Act should promote prompt actions and avoid time-consuming and costly technical analyses.

- 3) **Promote Consistency Between Clean Water Act and Agricultural Wetlands Programs:** Farmers often face complex issues with respect to whether wetlands located on their farm are within the scope of the Clean Water Act, the wetland conservation provisions of the Food Security Act, or both. Identification of waters covered by the Clean Water Act and the Food Security Act, and operational elements of implementing programs, should reflect consistent, predictable, and straight-forward decision guidelines.
- 4) **Recognize Long-standing Practices:** In over thirty years of implementing wetlands protection programs, Federal agencies worked with States and stakeholders to make common-sense interpretations of the Clean Water Act in various agency regulations. Congress should consider including in the Clean Water Act certain exemptions that are now in effect only through regulations or guidance. For example, a carefully crafted statutory exemption for "prior converted cropland" would be useful to both farmers and Federal agencies.

Enactment of legislation amending the Clean Water Act – based on these principles – would go a long way toward addressing the substantial confusion and uncertainty arising from the recent Supreme Court decisions. Since existing guidance documents and supporting regulations can be revised to implement these principles to only a limited degree, a clear statement of Congressional intent is needed to provide a foundation for steady and predictable implementation of the Clean Water Act in the years to come.

Thank you for your interest in this important problem. We look forward to working with you to address these issues in the future.

Sincerely,



Nancy Sutley  
Chair  
Council on Environmental Quality



Lisa Jackson  
Administrator  
Environmental Protection Agency



Terrence "Rock" Salt  
Acting Assistant Secretary  
of the Army (Civil Works)



Tom Vilsack  
Secretary  
Department of Agriculture



Ken Salazar  
Secretary  
Department of the Interior

cc: Senator James Inhofe, Ranking Member



---

## **10 Principles for Modernizing TSCA**

*The American Chemistry Council and its members support Congress' effort to modernize our nation's chemical management system. Such a system should place protecting the public health as its highest priority, and should include strict government oversight. It should also preserve America's role as the world's leading innovator and employer in the creation of safe and environmentally sound technologies and products of the business of chemistry.*

*The current chemical management law, the Toxic Substances Control Act (TSCA), is more than 30 years old. It should be modernized to keep pace with advances in science and technology. Moreover, the law must provide the Environmental Protection Agency with the resources and the authority to do its job effectively.*

*We have previously offered general concepts on which to base a modern chemical management system. This document expands upon those concepts and begins to provide more detail, which we hope will be useful to policy makers. We will continue to refine the details of our principles for modernizing TSCA and are committed to working with all stakeholders toward enactment of effective legislation.*

1. Chemicals should be safe for their intended use.
  - Ensuring chemical safety is a shared responsibility of industry and EPA.
  - Industry should have the responsibility for providing sufficient information for EPA to make timely decisions about safety.
  - EPA should have the responsibility for making safe use determinations for high priority chemicals, focusing on their most significant uses and exposures.
  - Safe use determinations should integrate hazard, use, and exposure information, and incorporate appropriate safety factors.
  - Consideration of the benefits of chemicals being evaluated, the cost of methods to control their risks, and the benefits and costs of alternatives should be part of EPA's risk management decision-making, but should not be part of its safe use determinations.
  - Other agencies, such as FDA and CPSC, should continue to make safety decisions for products within their own jurisdictions.
2. EPA should systematically prioritize chemicals for purposes of safe use determinations.
  - Government and industry resources should be focused on chemicals of highest concern.
  - The priorities should reflect considerations such as the volume of a chemical in commerce; its uses, including whether it is formulated in products for children; its detection in biomonitoring

programs; its persistent or bioaccumulative properties; and the adequacy of available information.

3. EPA should act expeditiously and efficiently in making safe use determinations.
  - Since a chemical may have a variety of uses, resulting in different exposure potentials, EPA should consider the various uses and focus on those resulting in the most significant exposures.
  - EPA should complete safe use determinations within set timeframes.
4. Companies that manufacture, import, process, distribute, or use chemicals should be required to provide EPA with relevant information to the extent necessary for EPA to make safe use determinations.
  - Companies throughout the chain of commerce should be responsible for providing necessary hazard, use, and exposure information.
  - EPA should be authorized to require companies, as appropriate, to generate relevant new data and information to the extent reasonably necessary to make safe use determinations without having to prove risk as a prerequisite or engaging in protracted rulemaking.
  - Testing of chemicals should progress to more complex and expensive tests through a tiered approach as needed to identify hazards and exposures of specific concern.
  - To minimize animal testing, existing data should be considered prior to new testing, and validated alternatives to animal testing should be used wherever feasible.
  - Existing data and information should be leveraged in EPA's safe use determinations, including data and information from other mandatory and voluntary programs such as REACH and the U.S. High Production Volume challenge.
5. Potential risks faced by children should be an important factor in safe use determinations.
  - Safe use determinations should consider the effects of a chemical on children and their exposure to the chemical.
  - Safe use determinations should consider whether an extra margin of safety is needed to protect children.
6. EPA should be empowered to impose a range of controls to ensure that chemicals are safe for their intended use.
  - The controls could range from actions such as labeling, handling instructions, exposure limits and engineering controls to use restrictions and product bans.
  - The controls should be appropriate for managing the risk, taking into account alternatives, benefits, costs, and uncertainty.
7. Companies and EPA should work together to enhance public access to chemical health and safety information.

- EPA should make chemical hazard, use, and exposure information available to the public in electronic databases.
  - Other governments should have access to confidential information submitted under TSCA, subject to appropriate and reliable protections.
  - Companies claiming confidentiality in information submittals should have to justify those claims on a periodic basis.
  - Reasonable protections for confidential as well as proprietary information should be provided.
8. EPA should rely on scientifically valid data and information, regardless of its source, including data and information reflecting modern advances in science and technology.
- EPA should establish transparent and scientifically sound criteria for evaluating all of the information on which it makes decisions to ensure that it is valid, using a framework that addresses the strengths and limitations of the study design, the reliability of the test methods, and the quality of the data.
  - EPA should encourage use of good laboratory practices, peer review, standardized protocols, and other methods to ensure scientific quality.
9. EPA should have the staff, resources, and regulatory tools it needs to ensure the safety of chemicals.
- EPA's budget for TSCA activities should be commensurate with its chemical management responsibilities.
10. A modernized TSCA should encourage technological innovation and a globally competitive industry in the United States.
- A new chemical management system should preserve and enhance the jobs and innovative products and technologies contributed by the business of American chemistry.
  - Implementation of TSCA should encourage product and technology innovation by providing industry certainty about the use of chemicals.



01268-EPA-4895

**Richard Windsor/DC/USEPA/US**  
09/21/2009 05:04 PM

To "Carol Browner"  
cc  
bcc

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

Not helpful.  
Seth Oster

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

**From:** Seth Oster  
**Sent:** 09/21/2009 04:53 PM EDT  
**To:** windsor.richard@epa.gov  
**Subject:** Fw: WSJ blog: Steven Chu: Americans Are Like 'Teenage Kids' When It Comes to Energy

Chu strikes again. Not sure his choice of words here are going to be embraced down the street.....  
Betsaida Alcantara

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

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

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

### Ian Talley reports:

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

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

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

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

and energy efficiency.

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

Still, Secretary Chu said he didn’t think that the public would throw the same political temper tantrum over climate legislation has happened with the healthcare debate.

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

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

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

01268-EPA-4896

Seth Oster/DC/USEPA/US  
09/22/2009 10:07 AM

To Richard Windsor, David McIntosh, Lisa Heinzerling, Gina McCarthy, Diane Thompson, Allyn Brooks-LaSure, Arvin Ganesan, Bob Sussman, Bob Perciasepe, Scott Fulton, Adora Andy, Michael Moats

cc

bcc

Subject WH TP's on President's UN Speech Today

Below.

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

----- Forwarded by Seth Oster/DC/USEPA/US on 09/22/2009 10:05 AM -----

From: "Zichal, Heather R." <[REDACTED] (b) (6) Privacy >  
To: Seth Oster/DC/USEPA/US@EPA  
Date: 09/22/2009 10:05 AM  
Subject: TP's

### Talking Points: President Obama Addresses UN Climate Change Summit

• (b)(5) Deliberative [REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
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[REDACTED]  
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[REDACTED]  
[REDACTED]  
[REDACTED]

(b)(5) Deliberative  
[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

01268-EPA-4897

Allyn  
Brooks-LaSure/DC/USEPA/US

09/22/2009 10:07 AM

To "Windsor, Richard", "Thompson, Diane", "Fulton, Scott",  
"Sussman, Bob", "Perciasepe, Bob", "Heinzerling, Lisa",  
"McCarthy, Gina", "Mcintosh, David", Arvin Ganesan, Michael  
Moats

cc "Oster, Seth"

bcc

Subject Fw: Energy-Climate Weekly Comm Call 11 AM

MABL.

-----

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

---

**From:** "LaBolt, Benjamin" (b) (6) Privacy

**Sent:** 09/22/2009 10:03 AM AST

**To:** "LaBolt, Benjamin" (b) (6) Privacy "Glunz, Christine M."  
<(b) (6) Privacy <Dan.Leistikow@hq.doe.gov>;  
<Matt\_Lee-Ashley@ios.doi.gov>; Allyn Brooks-LaSure; "Levine, Jacob C."  
<(b) (6) Privacy "Zichal, Heather R." (b) (6) Privacy  
"Betsy Hildebrandt" <Betsy\_Hildebrandt@ios.doi.gov>; "Weiss, Rick"  
<(b) (6) Privacy Seth Oster; Adora Andy; "Mather, Chris"  
<Chris.Mather@oc.usda.gov>; <Kendra\_Barkoff@ios.doi.gov>; "Kobren, Benjamin M"  
<KobrenBM@state.gov>; <justin.kenney@noaa.gov>; "Gilson, Shannon" <SGilson@doc.gov>;  
<Uzzell.Megan@dol.gov>; "Lehrich, Matthew A." (b) (6) Privacy

**Subject:** RE: Energy-Climate Weekly Comm Call 11 AM

**Talking Points: President Obama Addresses UN Climate Change Summit**

• (b)(6) Deliberative [Redacted]

[Redacted]

[Redacted]

(b)(5) Deliberative [Redacted]  
[Redacted]

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[Redacted]  
[Redacted]

01268-EPA-4898

**Richard Windsor/DC/USEPA/US**  
09/22/2009 12:09 PM

To "Nancy Sutley"  
cc  
bcc

Subject Fw: TSCA Principles

Any quick thoughts?  
Bob Sussman

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

**From:** Bob Sussman  
**Sent:** 09/22/2009 11:22 AM EDT  
**To:** Richard Windsor  
**Cc:** Arvin Ganesan; Steve Owens; Lisa Heinzerling  
**Subject:** TSCA Principles

Lisa -- The revised TSCA principles (with narratives under the six principles) are attached. The principles formulated by Phil (in his original language) are as follows;

(b)(5) Deliberative  
[Redacted]

[Redacted]

I believe Phil said he agreed to inclusion of this principle.

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

(b)(5) Deliberative

[Redacted] - ~6222148.doc

01268-EPA-4899

"Sutley, Nancy H."

(b) (6) Privacy

To Richard Windsor

cc

09/22/2009 01:55 PM

bcc

Subject RE: TSCA Principles

I think this is good.

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

From: Windsor.Richard@epamail.epa.gov  
[mailto:Windsor.Richard@epamail.epa.gov]  
Sent: Tuesday, September 22, 2009 12:09 PM  
To: Sutley, Nancy H.  
Subject: Fw: TSCA Principles

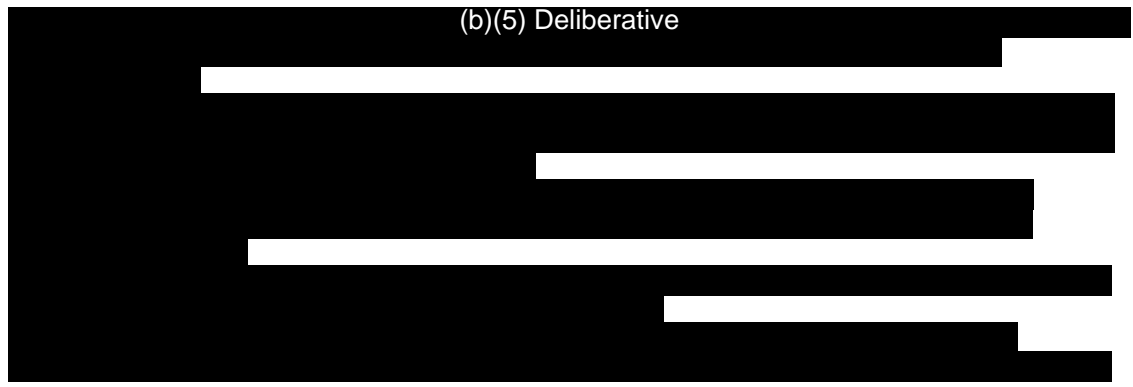
Any quick thoughts?

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

From: Bob Sussman  
Sent: 09/22/2009 11:22 AM EDT  
To: Richard Windsor  
Cc: Arvin Ganesan; Steve Owens; Lisa Heinzerling  
Subject: TSCA Principles

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(b)(5) Deliberative



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Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency  
(See attached file: ~6222148.doc)



01268-EPA-4900

Richard Windsor/DC/USEPA/US  
09/22/2009 02:10 PM

To "Sutley, Nancy H."  
cc  
bcc

Subject Re: TSCA Principles

Will you send to Summers?

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

From: "Sutley, Nancy H." [REDACTED] (b) (6) Privacy  
Sent: 09/22/2009 01:55 PM AST  
To: Richard Windsor  
Subject: RE: TSCA Principles

I think this is good.

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

From: Windsor.Richard@epamail.epa.gov  
[mailto:Windsor.Richard@epamail.epa.gov]  
Sent: Tuesday, September 22, 2009 12:09 PM  
To: Sutley, Nancy H.  
Subject: Fw: TSCA Principles

Any quick thoughts?

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

From: Bob Sussman  
Sent: 09/22/2009 11:22 AM EDT  
To: Richard Windsor  
Cc: Arvin Ganesan; Steve Owens; Lisa Heinzerling  
Subject: TSCA Principles

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(b)(5) Deliberative  
[REDACTED]

[REDACTED] I believe Phil said he agreed to

inclusion of this principle.

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency  
(See attached file: ~6222148.doc)

01268-EPA-4901

"Sutley, Nancy H."

(b) (6) Privacy

09/22/2009 02:11 PM

To Richard Windsor

cc

bcc

Subject RE: TSCA Principles

Sure - we can circulate to the group that was there yesterday.

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

From: Windsor.Richard@epamail.epa.gov  
[mailto:Windsor.Richard@epamail.epa.gov]  
Sent: Tuesday, September 22, 2009 2:10 PM  
To: Sutley, Nancy H.  
Subject: Re: TSCA Principles

Will you send to Summers?

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

From: "Sutley, Nancy H." [ (b) (6) Privacy ]  
Sent: 09/22/2009 01:55 PM AST  
To: Richard Windsor  
Subject: RE: TSCA Principles

I think this is good.

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

From: Windsor.Richard@epamail.epa.gov  
[mailto:Windsor.Richard@epamail.epa.gov]  
Sent: Tuesday, September 22, 2009 12:09 PM  
To: Sutley, Nancy H.  
Subject: Fw: TSCA Principles

Any quick thoughts?


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

From: Bob Sussman  
Sent: 09/22/2009 11:22 AM EDT  
To: Richard Windsor  
Cc: Arvin Ganesan; Steve Owens; Lisa Heinzerling  
Subject: TSCA Principles

Lisa -- The revised TSCA principles (with narratives under the six principles) are attached. The principles formulated by Phil (in his original language) are as follows;

(b)(5) Deliberative

(b)(5) Deliberative



I believe Phil said he agreed to inclusion of this principle.

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency  
(See attached file: ~6222148.doc)

01268-EPA-4902

**Richard Windsor/DC/USEPA/US**  
09/22/2009 02:11 PM

To "Sutley, Nancy H."  
cc  
bcc

Subject Re: TSCA Principles

Tx!

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

From: "Sutley, Nancy H." [REDACTED] (b) (6) Privacy  
Sent: 09/22/2009 02:11 PM AST  
To: Richard Windsor  
Subject: RE: TSCA Principles

Sure - we can circulate to the group that was there yesterday.

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

From: Windsor.Richard@epamail.epa.gov  
[mailto:Windsor.Richard@epamail.epa.gov]  
Sent: Tuesday, September 22, 2009 2:10 PM  
To: Sutley, Nancy H.  
Subject: Re: TSCA Principles

Will you send to Summers?

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

From: "Sutley, Nancy H." [REDACTED] (b) (6) Privacy  
Sent: 09/22/2009 01:55 PM AST  
To: Richard Windsor  
Subject: RE: TSCA Principles

I think this is good.

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

From: Windsor.Richard@epamail.epa.gov  
[mailto:Windsor.Richard@epamail.epa.gov]  
Sent: Tuesday, September 22, 2009 12:09 PM  
To: Sutley, Nancy H.  
Subject: Fw: TSCA Principles

Any quick thoughts?

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

From: Bob Sussman  
Sent: 09/22/2009 11:22 AM EDT  
To: Richard Windsor  
Cc: Arvin Ganesan; Steve Owens; Lisa Heinzerling  
Subject: TSCA Principles

Lisa -- The revised TSCA principles (with narratives under the six principles) are attached. The principles formulated by Phil (in his original language) are as follows;

(b)(5) Deliberative  
[Redacted]

[Redacted] I believe Phil said he agreed to inclusion of this principle.

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency  
(See attached file: ~6222148.doc)

01268-EPA-4903

"Sutley, Nancy H."

(b) (6) Privacy

09/22/2009 03:52 PM

Please respond to

(b) (6) Privacy

To Richard Windsor, "Sunstein, Cass R.", "Ericsson, Sally C.", "Holdren, John P.", "Summers, Lawrence", "Romer, Christina", "Tchen, Tina", "Lu, Christopher P.", "Schiliro, Philip M.", "Farrell, Diana", john.cruden

cc "Carson, Jonathan K.", "Buffa, Nicole"

bcc

Subject TSCA Principles

Thanks for participating in our TSCA Principles conversation yesterday. Attached please find a new version of the TSCA Principles that EPA has drafted. If you have any questions or concerns, do not hesitate to call or email.

(b)(5) Deliberative

-Nancy TSCA Principles - Revised.doc

01268-EPA-4904

**Richard Windsor/DC/USEPA/US**  
09/22/2009 04:05 PM

To (b) (6) Privacy  
cc "Messina, James A.", "Sutphen, Mona K.", "Rouse, Peter M.", Philip\_M.\_Schiliro, "Sutley, Nancy H."  
bcc Diane Thompson, Jonathan\_K.\_Carson  
Subject Revised - Essential Principles for Reform of Chemicals Management Legislation

Rahm,

Attached are revised principles developed in discussions with key WH staff yesterday. I plan to present these principles in a speech in California next week. Happy to discuss.

Lisa Jackson

(b)(5) Deliberative

TSCA Principles - Revised.doc



01268-EPA-4905

**Diane  
Thompson/DC/USEPA/US**  
09/22/2009 06:15 PM

To Richard Windsor, Gina McCarthy, Lisa Heinzerling, David  
McIntosh  
cc Aaron Dickerson, Robert Goulding  
bcc  
Subject Fw: Talking Points: President Obama Addresses UN Climate  
Change Summit

FYi

\*\*\*\*\*

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

----- Forwarded by Diane Thompson/DC/USEPA/US on 09/22/2009 06:14 PM -----

From: "Milakofsky, Benjamin E." <(b) (6) Privacy >  
To: "Lu, Christopher P." <(b) (6) Privacy >, "Smith, Elizabeth S." <(b) (6) Privacy >  
<(b) (6) Privacy >, "Kimball, Astri B." <(b) (6) Privacy >  
"Hurlbut, Brandon K." <(b) (6) Privacy >, "French, Michael J." <(b) (6) Privacy >  
<(b) (6) Privacy >, "Milakofsky, Benjamin E." <(b) (6) Privacy >  
<(b) (6) Privacy >, "Taylor, Adam R." <(b) (6) Privacy >  
Date: 09/22/2009 02:15 PM  
Subject: Talking Points: President Obama Addresses UN Climate Change Summit

Dear Chiefs of Staff:

Please see the below talking points on climate change.

--Cabinet Affairs

**Talking Points: President Obama Addresses UN Climate Change Summit**

(b)(5) Deliberative  
[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

(b)(5) Deliberative  
[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

01268-EPA-4906

**Diane  
Thompson/DC/USEPA/US**  
09/23/2009 05:59 PM

To Richard Windsor, Bob Sussman, Chuck Fox  
cc  
bcc

Subject Fw: signed copy of the Chesapeake Bay draft strategy guidance

FYI, Jon called to let me know this was going out.

(b)(5) Deliberative

DT

\*\*\*\*\*

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

----- Forwarded by Diane Thompson/DC/USEPA/US on 09/23/2009 05:57 PM -----

From: "Carson, Jonathan K." <(b) (6) Privacy>  
To: Diane Thompson/DC/USEPA/US@EPA  
Date: 09/23/2009 03:00 PM  
Subject: FW: signed copy of the Chesapeake Bay draft strategy guidance

Here's the memo I mentioned, thanks,  
Jon

**Jon Carson**  
Chief of Staff  
Council on Environmental Quality

Office (b) (6) Privacy

[Redacted]



ChesapeakeBayFedLeadShpCmtMem.9.23.09.pdf

EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON ENVIRONMENTAL QUALITY  
WASHINGTON, D.C. 20503

September 23, 2009

MEMORANDUM

TO: Chesapeake Bay Federal Leadership Committee

FROM: Sally Ericsson, Associate Director, Office of Management and Budget *SE*  
Nancy Sutley, Chair, Council on Environmental Quality *MS*

SUBJECT: Budget guidance for the draft strategy to restore the Chesapeake Bay

---

Background

On May 12, 2009, President Obama signed Executive Order (E.O.) 13508 on Chesapeake Bay Protection and Restoration. This E.O. began a new era of shared Federal leadership to restore the health, heritage, natural resources, and social and economic value of the Nation's largest estuarine ecosystem.

The E.O. created a Federal Leadership Committee (FLC), chaired by EPA, and required agencies to draft reports that address key challenges to protecting and restoring the Chesapeake Bay. These seven draft reports, released for public comment on September 10, 2009, made recommendations on how to (agency lead in parentheses):

- 1) Define the next generation of tools and actions to restore water quality (EPA);
- 2) Target resources to better protect the Chesapeake Bay and its tributary waters (USDA);
- 3) Strengthen stormwater management practices at Federal facilities and on Federal lands (DoD);
- 4) Assess the impacts of a changing climate (DOI/DOC);
- 5) Expand public access to waters and open spaces (DOI);
- 6) Strengthen scientific support for decisionmaking (DOI/DOC); and
- 7) Develop focused and coordinated habitat and research activities (DOI/DOC).

We appreciate the thoughtful and thorough attention the agencies gave to completing these drafts in a short period of time.

Budget guidance

Section 203 of the E.O. requires the FLC to publish for public review a draft strategy for protecting and restoring the Chesapeake Bay by November 9, 2009. As the FLC begins to consider the draft Section 202 reports prepared by the agencies and its draft strategy, it should use the following guidance to aid decisionmaking and deliberations. The purpose of this guidance is to ensure both coordination between the draft strategy and the FY 2011 President's Budget process, and a robust strategy that is implementable and properly reflects the Administration's priorities.

- **The draft strategy should be generally consistent with OMB Director Orszag's June 11, 2009 guidance to agencies on the FY 2011 President's Budget.** As such, the draft strategy should generally only include actions that can be funded through agencies' existing base funds to the fullest extent possible, including in the outyears.
- **The FLC should develop an estimate for the total cost of implementation for Federal agency actions called for in the draft strategy.** This estimate will help inform Executive Branch review and should include agency contributions from base funds, as well as additional funding needed to implement high priority actions that agencies believe cannot be accommodated within budget guidance. Figures should include FY 2010 costs, FY 2011 estimates, and annual estimates for the following five fiscal years. To the extent practicable, the cost estimates should also indicate where State or local governments or other parties are expected to contribute matching or supplemental funds. This predecisional document will be considered internal to the participating agencies and not released to the public.
- **The FLC should submit to OMB and CEQ by October 9, 2009 a package of elements of the draft strategy for which an addition to base funds is needed.** This package should include a description of the action, a summary of expected costs, and a discussion of why the action is critical to meeting the goals of the E.O. Agencies should be able to provide strong justification of the need for additional funds, including a clear explanation of how the funding estimate was developed. This information will help all involved prepare for review of the draft strategy and allow for discussions on some of the funding issues to begin early in hopes of resolution and minimal last-minute conflicts.
- **The FLC should provide OMB and CEQ with its working draft strategy and cost estimate for review by October 23, 2009.** This schedule will allow sufficient time for review and resolution of comments prior to the planned release date of November 9, 2009.
- **Any issues (other than outstanding FY 2011 Budget issues) unresolved on November 3, 2009 will be reconciled at an interagency meeting hosted by OMB and CEQ on that day.**

OMB and CEQ commit to working with the FLC to ensure that the draft strategy meets the goals of the E.O. while also aligning with the established budget process. We look forward to working with the agencies to address this Presidential priority, and developing a shared strategy that defines a new era of Federal leadership for the Chesapeake Bay.

Please do not hesitate to contact us or our staffs if you have questions. Thank you for your work on this very important issue.

01268-EPA-4907

**Richard Windsor/DC/USEPA/US**  
09/23/2009 08:45 PM

To "Lisa At Home"  
cc  
bcc

Subject Fw: signed copy of the Chesapeake Bay draft strategy guidance

Diane Thompson

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

**From:** Diane Thompson  
**Sent:** 09/23/2009 05:59 PM EDT  
**To:** Richard Windsor; Bob Sussman; Chuck Fox  
**Subject:** Fw: signed copy of the Chesapeake Bay draft strategy guidance

FYI, Jon called to let me know this was going out.

(b)(5) Deliberative

DT

\*\*\*\*\*

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

----- Forwarded by Diane Thompson/DC/USEPA/US on 09/23/2009 05:57 PM -----

From: "Carson, Jonathan K." <(b) (6) Privacy>  
To: Diane Thompson/DC/USEPA/US@EPA  
Date: 09/23/2009 03:00 PM  
Subject: FW: signed copy of the Chesapeake Bay draft strategy guidance

Here's the memo I mentioned, thanks,  
Jon

**Jon Carson**  
Chief of Staff  
Council on Environmental Quality

Office: (b) (6) Privacy

[Redacted]



ChespkpeBayFedLeadShpCmteMem.9.23.09.pdf

EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON ENVIRONMENTAL QUALITY  
WASHINGTON, D.C. 20503

September 23, 2009

MEMORANDUM

TO: Chesapeake Bay Federal Leadership Committee

FROM: Sally Ericsson, Associate Director, Office of Management and Budget *SE*  
Nancy Sutley, Chair, Council on Environmental Quality *MS*

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Please do not hesitate to contact us or our staffs if you have questions. Thank you for your work on this very important issue.



01268-EPA-4908

"Sutley, Nancy H."

(b) (6) Privacy

09/24/2009 10:23 PM

To Richard Windsor

cc

bcc

Subject Fw: TSCA

At last, we hear from them.

---

**From:** Romer, Christina  
**To:** Sutley, Nancy H.  
**Cc:** Summers, Lawrence; Farrell, Diana  
**Sent:** Thu Sep 24 22:10:57 2009  
**Subject:** FW: TSCA

Dear Nancy,

CEA and NEC did some more tweaking of the revised principles on TSCA. Please let us know what you think. Also, could you be in charge of making sure that they get to Lisa -- somehow I don't have her email address.

Christy

(b)(5) Deliberative

TSCA Principles - Revised CEA NEC 092309.docx

01268-EPA-4909

**Richard Windsor/DC/USEPA/US**  
09/25/2009 04:28 AM

To "Bob Sussman"  
cc  
bcc  
Subject Fw: TSCA

Let's talk about this at the morning mtg.

---

**From:** "Sutley, Nancy H." (b) (6) Privacy  
**Sent:** 09/24/2009 10:23 PM AST  
**To:** Richard Windsor  
**Subject:** Fw: TSCA

At last, we hear from them.

---

**From:** Romer, Christina  
**To:** Sutley, Nancy H.  
**Cc:** Summers, Lawrence; Farrell, Diana  
**Sent:** Thu Sep 24 22:10:57 2009  
**Subject:** FW: TSCA

Dear Nancy,

CEA and NEC did some more tweaking of the revised principles on TSCA. Please let us know what you think. Also, could you be in charge of making sure that they get to Lisa -- somehow I don't have her email address.

Christy

(b)(5) Deliberative

TSCA Principles - Revised CEA NEC 092309.docx

01268-EPA-4910

"Sutley, Nancy H."  
(b) (6) Privacy

To Richard Windsor

cc

bcc

09/25/2009 07:17 AM

Subject Re: TSCA

I was trying to do this from my bberry (travelling). I copied the text below from Christy's attachment. I think the only changes are in #3 but am not sure.

(b)(5) Deliberative

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]



**From:** Romer, Christina  
**To:** Sutley, Nancy H.  
**Cc:** Summers, Lawrence; Farrell, Diana  
**Sent:** Thu Sep 24 22:10:57 2009  
**Subject:** FW: TSCA

Dear Nancy,

CEA and NEC did some more tweaking of the revised principles on TSCA. Please let us know what you think. Also, could you be in charge of making sure that they get to Lisa -- somehow I don't have her email address.

Christy

01268-EPA-4911

**Richard Windsor/DC/USEPA/US**  
09/25/2009 07:19 AM

To "Sutley, Nancy H."  
cc  
bcc  
Subject Re: TSCA

Tx. No worries. Will deal w it when I get in. Lisa

---

**From:** "Sutley, Nancy H." (b) (6) Privacy  
**Sent:** 09/25/2009 07:17 AM AST  
**To:** Richard Windsor  
**Subject:** Re: TSCA

I was trying to do this from my bberry (travelling). I copied the text below from Christy's attachment. I think the only changes are in #3 but am not sure.

(b)(5) Deliberative

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]



**Sent:** 09/24/2009 10:27 PM AST

**To:** "Romer, Christina" (b) (6) Privacy

**Cc:** "Summers, Lawrence" (b) (6) Privacy "Farrell, Diana"

(b) (6) Privacy Richard Windsor

**Subject:** Re: TSCA

Thanks for getting back to me. It looks ok to me, but Lisa should have the last word. I have forwarded to her separately (to be sure she got the attachment) and copied her on this e-mail so you can contact each other.

---

**From:** Romer, Christina

**To:** Sutley, Nancy H.

**Cc:** Summers, Lawrence; Farrell, Diana

**Sent:** Thu Sep 24 22:10:57 2009

**Subject:** FW: TSCA

Dear Nancy,

CEA and NEC did some more tweaking of the revised principles on TSCA. Please let us know what you think. Also, could you be in charge of making sure that they get to Lisa -- somehow I don't have her email address.

Christy



01268-EPA-4912

Richard Windsor/DC/USEPA/US  
09/25/2009 02:58 PM

To "Sutley, Nancy H."  
cc "Romer, Christina", "Farrell, Diana", "Summers, Lawrence", Diane Thompson  
bcc  
Subject Re: TSCA

Hi All,

Attached is the current version. (b)(5) Deliberative  
I am hoping you will be comfortable with this draft. Let me know.

(b)(5) Deliberative

TSCA Principles - Revised EPA 092509.docx

Thanks, Lisa

"Sutley, Nancy H." Thanks for getting back to me. It loo... 09/24/2009 10:28:04 PM

From: "Sutley, Nancy H." <(b) (6) Privacy>  
To: "Romer, Christina" <(b) (6) Privacy>  
Cc: "Summers, Lawrence" <(b) (6) Privacy>, "Farrell, Diana" <(b) (6) Privacy>, Richard Windsor/DC/USEPA/US@EPA  
Date: 09/24/2009 10:28 PM  
Subject: Re: TSCA

Thanks for getting back to me. It looks ok to me, but Lisa should have the last word. I have forwarded to her separately (to be sure she got the attachment) and copied her on this e-mail so you can contact each other.

**From:** Romer, Christina  
**To:** Sutley, Nancy H.  
**Cc:** Summers, Lawrence; Farrell, Diana  
**Sent:** Thu Sep 24 22:10:57 2009  
**Subject:** FW: TSCA

Dear Nancy,

CEA and NEC did some more tweaking of the revised principles on TSCA. Please let us know what you think. Also, could you be in charge of making sure that they get to Lisa -- somehow I don't have her email address.

Christy

01268-EPA-4913

"Romer, Christina"

(b) (6) Privacy

09/27/2009 09:54 PM

To Richard Windsor, "Sutley, Nancy H."

cc "Farrell, Diana", "Summers, Lawrence", Diane Thompson

bcc

Subject RE: TSCA

Dear Lisa,

I think we may finally have reached closure! Our only change is in

(b)(5) Deliberative

Thank you all for working with us to craft something we are all comfortable with.

Christy

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

From: Windsor.Richard@epamail.epa.gov

[mailto:Windsor.Richard@epamail.epa.gov]

Sent: Friday, September 25, 2009 2:58 PM

To: Sutley, Nancy H.

Cc: Romer, Christina; Farrell, Diana; Summers, Lawrence;

Thompson.Diane@epamail.epa.gov

Subject: Re: TSCA

Hi All,

Attached is the current version.

(b)(5) Deliberative

I am hoping you will be comfortable with this draft. Let me know.

(See attached file: TSCA Principles - Revised EPA 092509.docx)

Thanks, Lisa

(b)(5) Deliberative

TSCA Principles - Revised EPA 092509 - CEA and NEC edit.docx

01268-EPA-4914

Richard Windsor/DC/USEPA/US  
09/27/2009 09:56 PM

To "Arvin Ganesan", "Bob Sussman"  
cc "Diane Thompson", "Seth Oster"  
bcc  
Subject Fw: TSCA

:)

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

From: "Romer, Christina" (b) (6) Privacy  
Sent: 09/27/2009 09:54 PM AST  
To: Richard Windsor; "Sutley, Nancy H." <(b) (6) Privacy>  
Cc: "Farrell, Diana" (b) (6) Privacy; "Summers, Lawrence" (b) (6) Privacy  
Diane Thompson  
Subject: RE: TSCA

Dear Lisa,

I think we may finally have reached closure! Our only change is in (b)(5) Deliberative

Thank you all for working with us to craft something we are all comfortable with.

Christy

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

From: Windsor.Richard@epamail.epa.gov [mailto:Windsor.Richard@epamail.epa.gov]  
Sent: Friday, September 25, 2009 2:58 PM  
To: Sutley, Nancy H.  
Cc: Romer, Christina; Farrell, Diana; Summers, Lawrence; Thompson.Diane@epamail.epa.gov  
Subject: Re: TSCA

Hi All,

Attached is the current version. (b)(5) Deliberative

I am hoping you will be comfortable with this draft. Let me know.

(See attached file: TSCA Principles - Revised EPA 092509.docx)

Thanks, Lisa

(b)(5) Deliberative

TSCA Principles - Revised EPA 092509 - CEA and NEC edit.docx

01268-EPA-4915

Allyn  
Brooks-LaSure/DC/USEPA/US

09/30/2009 11:11 AM

To "Mcintosh, David", "Heinzerling, Lisa", "Windsor, Richard",  
"Oster, Seth", "Andy, Adora", "Thompson, Diane", "Sussman,  
Bob", "Fulton, Scott", Arvin Ganesan, Sarah Pallone,  
"Perciasepe, Bob"

cc

bcc

Subject Fw: Q and A on Kerry Boxer

MABL.

-----

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

---

**From:** "LaBolt, Benjamin" (b) (6) Privacy

**Sent:** 09/30/2009 11:08 AM AST

**To:** "LaBolt, Benjamin" (b) (6) Privacy "Glunz, Christine M."  
<(b) (6) Privacy <Dan.Leistikow@hq.doe.gov>;  
<Matt\_Lee-Ashley@ios.doi.gov>; Allyn Brooks-LaSure; "Levine, Jacob C."  
<(b) (6) Privacy "Zichal, Heather R." (b) (6) Privacy  
"Betsy Hildebrandt" <Betsy\_Hildebrandt@ios.doi.gov>; "Weiss, Rick"  
<(b) (6) Privacy Seth Oster; Adora Andy; "Mather, Chris"  
<Chris.Mather@oc.usda.gov>; <Kendra\_Barkoff@ios.doi.gov>; "Kobren, Benjamin M"  
<KobrenBM@state.gov>; <justin.kenney@noaa.gov>; "Gilson, Shannon" <SGilson@doc.gov>;  
<Uzzell.Megan@dol.gov>; "Lehrich, Matthew A." (b) (6) Privacy

**Subject:** Q and A on Kerry Boxer

Attached. Also, we will have a statement from the President shortly on the bill, so pls hold comments

(b)(5) Deliberative

until then. Thx. Proposed Guidance Kerry Boxer.docx

01268-EPA-4916

David  
McIntosh/DC/USEPA/US  
09/30/2009 11:16 AM

To Allyn Brooks-LaSure, "Andy, Adora", Arvin Ganesan, "Fulton, Scott", "Heinzerling, Lisa", "Mcintosh, David", "Oster, Seth", "Perciasepe, Bob", Sarah Pallone, "Sussman, Bob", "Thompson, Diane", "Windsor, Richard"

cc

bcc

Subject Re: Fw: Q and A on Kerry Boxer

Of the Qs&As in the attached document, this is the one that is most additive to what I sent a little while ago:

Q: (b)(5) Deliberative  
[Redacted]

Allyn Brooks-LaSure MABL. 09/30/2009 11:11:15 AM

From: Allyn Brooks-LaSure/DC/USEPA/US  
To: "Mcintosh, David" <mcintosh.david@epa.gov>, "Heinzerling, Lisa" <Heinzerling.Lisa@epamail.epa.gov>, "Windsor, Richard" <Windsor.richard@epa.gov>, "Oster, Seth" <oster.seth@epa.gov>, "Andy, Adora" <andy.adora@epa.gov>, "Thompson, Diane" <thompson.diane@epa.gov>, "Sussman, Bob" <sussman.bob@epa.gov>, "Fulton, Scott" <fulton.scott@epa.gov>, Arvin Ganesan/DC/USEPA/US@EPA, Sarah Pallone/DC/USEPA/US@EPA, "Perciasepe, Bob" <Perciasepe.Bob@epamail.epa.gov>  
Date: 09/30/2009 11:11 AM  
Subject: Fw: Q and A on Kerry Boxer

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

From: "LaBolt, Benjamin" [Redacted] (b) (6) Privacy  
Sent: 09/30/2009 11:08 AM AST

**To:** "LaBolt, Benjamin" <(b) (6) Privacy> "Glunz, Christine M." <(b) (6) Privacy> <Dan.Leistikow@hq.doe.gov>; <Matt\_Lee-Ashley@ios.doi.gov>; Allyn Brooks-LaSure; "Levine, Jacob C." <(b) (6) Privacy> "Zichal, Heather R." <(b) (6) Privacy> "Betsy Hildebrandt" <Betsy\_Hildebrandt@ios.doi.gov>; "Weiss, Rick" <(b) (6) Privacy> Seth Oster; Adora Andy; "Mather, Chris" <Chris.Mather@oc.usda.gov>; <Kendra\_Barkoff@ios.doi.gov>; "Kobren, Benjamin M" <KobrenBM@state.gov>; <justin.kenney@noaa.gov>; "Gilson, Shannon" <SGilson@doc.gov>; <Uzzell.Megan@dol.gov>; "Lehrich, Matthew A." <(b) (6) Privacy>

**Subject:** Q and A on Kerry Boxer

Attached. Also, we will [have a statement](#) from the President shortly on the bill, so pls hold comments

(b)(5) Deliberative

until then. Thx. Proposed Guidance Kerry Boxer.docx

01268-EPA-4917

"Sutley, Nancy H."

(b) (6) Privacy

09/30/2009 03:49 PM

To Richard Windsor

cc

bcc

Subject how's ca

Hi – just thought I'd check in to see how the trip to CA is going. The press coverage of the Commonwealth Club speech looked good! I think you're probably in LA by now, how's the climate conference? I get in late tonight and am speaking tomorrow. I head to Seattle first thing Friday morning for US conference of Mayors. Nancy



01268-EPA-4918

**Richard Windsor/DC/USEPA/US**  
09/30/2009 03:56 PM

To "Sutley, Nancy H."  
cc  
bcc

Subject Re: how's ca

Hey. In L.A. - on way to conference. What's up with you tomorrow? Got a lot during the day and a Holloywoodish party tomorrow.

---

**From:** "Sutley, Nancy H." (b) (6) Privacy

**Sent:** 09/30/2009 03:49 PM AST

**To:** Richard Windsor

**Subject:** how's ca

Hi – just thought I'd check in to see how the trip to CA is going. The press coverage of the Commonwealth Club speech looked good! I think you're probably in LA by now, how's the climate conference? I get in late tonight and am speaking tomorrow. I head to Seattle first thing Friday morning for US conference of Mayors. Nancy

01268-EPA-4919

**"Sutley, Nancy H."**

(b) (6) Privacy

09/30/2009 03:58 PM

To Richard Windsor

cc

bcc

Subject RE: how's ca

I speak in the morning at the conference, have to do some press early afternoon, have a few hours free(!) in the afternoon, go to the Clean Tech reception at the UCLA Chancellor's house in the early evening and then am off duty. Fly to Seattle first thing Friday am.

---

**From:** Windsor.Richard@epamail.epa.gov [mailto:Windsor.Richard@epamail.epa.gov]**Sent:** Wednesday, September 30, 2009 3:57 PM**To:** Sutley, Nancy H.**Subject:** Re: how's ca

Hey. In L.A. - on way to conference. What's up with you tomorrow? Got a lot during the day and a Hollywoodish party tomorrow.

---

**From:** "Sutley, Nancy H." (b) (6) Privacy**Sent:** 09/30/2009 03:49 PM AST**To:** Richard Windsor**Subject:** how's ca

Hi – just thought I'd check in to see how the trip to CA is going. The press coverage of the Commonwealth Club speech looked good! I think you're probably in LA by now, how's the climate conference? I get in late tonight and am speaking tomorrow. I head to Seattle first thing Friday morning for US conference of Mayors. Nancy

01268-EPA-4920

**Richard Windsor/DC/USEPA/US**  
09/30/2009 04:01 PM

To "Sutley, Nancy H."  
cc  
bcc  
Subject Re: how's ca

Wanna come to hollywoodish thing? Reception given by wife of Univ studios prez at Cut Restaurant in the Reg Bev Wil hotel.

---

**From:** "Sutley, Nancy H." [REDACTED] (b) (6) Privacy  
**Sent:** 09/30/2009 03:58 PM AST  
**To:** Richard Windsor  
**Subject:** RE: how's ca

I speak in the morning at the conference, have to do some press early afternoon, have a few hours free(!) in the afternoon, go to the Clean Tech reception at the UCLA Chancellor's house in the early evening and then am off duty. Fly to Seattle first thing Friday am.

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**From:** Windsor.Richard@epamail.epa.gov [mailto:Windsor.Richard@epamail.epa.gov]  
**Sent:** Wednesday, September 30, 2009 3:57 PM  
**To:** Sutley, Nancy H.  
**Subject:** Re: how's ca

Hey. In L.A. - on way to conference. What's up with you tomorrow? Got a lot during the day and a Hollywoodish party tomorrow.

---

**From:** "Sutley, Nancy H." [REDACTED] (b) (6) Privacy  
**Sent:** 09/30/2009 03:49 PM AST  
**To:** Richard Windsor  
**Subject:** how's ca

Hi – just thought I'd check in to see how the trip to CA is going. The press coverage of the Commonwealth Club speech looked good! I think you're probably in LA by now, how's the climate conference? I get in late tonight and am speaking tomorrow. I head to Seattle first thing Friday morning for US conference of Mayors. Nancy

01268-EPA-4921

"Sutley, Nancy H." To Richard Windsor  
(b) (6) Privacy cc  
09/30/2009 04:43 PM bcc  
Subject RE: how's ca

What time. I have to speak at this clean tech thing – not sure but will probably done 7:15 ish not too far away

---

**From:** Windsor.Richard@epamail.epa.gov [mailto:Windsor.Richard@epamail.epa.gov]  
**Sent:** Wednesday, September 30, 2009 4:01 PM  
**To:** Sutley, Nancy H.  
**Subject:** Re: how's ca

Wanna come to hollywoodish thing? Reception given by wife of Univ studios prez at Cut Restaurant in the Reg Bev Wil hotel.

---

**From:** "Sutley, Nancy H." (b) (6) Privacy  
**Sent:** 09/30/2009 03:58 PM AST  
**To:** Richard Windsor  
**Subject:** RE: how's ca

I speak in the morning at the conference, have to do some press early afternoon, have a few hours free(!) in the afternoon, go to the Clean Tech reception at the UCLA Chancellor's house in the early evening and then am off duty. Fly to Seattle first thing Friday am.

---

**From:** Windsor.Richard@epamail.epa.gov [mailto:Windsor.Richard@epamail.epa.gov]  
**Sent:** Wednesday, September 30, 2009 3:57 PM  
**To:** Sutley, Nancy H.  
**Subject:** Re: how's ca

Hey. In L.A. - on way to conference. What's up with you tomorrow? Got a lot during the day and a Hollywoodish party tomorrow.

---

**From:** "Sutley, Nancy H." (b) (6) Privacy  
**Sent:** 09/30/2009 03:49 PM AST  
**To:** Richard Windsor  
**Subject:** how's ca

Hi – just thought I'd check in to see how the trip to CA is going. The press coverage of the Commonwealth Club speech looked good! I think you're probably in LA by now, how's the climate conference? I get in late tonight and am speaking tomorrow. I head to Seattle first thing Friday morning for US conference of Mayors. Nancy

01268-EPA-4922

**Richard Windsor/DC/USEPA/US**  
09/30/2009 07:05 PM

To "Sutley, Nancy H."  
cc  
bcc  
Subject Re: how's ca

630 to 9 pm. Come!

---

**From:** "Sutley, Nancy H." [REDACTED] (b) (6) Privacy  
**Sent:** 09/30/2009 04:43 PM AST  
**To:** Richard Windsor  
**Subject:** RE: how's ca

What time. I have to speak at this clean tech thing – not sure but will probably done 7:15 ish not too far away

---

**From:** Windsor.Richard@epamail.epa.gov [mailto:Windsor.Richard@epamail.epa.gov]  
**Sent:** Wednesday, September 30, 2009 4:01 PM  
**To:** Sutley, Nancy H.  
**Subject:** Re: how's ca

Wanna come to hollywoosish thing? Reception given by wife of Unov studios prez at Cut Restaurant in the Reg Bev Wil hotel.

---

**From:** "Sutley, Nancy H." [REDACTED] (b) (6) Privacy  
**Sent:** 09/30/2009 03:58 PM AST  
**To:** Richard Windsor  
**Subject:** RE: how's ca

I speak in the morning at the conference, have to do some press early afternoon, have a few hours free(!) in the afternoon, go to the Clean Tech reception at the UCLA Chancellor's house in the early evening and then am off duty. Fly to Seattle first thing Friday am.

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**From:** Windsor.Richard@epamail.epa.gov [mailto:Windsor.Richard@epamail.epa.gov]  
**Sent:** Wednesday, September 30, 2009 3:57 PM  
**To:** Sutley, Nancy H.  
**Subject:** Re: how's ca

Hey. In L.A. - on way to conference. What's up with you tomorrow? Got a lot during the day and a Holloywoodish party tomorrow.

---

**From:** "Sutley, Nancy H." [REDACTED] (b) (6) Privacy

**Sent:** 09/30/2009 03:49 PM AST  
**To:** Richard Windsor  
**Subject:** how's ca

Hi – just thought I'd check in to see how the trip to CA is going. The press coverage of the Commonwealth Club speech looked good! I think you're probably in LA by now, how's the climate conference? I get in late tonight and am speaking tomorrow. I head to Seattle first thing Friday morning for US conference of Mayors. Nancy

01268-EPA-4924

**Daniel Gerasimowicz/DC/USEPA/US**  
10/02/2009 06:29 PM

To Stephanie Owens, Bob Perciasepe, Craig Hooks, Michelle DePass, Steve Owens, Peter Silva, Peter Grevatt, Sarah Pallone, Mathy Stanislaus, Cynthia Giles, Gina McCarthy, Alicia Kaiser, Lawrence Elworth, Seth Oster, Katharine Gage, Stephanie Washington, Diane Thompson, Arvin Ganesan, Marcus McClendon, Ray Spears, Sarah Dale, Georgia Bednar, Carla Veney, Scott Fulton, Bob Sussman, Allyn Brooks-LaSure, Richard Windsor, Eric Wachter, (b) (6) Robert Goulding, Lisa Heinzerling, David McIntosh

cc

bcc

Subject Monday, October 5, 2009 Schedule for Lisa P. Jackson

\*\*\* do not copy or forward this information \*\*\*

**Schedule for Lisa P. Jackson EPA Administrator**  
**Monday, October 5, 2009**

Notes:

Drivers

AM (b) (6) Privacy  
(b) (6) Privacy

Shift Leaders

AM (b) (6) Privacy  
(b) (6) Privacy

Staff Contact

Robert Goulding  
(b) (6) Privacy

07:30 AM - 08:15 AM	Residence	Depart for Ariel Rios
08:15 AM - 08:45 AM	Administrator's Office	1 on 1 with Pete Silva Ct: Lori Keyton (OW) 564-5768  Optional Attendees: Bob Perciasepe, Bob Sussman, Diane Thompson (OA)
08:45 AM - 09:15 AM	Administrator's Office	Daily Meeting
09:15 AM - 09:30 AM	Administrator's Office	Photo Signing Ct: Ben Milakofsky, WH (b) (6) Privacy  An individual from WH Cabinet Affairs will be bringing over a photo for the Administrator to sign
09:30 AM - 10:00 AM	Administrator's Office	Office Time
10:00 AM - 10:30 AM	Bullet Room	Briefing to discuss Region 5 MTM Ct: Arvin Ganesan (OCIR) 564-4741

Staff:

Bob Sussman, Diane Thompson (OA)  
Arvin Ganesan (OCIR)  
Pete Silva, Greg Peck, David Evans, Suzanne Schwartz, Brian Frazer (OW)  
Bharat Mathur, Tinka Hyde (R5)

(video hookup needed for Region 5)

10:45 AM - 11:15 AM	Bullet Room	Meeting with Nobel Laureate Wangari Maathai Ct: Carolyn Keene (Stuart Eizenstat's Office) (b) (6) Privacy
		Staff:  Diane Thompson, Bob Perciasepe, Scott Fulton (OA) Gina McCarthy (OAR) David McIntosh (OCIR) Lisa Heinzerling (OPEI) Michelle DePass (OIA)
		Attendees:  Nobel Laureate Wangari Maathai Jim Rogers, CEO Duke Energy Kathleen Kennedy Townsend Stuart Eizenstat, Former US Chief U.S. Climate Negotiator Jeff Horowitz, Founding Partner of Avoided Deforestation Partners
		Topics: Climate Change Legislation, International Tropical Deforestation
11:15 AM - 11:30 AM	Administrator's Office	Depart for CEQ
11:30 AM - 12:15 PM	CEQ/The White House	Signing Ct: John Carson (Chief of Staff, CEQ) (b) (6) Privacy
		The Administrator will meet at CEQ from 11:30 - 11:45 and then travel over to the White House.
		The signing ceremony will take place in the Oval Office of the White House from 11:50 to 12:05
		Attendees:  Secretary Chu General Shinsecki
12:15 PM - 12:30 PM	The White House	Depart for BLT Steak Restaurant
12:30 PM - 01:30 PM	BLT Steak Restaurant 1625 Eye Street NW	Lunch Subject: Christina Romer
		Ct: Julia Siegel (b) (6) Privacy (b) (6) Privacy
01:00 PM - 02:15 PM	Bullet Room	FYI - Senior Staff Meeting  Scott Fulton will lead this meeting
01:30 PM - 01:45 PM	BLT Restaurant	Depart for Ariel Rios
01:45 PM - 02:15 PM	Administrator's Office	Office Time



02:15 PM - 03:00 PM	Bullet Room	Briefing to discuss FAR CCR Rule Ct: Barbara Morris (OAR) 564-1666
		Staff:  Bob Perciasepe, Diane Thompson, Scott Fulton, Bob Sussman(OA) Gina McCarthy (OAR) Mathy Stanislaus (OSWER) Pete Silva (OW) Cynthia Giles (OECA) Lisa Heinzerling (OPEI)
03:00 PM - 03:30 PM	Administrator's Office	Briefing to discuss the E15 Waiver Request Ct: Barbara Morris (OAR) 564-1666
		Staff:  Diane Thompson, Larry Elworth (OA) Gina McCarthy, Margo Oge, Karl Simon (OAR) John Hannon (OGC) David McIntosh (OCIR)
03:45 PM - 04:15 PM	Bullet Room	Michigan 404 Return Briefing Ct: Lori Keyton (OW) 564-5768
		Staff:  Bob Perciasepe, Diane Thompson, Bob Sussman (OA) Pete Silva, Suzanne Schwartz, Kathy Hurld (OW) Scott Fulton, Steve Neugeboren, Sam Brown (OGC) Bharat Mathur, Tinka Hyde (R5) - by video  (video hookup needed for Region 5)
04:15 PM - 05:00 PM	Studio 1, 6330 ARN	Video Message Tapings  - NJ Black Issues Convention Video Taping - National Organization of Minority Architects - Green DMV
05:00 PM - 05:45 PM	Bullet Room	Pre-Meeting for the Water Hearing Ct: Wyatt Rockefeller (OA) 564-3183
		Staff:  Bob Perciasepe, Scott Fulton, Bob Sussman, Diane Thompson, Larry Elworth (OA) Cynthia Giles (OECA) Pete Silva (OW) Allyn Brooks-LaSure (OPA) Arvin Ganesan (OCIR)

01268-EPA-4925

"Sutley, Nancy H."  
 (b) (6) Privacy  
 10/02/2009 06:45 PM  
 Please respond to  
 "Sutley, Nancy H."  
 (b) (6) Privacy

To Richard Windsor, ron.sims, pershingj, david\_hayes,  
 "Ericsson, Sally C."  
 cc Jane.Lubchenco, "Abbott, Shere"  
 bcc  
 Subject Climate Change Adaptation Steering Committee

On behalf of my NOAA and OSTP co-chairs, Jane Lubchenco and Shere Abbott, I would like to invite you to become a member of the Interagency Climate Change Adaptation Steering Committee for the Interagency Climate Change Adaptation Group.

As you know, the Interagency Climate Change Adaptation Group met in July and agreed to assess, develop and implement priority areas for Federal Government action on climate change resilience and adaptation capacity. The two primary goals for the group's work are:

- Improve the climate change resilience and adaptive capacity of Federal Government operations
- Develop a coordinated Federal Government approach for climate change impacts domestically and internationally

The group formed a set of working groups to consider the capabilities of the Federal government to respond to the impacts of climate change on various critical sectors, institutions, and agency mission responsibilities. Five initial working groups (on science policy, agency process, water, insurance, and international assistance) are reviewing existing policies, operations, procedures, and other tools that affect the Federal government's response, and will recommend options for improving the government's capacity for adaptation to climate change.

The Steering Committee will help to set the agenda for the Interagency Group, oversee the working group process, regional meetings with stakeholders, and help integrate the Working Group products for approval by the Interagency Group. To encourage high-level strategic discussions, we are limiting the size of the group and requesting only senior level participation.

My staff will reach out to you as we will schedule our first meeting early this month.

Sincerely,

(b)(5) Deliberative

NancyClimate Change Adaptation Steering Committee Invite.pdf

01268-EPA-4928

**Richard Windsor/DC/USEPA/US**  
10/04/2009 09:35 PM

To "Sutley, Nancy H."  
cc Diane Thompson, Bob Perciasepe  
bcc

Subject Re: Climate Change Adaptation Steering Committee

Cool - thinking I may ask Bob P to take this one over if that's OK with you. Lj

"Sutley, Nancy H." On behalf of my NOAA and OSTP c... 10/02/2009 06:45:54 PM

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From: "Sutley, Nancy H." <(b) (6) Privacy>  
To: Richard Windsor/DC/USEPA/US@EPA, <ron.sims@hud.gov>, <pershingj@state.gov>, <david\_hayes@ios.doi.gov>, "Ericsson, Sally C." <(b) (6) Privacy>  
Cc: <Jane.Lubchenco@noaa.gov>, "Abbott, Shere" <(b) (6) Privacy>  
Date: 10/02/2009 06:45 PM  
Subject: Climate Change Adaptation Steering Committee

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On behalf of my NOAA and OSTP co-chairs, Jane Lubchenco and Shere Abbott, I would like to invite you to become a member of the Interagency Climate Change Adaptation Steering Committee for the Interagency Climate Change Adaptation Group.

As you know, the Interagency Climate Change Adaptation Group met in July and agreed to assess, develop and implement priority areas for Federal Government action on climate change resilience and adaptation capacity. The two primary goals for the group's work are:

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(b)(5) Deliberative

Nancy Climate Change Adaptation Steering Committee Invite.pdf

01268-EPA-4929

"Sutley, Nancy H."  
(b) (6) Privacy  
10/05/2009 12:13 AM

To Richard Windsor  
cc Diane Thompson, Bob Perciasepe, "Carson, Jonathan K.",  
"Bordoff, Jason E."  
bcc

Subject Re: Climate Change Adaptation Steering Committee

Great. Thanks

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

From: Windsor.Richard@epamail.epa.gov <Windsor.Richard@epamail.epa.gov>  
To: Sutley, Nancy H.  
Cc: Thompson.Diane@epamail.epa.gov <Thompson.Diane@epamail.epa.gov>;  
Perciasepe.Bob@epamail.epa.gov <Perciasepe.Bob@epamail.epa.gov>  
Sent: Sun Oct 04 21:35:21 2009  
Subject: Re: Climate Change Adaptation Steering Committee

Cool - thinking I may ask Bob P to take this one over if that's OK with you. Lj

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| "Sutley, Nancy H." <(b) (6) Privacy >  
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| To: |  
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|Richard Windsor/DC/USEPA/US@EPA, <ron.sims@hud.gov>, <pershingj@state.gov>,  
<david\_hayes@ios.doi.gov>, "Ericsson, Sally C." |  
| <(b) (6) Privacy >  
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| <Jane.Lubchenco@noaa.gov>, "Abbott, Shere"  
<(b) (6) Privacy >  
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early this month.

Sincerely,

Nancy(See attached file: Climate Change Adaptation Steering Committee Invite.pdf)

01268-EPA-4930

**Richard Windsor/DC/USEPA/US**  
10/05/2009 05:14 PM

To "Nancy Sutley"  
cc  
bcc

Subject Fw: President Obama signs an Executive Order Focused on Federal Leadership in Environmental, Energy, and Economic Performance

Hey,

**(b)(5) Deliberative** ?

Lisa  
Allyn Brooks-LaSure

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

**From:** Allyn Brooks-LaSure  
**Sent:** 10/05/2009 03:45 PM EDT  
**To:** Richard Windsor; Diane Thompson; Bob Perciasepe; Scott Fulton; Craig Hooks; Ray Spears; Lisa Heinzerling  
**Cc:** Seth Oster  
**Subject:** Fw: President Obama signs an Executive Order Focused on Federal Leadership in Environmental, Energy, and Economic Performance

-----  
M. Allyn Brooks-LaSure | Deputy Associate Administrator for Public Affairs  
U.S. Environmental Protection Agency | Office of the Administrator

Phone: 202-564-8368 | Email: brooks-lasure.allyn@epa.gov  
----- Forwarded by Allyn Brooks-LaSure/DC/USEPA/US on 10/05/2009 03:45 PM -----

From: "White House Press Office" <whitehouse-lists-noreply@list.whitehouse.gov>  
To: Allyn Brooks-LaSure/DC/USEPA/US@EPA  
Date: 10/05/2009 03:42 PM  
Subject: President Obama signs an Executive Order Focused on Federal Leadership in Environmental, Energy, and Economic Performance

THE WHITE HOUSE  
Office of the Press Secretary

FOR IMMEDIATE RELEASE:  
October 5, 2009

**President Obama signs an Executive Order Focused on Federal Leadership in Environmental, Energy, and Economic Performance**

WASHINGTON, DC - Demonstrating a commitment to lead by example, President Obama signed an Executive Order (attached) today that sets sustainability goals for Federal agencies and focuses on making improvements in their environmental, energy and economic performance. The Executive Order requires Federal agencies to set a 2020

greenhouse gas emissions reduction target within 90 days; increase energy efficiency; reduce fleet petroleum consumption; conserve water; reduce waste; support sustainable communities; and leverage Federal purchasing power to promote environmentally-responsible products and technologies.

“As the largest consumer of energy in the U.S. economy, the Federal government can and should lead by example when it comes to creating innovative ways to reduce greenhouse gas emissions, increase energy efficiency, conserve water, reduce waste, and use environmentally-responsible products and technologies,” said President Obama. “This Executive Order builds on the momentum of the Recovery Act to help create a clean energy economy and demonstrates the Federal government’s commitment, over and above what is already being done, to reducing emissions and saving money.”

The Federal government occupies nearly 500,000 buildings, operates more than 600,000 vehicles, employs more than 1.8 million civilians, and purchases more than \$500 billion per year in goods and services. The Executive Order builds on and expands the energy reduction and environmental requirements of Executive Order 13423 by making reductions of greenhouse gas emissions a priority of the Federal government, and by requiring agencies to develop sustainability plans focused on cost-effective projects and programs.

Projected benefits to the taxpayer include substantial energy savings and avoided costs from improved efficiency. The Executive Order was developed by the Council on Environmental Quality (CEQ), the Office of Management and Budget (OMB) and the Office of the Federal Environmental Executive, with input from the Federal agencies that are represented on the Steering Committee established by Executive Order 13423.

The new Executive Order requires agencies to measure, manage, and reduce greenhouse gas emissions toward agency-defined targets. It describes a process by which agency goals will be set and reported to the President by the Chair of CEQ. The Executive Order also requires agencies to meet a number of energy, water, and waste reduction targets, including:

- 30% reduction in vehicle fleet petroleum use by 2020;
- 26% improvement in water efficiency by 2020;
- 50% recycling and waste diversion by 2015;
- 95% of all applicable contracts will meet sustainability requirements;
- Implementation of the 2030 net-zero-energy building requirement;
- Implementation of the stormwater provisions of the Energy Independence and Security Act of 2007, section 438; and
- Development of guidance for sustainable Federal building locations in alignment with the Livability Principles put forward by the Department of Housing and Urban Development, the Department of Transportation, and the Environmental



## Protection Agency.

Implementation of the Executive Order will focus on integrating achievement of sustainability goals with agency mission and strategic planning to optimize performance and minimize implementation costs. Each agency will develop and carry out an integrated Strategic Sustainability Performance Plan that prioritizes the agency's actions toward the goals of the Executive Order based on lifecycle return on investments. Implementation will be managed through the previously-established Office of the Federal Environmental Executive, working in close partnership with OMB, CEQ and the agencies.

Examples of Federal employees and their facilities promoting environmental stewardship exist throughout the country. The U.S. Department of Veterans Affairs National Energy Business Center has recently awarded a design-build contract for a wind turbine electric generation system to serve their Medical Center in St. Cloud, Minnesota. The 600-kW turbine installation, to be completed in spring 2011, is projected to supply up to 15 percent of the facility's annual electricity usage.

The U.S. General Services Administration's Denver Federal Center (DFC) in Lakewood, Colorado will be installing an 8 megawatt photovoltaic system as part of a large modernization effort. The primary goal of the project is to provide a reliable utility infrastructure to service tenant agencies for the next 50 years. This facility will feed renewable energy back into the grid at night and cover 30-40 acres.

Many federal agencies have received recognition for their work to integrate environmental considerations into their daily operations and management decisions including: the Air Force Sheppard Air Force Base in Texas for their "Sheppard Puts the R in Recycling" program, the Department of Treasury for their petroleum use reduction, the Department of Energy Y-12 National Security Complex in Tennessee for pollution prevention, the United States Postal Service for their Green Purchasing Program, U.S. Department of Agriculture "Sowing the Seeds for Change" Extreme Makeover Team in Deer River Ranger District in Minnesota; and the Department of Health & Human Services National Institutes of Health in Maryland for their laboratory decommissioning protocol.



### 2009fedleader eo rel.pdf

## THE WHITE HOUSE

## Office of the Press Secretary

For Immediate Release

October 5, 2009

## EXECUTIVE ORDER

- - - - -

FEDERAL LEADERSHIP IN ENVIRONMENTAL, ENERGY,  
AND ECONOMIC PERFORMANCE

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to establish an integrated strategy towards sustainability in the Federal Government and to make reduction of greenhouse gas emissions a priority for Federal agencies, it is hereby ordered as follows:

Section 1. Policy. In order to create a clean energy economy that will increase our Nation's prosperity, promote energy security, protect the interests of taxpayers, and safeguard the health of our environment, the Federal Government must lead by example. It is therefore the policy of the United States that Federal agencies shall increase energy efficiency; measure, report, and reduce their greenhouse gas emissions from direct and indirect activities; conserve and protect water resources through efficiency, reuse, and stormwater management; eliminate waste, recycle, and prevent pollution; leverage agency acquisitions to foster markets for sustainable technologies and environmentally preferable materials, products, and services; design, construct, maintain, and operate high performance sustainable buildings in sustainable locations; strengthen the vitality and livability of the communities in which Federal facilities are located; and inform Federal employees about and involve them in the achievement of these goals.

It is further the policy of the United States that to achieve these goals and support their respective missions, agencies shall prioritize actions based on a full accounting of both economic and social benefits and costs and shall drive continuous improvement by annually evaluating performance, extending or expanding projects that have net benefits, and reassessing or discontinuing under-performing projects.

Finally, it is also the policy of the United States that agencies' efforts and outcomes in implementing this order shall be transparent and that agencies shall therefore disclose results associated with the actions taken pursuant to this order on publicly available Federal websites.

Sec. 2. Goals for Agencies. In implementing the policy set forth in section 1 of this order, and preparing and implementing the Strategic Sustainability Performance Plan called for in section 8 of this order, the head of each agency shall:

(a) within 90 days of the date of this order, establish and report to the Chair of the Council on Environmental Quality (CEQ Chair) and the Director of the Office of Management and Budget (OMB Director) a percentage reduction target for agency-wide

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reductions of scope 1 and 2 greenhouse gas emissions in absolute terms by fiscal year 2020, relative to a fiscal year 2008 baseline of the agency's scope 1 and 2 greenhouse gas emissions. Where appropriate, the target shall exclude direct emissions from excluded vehicles and equipment and from electric power produced and sold commercially to other parties in the course of regular business. This target shall be subject to review and approval by the CEQ Chair in consultation with the OMB Director under section 5 of this order. In establishing the target, the agency head shall consider reductions associated with:

- (i) reducing energy intensity in agency buildings;
- (ii) increasing agency use of renewable energy and implementing renewable energy generation projects on agency property; and
- (iii) reducing the use of fossil fuels by:
  - (A) using low greenhouse gas emitting vehicles including alternative fuel vehicles;
  - (B) optimizing the number of vehicles in the agency fleet; and
  - (C) reducing, if the agency operates a fleet of at least 20 motor vehicles, the agency fleet's total consumption of petroleum products by a minimum of 2 percent annually through the end of fiscal year 2020, relative to a baseline of fiscal year 2005;

(b) within 240 days of the date of this order and concurrent with submission of the Strategic Sustainability Performance Plan as described in section 8 of this order, establish and report to the CEQ Chair and the OMB Director a percentage reduction target for reducing agency-wide scope 3 greenhouse gas emissions in absolute terms by fiscal year 2020, relative to a fiscal year 2008 baseline of agency scope 3 emissions. This target shall be subject to review and approval by the CEQ Chair in consultation with the OMB Director under section 5 of this order. In establishing the target, the agency head shall consider reductions associated with:

- (i) pursuing opportunities with vendors and contractors to address and incorporate incentives to reduce greenhouse gas emissions (such as changes to manufacturing, utility or delivery services, modes of transportation used, or other changes in supply chain activities);
- (ii) implementing strategies and accommodations for transit, travel, training, and conferencing that actively support lower-carbon commuting and travel by agency staff;
- (iii) greenhouse gas emission reductions associated with pursuing other relevant goals in this section; and
- (iv) developing and implementing innovative policies and practices to address scope 3 greenhouse gas emissions unique to agency operations;

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(c) establish and report to the CEQ Chair and OMB Director a comprehensive inventory of absolute greenhouse gas emissions, including scope 1, scope 2, and specified scope 3 emissions (i) within 15 months of the date of this order for fiscal year 2010, and (ii) thereafter, annually at the end of January, for the preceding fiscal year.

(d) improve water use efficiency and management by:

- (i) reducing potable water consumption intensity by 2 percent annually through fiscal year 2020, or 26 percent by the end of fiscal year 2020, relative to a baseline of the agency's water consumption in fiscal year 2007, by implementing water management strategies including water-efficient and low-flow fixtures and efficient cooling towers;
- (ii) reducing agency industrial, landscaping, and agricultural water consumption by 2 percent annually or 20 percent by the end of fiscal year 2020 relative to a baseline of the agency's industrial, landscaping, and agricultural water consumption in fiscal year 2010;
- (iii) consistent with State law, identifying, promoting, and implementing water reuse strategies that reduce potable water consumption; and
- (iv) implementing and achieving the objectives identified in the stormwater management guidance referenced in section 14 of this order;

(e) promote pollution prevention and eliminate waste by:

- (i) minimizing the generation of waste and pollutants through source reduction;
- (ii) diverting at least 50 percent of non-hazardous solid waste, excluding construction and demolition debris, by the end of fiscal year 2015;
- (iii) diverting at least 50 percent of construction and demolition materials and debris by the end of fiscal year 2015;
- (iv) reducing printing paper use and acquiring uncoated printing and writing paper containing at least 30 percent postconsumer fiber;
- (v) reducing and minimizing the quantity of toxic and hazardous chemicals and materials acquired, used, or disposed of;
- (vi) increasing diversion of compostable and organic material from the waste stream;
- (vii) implementing integrated pest management and other appropriate landscape management practices;

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- (viii) increasing agency use of acceptable alternative chemicals and processes in keeping with the agency's procurement policies;
  - (ix) decreasing agency use of chemicals where such decrease will assist the agency in achieving greenhouse gas emission reduction targets under section 2(a) and (b) of this order; and
  - (x) reporting in accordance with the requirements of sections 301 through 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001 *et seq.*);
- (f) advance regional and local integrated planning by:
- (i) participating in regional transportation planning and recognizing existing community transportation infrastructure;
  - (ii) aligning Federal policies to increase the effectiveness of local planning for energy choices such as locally generated renewable energy;
  - (iii) ensuring that planning for new Federal facilities or new leases includes consideration of sites that are pedestrian friendly, near existing employment centers, and accessible to public transit, and emphasizes existing central cities and, in rural communities, existing or planned town centers;
  - (iv) identifying and analyzing impacts from energy usage and alternative energy sources in all Environmental Impact Statements and Environmental Assessments for proposals for new or expanded Federal facilities under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*); and
  - (v) coordinating with regional programs for Federal, State, tribal, and local ecosystem, watershed, and environmental management;
- (g) implement high performance sustainable Federal building design, construction, operation and management, maintenance, and deconstruction including by:
- (i) beginning in 2020 and thereafter, ensuring that all new Federal buildings that enter the planning process are designed to achieve zero-net-energy by 2030;
  - (ii) ensuring that all new construction, major renovation, or repair and alteration of Federal buildings complies with the *Guiding Principles for Federal Leadership in High Performance and Sustainable Buildings* (Guiding Principles);
  - (iii) ensuring that at least 15 percent of the agency's existing buildings (above 5,000 gross square feet) and building leases (above 5,000

gross square feet) meet the Guiding Principles by fiscal year 2015 and that the agency makes annual progress toward 100-percent conformance with the Guiding Principles for its building inventory;

- (iv) pursuing cost-effective, innovative strategies, such as highly reflective and vegetated roofs, to minimize consumption of energy, water, and materials;
- (v) managing existing building systems to reduce the consumption of energy, water, and materials, and identifying alternatives to renovation that reduce existing assets' deferred maintenance costs;
- (vi) when adding assets to the agency's real property inventory, identifying opportunities to consolidate and dispose of existing assets, optimize the performance of the agency's real-property portfolio, and reduce associated environmental impacts; and
- (vii) ensuring that rehabilitation of federally owned historic buildings utilizes best practices and technologies in retrofitting to promote long-term viability of the buildings;

(h) advance sustainable acquisition to ensure that 95 percent of new contract actions including task and delivery orders, for products and services with the exception of acquisition of weapon systems, are energy-efficient (Energy Star or Federal Energy Management Program (FEMP) designated), water-efficient, biobased, environmentally preferable (e.g., Electronic Product Environmental Assessment Tool (EPEAT) certified), non-ozone depleting, contain recycled content, or are non-toxic or less-toxic alternatives, where such products and services meet agency performance requirements;

(i) promote electronics stewardship, in particular by:

- (i) ensuring procurement preference for EPEAT-registered electronic products;
- (ii) establishing and implementing policies to enable power management, duplex printing, and other energy-efficient or environmentally preferable features on all eligible agency electronic products;
- (iii) employing environmentally sound practices with respect to the agency's disposition of all agency excess or surplus electronic products;
- (iv) ensuring the procurement of Energy Star and FEMP designated electronic equipment;
- (v) implementing best management practices for energy-efficient management of servers and Federal data centers; and

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- (j) sustain environmental management, including by:
  - (i) continuing implementation of formal environmental management systems at all appropriate organizational levels; and
  - (ii) ensuring these formal systems are appropriately implemented and maintained to achieve the performance necessary to meet the goals of this order.

Sec. 3. Steering Committee on Federal Sustainability. The OMB Director and the CEQ Chair shall:

(a) establish an interagency Steering Committee (Steering Committee) on Federal Sustainability composed of the Federal Environmental Executive, designated under section 6 of Executive Order 13423 of January 24, 2007, and Agency Senior Sustainability Officers, designated under section 7 of this order, and that shall:

- (i) serve in the dual capacity of the Steering Committee on Strengthening Federal Environmental, Energy, and Transportation Management designated by the CEQ Chair pursuant to section 4 of Executive Order 13423;
- (ii) advise the OMB Director and the CEQ Chair on implementation of this order;
- (iii) facilitate the implementation of each agency's Strategic Sustainability Performance Plan; and
- (iv) share information and promote progress towards the goals of this order;

(b) enlist the support of other organizations within the Federal Government to assist the Steering Committee in addressing the goals of this order;

(c) establish and disband, as appropriate, interagency subcommittees of the Steering Committee, to assist the Steering Committee in carrying out its responsibilities;

(d) determine appropriate Federal actions to achieve the policy of section 1 and the goals of section 2 of this order;

(e) ensure that Federal agencies are held accountable for conformance with the requirements of this order; and

(f) in coordination with the Department of Energy's Federal Energy Management Program and the Office of the Federal Environmental Executive designated under section 6 of Executive Order 13423, provide guidance and assistance to facilitate the development of agency targets for greenhouse gas emission reductions required under subsections 2(a) and (b) of this order.

Sec. 4. Additional Duties of the Director of the Office of Management and Budget. In addition to the duties of the OMB Director specified elsewhere in this order, the OMB Director shall:

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(a) review and approve each agency's multi-year Strategic Sustainability Performance Plan under section 8 of this order and each update of the Plan. The Director shall, where feasible, review each agency's Plan concurrently with OMB's review and evaluation of the agency's budget request;

(b) prepare scorecards providing periodic evaluation of Federal agency performance in implementing this order and publish scorecard results on a publicly available website; and

(c) approve and issue instructions to the heads of agencies concerning budget and appropriations matters relating to implementation of this order.

Sec. 5. Additional Duties of the Chair of the Council on Environmental Quality. In addition to the duties of the CEQ Chair specified elsewhere in this order, the CEQ Chair shall:

(a) issue guidance for greenhouse gas accounting and reporting required under section 2 of this order;

(b) issue instructions to implement this order, in addition to instructions within the authority of the OMB Director to issue under subsection 4(c) of this order;

(c) review and approve each agency's targets, in consultation with the OMB Director, for agency-wide reductions of greenhouse gas emissions under section 2 of this order;

(d) prepare, in coordination with the OMB Director, streamlined reporting metrics to determine each agency's progress under section 2 of this order;

(e) review and evaluate each agency's multi-year Strategic Sustainability Performance Plan under section 8 of this order and each update of the Plan;

(f) assess agency progress toward achieving the goals and policies of this order, and provide its assessment of the agency's progress to the OMB Director;

(g) within 120 days of the date of this order, provide the President with an aggregate Federal Government-wide target for reducing scope 1 and 2 greenhouse gas emissions in absolute terms by fiscal year 2020 relative to a fiscal year 2008 baseline;

(h) within 270 days of the date of this order, provide the President with an aggregate Federal Government-wide target for reducing scope 3 greenhouse gas emissions in absolute terms by fiscal year 2020 relative to a fiscal year 2008 baseline;

(i) establish and disband, as appropriate, interagency working groups to provide recommendations to the CEQ for areas of Federal agency operational and managerial improvement associated with the goals of this order; and

(j) administer the Presidential leadership awards program, established under subsection 4(c) of Executive Order 13423, to recognize exceptional and outstanding agency performance with respect to achieving the goals of this order and to recognize extraordinary innovation, technologies, and practices employed to achieve the goals of this order.

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Sec. 6. Duties of the Federal Environmental Executive. The Federal Environmental Executive designated by the President to head the Office of the Federal Environmental Executive, pursuant to section 6 of Executive Order 13423, shall:

(a) identify strategies and tools to assist Federal implementation efforts under this order, including through the sharing of best practices from successful Federal sustainability efforts; and

(b) monitor and advise the CEQ Chair and the OMB Director on the agencies' implementation of this order and their progress in achieving the order's policies and goals.

Sec. 7. Agency Senior Sustainability Officers. (a) Within 30 days of the date of this order, the head of each agency shall designate from among the agency's senior management officials a Senior Sustainability Officer who shall be accountable for agency conformance with the requirements of this order; and shall report such designation to the OMB Director and the CEQ Chair.

(b) The Senior Sustainability Officer for each agency shall perform the functions of the senior agency official designated by the head of each agency pursuant to section 3(d)(i) of Executive Order 13423 and shall be responsible for:

- (i) preparing the targets for agency-wide reductions and the inventory of greenhouse gas emissions required under subsections 2(a), (b), and (c) of this order;
- (ii) within 240 days of the date of this order, and annually thereafter, preparing and submitting to the CEQ Chair and the OMB Director, for their review and approval, a multi-year Strategic Sustainability Performance Plan (Sustainability Plan or Plan) as described in section 8 of this order;
- (iii) preparing and implementing the approved Plan in coordination with appropriate offices and organizations within the agency including the General Counsel, Chief Information Officer, Chief Acquisition Officer, Chief Financial Officer, and Senior Real Property Officers, and in coordination with other agency plans, policies, and activities;
- (iv) monitoring the agency's performance and progress in implementing the Plan, and reporting the performance and progress to the CEQ Chair and the OMB Director, on such schedule and in such format as the Chair and the Director may require; and
- (v) reporting annually to the head of the agency on the adequacy and effectiveness of the agency's Plan in implementing this order.

Sec. 8. Agency Strategic Sustainability Performance Plan. Each agency shall develop, implement, and annually update an integrated Strategic Sustainability Performance Plan that will prioritize agency actions based on lifecycle return

on investment. Each agency Plan and update shall be subject to approval by the OMB Director under section 4 of this order. With respect to the period beginning in fiscal year 2011 and continuing through the end of fiscal year 2021, each agency Plan shall:

(a) include a policy statement committing the agency to compliance with environmental and energy statutes, regulations, and Executive Orders;

(b) achieve the sustainability goals and targets, including greenhouse gas reduction targets, established under section 2 of this order;

(c) be integrated into the agency's strategic planning and budget process, including the agency's strategic plan under section 3 of the Government Performance and Results Act of 1993, as amended (5 U.S.C. 306);

(d) identify agency activities, policies, plans, procedures, and practices that are relevant to the agency's implementation of this order, and where necessary, provide for development and implementation of new or revised policies, plans, procedures, and practices;

(e) identify specific agency goals, a schedule, milestones, and approaches for achieving results, and quantifiable metrics for agency implementation of this order;

(f) take into consideration environmental measures as well as economic and social benefits and costs in evaluating projects and activities based on lifecycle return on investment;

(g) outline planned actions to provide information about agency progress and performance with respect to achieving the goals of this order on a publicly available Federal website;

(h) incorporate actions for achieving progress metrics identified by the OMB Director and the CEQ Chair;

(i) evaluate agency climate-change risks and vulnerabilities to manage the effects of climate change on the agency's operations and mission in both the short and long term; and

(j) identify in annual updates opportunities for improvement and evaluation of past performance in order to extend or expand projects that have net lifecycle benefits, and reassess or discontinue under-performing projects.

Sec. 9. Recommendations for Greenhouse Gas Accounting and Reporting. The Department of Energy, through its Federal Energy Management Program, and in coordination with the Environmental Protection Agency, the Department of Defense, the General Services Administration, the Department of the Interior, the Department of Commerce, and other agencies as appropriate, shall:

(a) within 180 days of the date of this order develop and provide to the CEQ Chair recommended Federal greenhouse gas reporting and accounting procedures for agencies to use in carrying out their obligations under subsections 2(a), (b), and (c) of this order, including procedures that will ensure that agencies:

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- (i) accurately and consistently quantify and account for greenhouse gas emissions from all scope 1, 2, and 3 sources, using accepted greenhouse gas accounting and reporting principles, and identify appropriate opportunities to revise the fiscal year 2008 baseline to address significant changes in factors affecting agency emissions such as reorganization and improvements in accuracy of data collection and estimation procedures or other major changes that would otherwise render the initial baseline information unsuitable;
- (ii) consider past Federal agency efforts to reduce greenhouse gas emissions; and
- (iii) consider and account for sequestration and emissions of greenhouse gases resulting from Federal land management practices;

(b) within 1 year of the date of this order, to ensure consistent and accurate reporting under this section, provide electronic accounting and reporting capability for the Federal greenhouse gas reporting procedures developed under subsection (a) of this section, and to the extent practicable, ensure compatibility between this capability and existing Federal agency reporting systems; and

(c) every 3 years from the date of the CEQ Chair's issuance of the initial version of the reporting guidance, and as otherwise necessary, develop and provide recommendations to the CEQ Chair for revised Federal greenhouse gas reporting procedures for agencies to use in implementing subsections 2(a), (b), and (c) of this order.

Sec. 10. Recommendations for Sustainable Locations for Federal Facilities. Within 180 days of the date of this order, the Department of Transportation, in accordance with its Sustainable Partnership Agreement with the Department of Housing and Urban Development and the Environmental Protection Agency, and in coordination with the General Services Administration, the Department of Homeland Security, the Department of Defense, and other agencies as appropriate, shall:

(a) review existing policies and practices associated with site selection for Federal facilities; and

(b) provide recommendations to the CEQ Chair regarding sustainable location strategies for consideration in Sustainability Plans. The recommendations shall be consistent with principles of sustainable development including prioritizing central business district and rural town center locations, prioritizing sites well served by transit, including site design elements that ensure safe and convenient pedestrian access, consideration of transit access and proximity to housing affordable to a wide range of Federal employees, adaptive reuse or renovation of buildings, avoidance of development of sensitive land resources, and evaluation of parking management strategies.

Sec. 11. Recommendations for Federal Local Transportation Logistics. Within 180 days of the date of this order, the General Services Administration, in coordination with the Department of Transportation, the Department of the Treasury, the Department of Energy, the Office of Personnel Management,

and other agencies as appropriate, shall review current policies and practices associated with use of public transportation by Federal personnel, Federal shuttle bus and vehicle transportation routes supported by multiple Federal agencies, and use of alternative fuel vehicles in Federal shuttle bus fleets, and shall provide recommendations to the CEQ Chair on how these policies and practices could be revised to support the implementation of this order and the achievement of its policies and goals.

Sec. 12. Guidance for Federal Fleet Management. Within 180 days of the date of this order, the Department of Energy, in coordination with the General Services Administration, shall issue guidance on Federal fleet management that addresses the acquisition of alternative fuel vehicles and use of alternative fuels; the use of biodiesel blends in diesel vehicles; the acquisition of electric vehicles for appropriate functions; improvement of fleet fuel economy; the optimizing of fleets to the agency mission; petroleum reduction strategies, such as the acquisition of low greenhouse gas emitting vehicles and the reduction of vehicle miles traveled; and the installation of renewable fuel pumps at Federal fleet fueling centers.

Sec. 13. Recommendations for Vendor and Contractor Emissions. Within 180 days of the date of this order, the General Services Administration, in coordination with the Department of Defense, the Environmental Protection Agency, and other agencies as appropriate, shall review and provide recommendations to the CEQ Chair and the Administrator of OMB's Office of Federal Procurement Policy regarding the feasibility of working with the Federal vendor and contractor community to provide information that will assist Federal agencies in tracking and reducing scope 3 greenhouse gas emissions related to the supply of products and services to the Government. These recommendations should consider the potential impacts on the procurement process, and the Federal vendor and contractor community including small businesses and other socioeconomic procurement programs. Recommendations should also explore the feasibility of:

(a) requiring vendors and contractors to register with a voluntary registry or organization for reporting greenhouse gas emissions;

(b) requiring contractors, as part of a new or revised registration under the Central Contractor Registration or other tracking system, to develop and make available its greenhouse gas inventory and description of efforts to mitigate greenhouse gas emissions;

(c) using Federal Government purchasing preferences or other incentives for products manufactured using processes that minimize greenhouse gas emissions; and

(d) other options for encouraging sustainable practices and reducing greenhouse gas emissions.

Sec. 14. Stormwater Guidance for Federal Facilities. Within 60 days of the date of this order, the Environmental Protection Agency, in coordination with other Federal agencies as appropriate, shall issue guidance on the implementation of section 438 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17094).

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Sec. 15. Regional Coordination. Within 180 days of the date of this order, the Federal Environmental Executive shall develop and implement a regional implementation plan to support the goals of this order taking into account energy and environmental priorities of particular regions of the United States.

Sec. 16. Agency Roles in Support of Federal Adaptation Strategy. In addition to other roles and responsibilities of agencies with respect to environmental leadership as specified in this order, the agencies shall participate actively in the interagency Climate Change Adaptation Task Force, which is already engaged in developing the domestic and international dimensions of a U.S. strategy for adaptation to climate change, and shall develop approaches through which the policies and practices of the agencies can be made compatible with and reinforce that strategy. Within 1 year of the date of this order the CEQ Chair shall provide to the President, following consultation with the agencies and the Climate Change Adaptation Task Force, as appropriate, a progress report on agency actions in support of the national adaptation strategy and recommendations for any further such measures as the CEQ Chair may deem necessary.

Sec. 17. Limitations. (a) This order shall apply to an agency with respect to the activities, personnel, resources, and facilities of the agency that are located within the United States. The head of an agency may provide that this order shall apply in whole or in part with respect to the activities, personnel, resources, and facilities of the agency that are not located within the United States, if the head of the agency determines that such application is in the interest of the United States.

(b) The head of an agency shall manage activities, personnel, resources, and facilities of the agency that are not located within the United States, and with respect to which the head of the agency has not made a determination under subsection (a) of this section, in a manner consistent with the policy set forth in section 1 of this order to the extent the head of the agency determines practicable.

Sec. 18. Exemption Authority.

(a) The Director of National Intelligence may exempt an intelligence activity of the United States, and related personnel, resources, and facilities, from the provisions of this order, other than this subsection and section 20, to the extent the Director determines necessary to protect intelligence sources and methods from unauthorized disclosure.

(b) The head of an agency may exempt law enforcement activities of that agency, and related personnel, resources, and facilities, from the provisions of this order, other than this subsection and section 20, to the extent the head of an agency determines necessary to protect undercover operations from unauthorized disclosure.

(c) (i) The head of an agency may exempt law enforcement, protective, emergency response, or military tactical vehicle fleets of that agency from the provisions of this order, other than this subsection and section 20.

- (ii) Heads of agencies shall manage fleets to which paragraph (i) of this subsection refers in a manner consistent with the policy set forth in section 1 of this order to the extent they determine practicable.

(d) The head of an agency may exempt particular agency activities and facilities from the provisions of this order, other than this subsection and section 20, where it is in the interest of national security. If the head of an agency issues an exemption under this section, the agency must notify the CEQ Chair in writing within 30 days of issuance of the exemption under this subsection. To the maximum extent practicable, and without compromising national security, each agency shall strive to comply with the purposes, goals, and implementation steps in this order.

(e) The head of an agency may submit to the President, through the CEQ Chair, a request for an exemption of an agency activity, and related personnel, resources, and facilities, from this order.

Sec. 19. Definitions. As used in this order:

(a) "absolute greenhouse gas emissions" means total greenhouse gas emissions without normalization for activity levels and includes any allowable consideration of sequestration;

(b) "agency" means an executive agency as defined in section 105 of title 5, United States Code, excluding the Government Accountability Office;

(c) "alternative fuel vehicle" means vehicles defined by section 301 of the Energy Policy Act of 1992, as amended (42 U.S.C. 13211), and otherwise includes electric fueled vehicles, hybrid electric vehicles, plug-in hybrid electric vehicles, dedicated alternative fuel vehicles, dual fueled alternative fuel vehicles, qualified fuel cell motor vehicles, advanced lean burn technology motor vehicles, self-propelled vehicles such as bicycles and any other alternative fuel vehicles that are defined by statute;

(d) "construction and demolition materials and debris" means materials and debris generated during construction, renovation, demolition, or dismantling of all structures and buildings and associated infrastructure;

(e) "divert" and "diverting" means redirecting materials that might otherwise be placed in the waste stream to recycling or recovery, excluding diversion to waste-to-energy facilities;

(f) "energy intensity" means energy consumption per square foot of building space, including industrial or laboratory facilities;

(g) "environmental" means environmental aspects of internal agency operations and activities, including those aspects related to energy and transportation functions;

(h) "excluded vehicles and equipment" means any vehicle, vessel, aircraft, or non-road equipment owned or operated by an agency of the Federal Government that is used in:

more

(OVER)

- (i) combat support, combat service support, tactical or relief operations, or training for such operations;
- (ii) Federal law enforcement (including protective service and investigation);
- (iii) emergency response (including fire and rescue);  
or
- (iv) spaceflight vehicles (including associated ground-support equipment);

(i) "greenhouse gases" means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride;

(j) "renewable energy" means energy produced by solar, wind, biomass, landfill gas, ocean (including tidal, wave, current, and thermal), geothermal, municipal solid waste, or new hydroelectric generation capacity achieved from increased efficiency or additions of new capacity at an existing hydroelectric project;

(k) "scope 1, 2, and 3" mean;

- (i) scope 1: direct greenhouse gas emissions from sources that are owned or controlled by the Federal agency;
- (ii) scope 2: direct greenhouse gas emissions resulting from the generation of electricity, heat, or steam purchased by a Federal agency; and
- (iii) scope 3: greenhouse gas emissions from sources not owned or directly controlled by a Federal agency but related to agency activities such as vendor supply chains, delivery services, and employee travel and commuting;

(l) "sustainability" and "sustainable" mean to create and maintain conditions, under which humans and nature can exist in productive harmony, that permit fulfilling the social, economic, and other requirements of present and future generations;

(m) "United States" means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Northern Mariana Islands, and associated territorial waters and airspace;

(n) "water consumption intensity" means water consumption per square foot of building space; and

(o) "zero-net-energy building" means a building that is designed, constructed, and operated to require a greatly reduced quantity of energy to operate, meet the balance of energy needs from sources of energy that do not produce greenhouse gases, and therefore result in no net emissions of greenhouse gases and be economically viable.

#### Sec. 20. General Provisions.

(a) This order shall be implemented in a manner consistent with applicable law and subject to the availability of appropriations.

15

(b) Nothing in this order shall be construed to impair or otherwise affect the functions of the OMB Director relating to budgetary, administrative, or legislative proposals.

(c) This order is intended only to improve the internal management of the Federal Government and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

THE WHITE HOUSE,  
October 5, 2009.

# # #



01268-EPA-4931

Arvin Ganesan/DC/USEPA/US

To "Richard Windsor"

10/07/2009 10:15 AM

cc "David McIntosh", "Bob Perciasepe"

bcc

Subject Fw: Today's Wash Post on Noms

Fyi.

Sent from my Blackberry Wireless Device

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**From:** "Kennedy, Sean D." [REDACTED] (b) (6) Privacy**Sent:** 10/07/2009 10:10 AM AST**To:** undisclosed-recipients:**Subject:** Today's Wash Post on Noms

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Seriously.

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01268-EPA-4932

**Bob  
Perciasepe/DC/USEPA/US**  
10/07/2009 10:41 AM

To Arvin Ganesan  
cc "David McIntosh", "Richard Windsor"  
bcc  
Subject Re: Fw: Today's Wash Post on Noms

Thanks you two

(b)(5) Deliberative

Bob Perciasepe  
Office of the Administrator  
1200 Pennsylvania Ave., ARN  
202 564 2410

From: Arvin Ganesan/DC/USEPA/US  
To: "Richard Windsor" <Windsor.Richard@epamail.epa.gov>  
Cc: "David McIntosh" <mcintosh.david@epa.gov>, "Bob Perciasepe" <Perciasepe.Bob@epamail.epa.gov>  
Date: 10/07/2009 10:15 AM  
Subject: Fw: Today's Wash Post on Noms

Fyi.

Sent from my Blackberry Wireless Device

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**Sent:** 10/07/2009 10:10 AM AST  
**To:** undisclosed-recipients:  
**Subject:** Today's Wash Post on Noms

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01268-EPA-4933

David  
McIntosh/DC/USEPA/US  
10/07/2009 10:50 AM

To Bob Perciasepe  
cc Arvin Ganesan, "David McIntosh", "Richard Windsor"  
bcc  
Subject Re: Fw: Today's Wash Post on Noms

Here is the status:

(b)(5) Deliberative

[Redacted]

Bob Perciasepe Thanks you two (b)(5) Deliberative 10/07/2009 10:42:00 AM

From: Bob Perciasepe/DC/USEPA/US  
To: Arvin Ganesan/DC/USEPA/US@EPA  
Cc: "David McIntosh" <mcintosh.david@epa.gov>, "Richard Windsor" <Windsor.Richard@epamail.epa.gov>  
Date: 10/07/2009 10:42 AM  
Subject: Re: Fw: Today's Wash Post on Noms

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(b)(5) Deliberative

Bob Perciasepe  
Office of the Administrator  
1200 Pennsylvania Ave., ARN  
202 564 2410

From: Arvin Ganesan/DC/USEPA/US  
To: "Richard Windsor" <Windsor.Richard@epamail.epa.gov>  
Cc: "David McIntosh" <mcintosh.david@epa.gov>, "Bob Perciasepe" <Perciasepe.Bob@epamail.epa.gov>  
Date: 10/07/2009 10:15 AM  
Subject: Fw: Today's Wash Post on Noms

Fyi.

Sent from my Blackberry Wireless Device

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**From:** "Kennedy, Sean D." [REDACTED] (b) (6) Privacy

**Sent:** 10/07/2009 10:10 AM AST

**To:** undisclosed-recipients:

**Subject:** Today's Wash Post on Noms

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01268-EPA-4934

**Bob  
Perciasepe/DC/USEPA/US**  
10/07/2009 10:56 AM

To David McIntosh  
cc Arvin Ganesan, "David McIntosh", "Richard Windsor"  
bcc  
Subject Re: Fw: Today's Wash Post on Noms

Appreciate the update.  
Not much to say.

Bob Perciasepe  
Office of the Administrator  
1200 Pennsylvania Ave., ARN  
202 564 2410

From: David McIntosh/DC/USEPA/US  
To: Bob Perciasepe/DC/USEPA/US@EPA  
Cc: Arvin Ganesan/DC/USEPA/US@EPA, "David McIntosh" <mcintosh.david@epa.gov>, "Richard Windsor" <Windsor.Richard@epamail.epa.gov>  
Date: 10/07/2009 10:50 AM  
Subject Re: Fw: Today's Wash Post on Noms  
:

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Here is the status: (b)(5) Deliberative

[REDACTED]

From: Bob Perciasepe/DC/USEPA/US  
To: Arvin Ganesan/DC/USEPA/US@EPA  
Cc: "David McIntosh" <mcintosh.david@epa.gov>, "Richard Windsor" <Windsor.Richard@epamail.epa.gov>  
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Sapiro isn't alone. For all the bellyaching about the Obama administration's supposed excess of policymaking czars outside the normal appointment process, Senate Republicans have been blocking confirmation of a disturbing number of administration nominees, many for reasons having nothing to do with their suitability for their jobs.

No one has clean hands here. Slow-walking nominations is a bipartisan sport. Democrats also pulled this stunt -- often as a gambit to dislodge documents that they believed the Bush administration was improperly withholding. The Obama administration's quick start on making nominations has slowed to a trickle, lessening the pressure on the Senate to deal with the backlog. And, ultimately, Senate Majority Leader Harry Reid has the power to force a vote on a pending nomination -- if he wants to take the time to do it.

Nonetheless, that's no excuse for letting advise and consent degenerate into sit around and wait. Until Tuesday, when Tom Perez was confirmed as assistant attorney general for civil rights -- more than six months after being nominated -- five of 11 assistant attorney general positions were unfilled.

Some other examples:

-- Missouri Republican Kit Bond is [holding up](#) confirmation of Martha Johnson, the nominee to head the General Services Administration, because the agency has been balking at constructing a \$175 million federal building for Kansas City. Johnson's nomination has been languishing on the Senate floor since June.

-- Louisiana Republican David Vitter has a hold on Paul Anastas to be an assistant administrator of the Environmental Protection Agency until the EPA agrees to delay issuing regulations on

formaldehyde, which has been classified as a probable human carcinogen. The irony of Vitter's hold is that one of the biggest potential problems with the chemical involves Hurricane Katrina survivors exposed to formaldehyde in FEMA trailers.

-- Meanwhile, Ohio Republican George Voinovich is holding up the nominee for EPA's deputy administrator, Robert Perciasepe, because Voinovich believes the EPA is underestimating the cost to households of climate change legislation. In [a letter](#) to EPA Administrator Lisa Jackson, Voinovich acknowledged that his hold is not "a reflection on Mr. Perciasepe's ability to perform in the role of the deputy administrator."

-- South Carolina Republican Jim DeMint is [blocking confirmation](#) of Arturo Valenzuela to be assistant secretary of state for the Western Hemisphere because Valenzuela had the temerity to call the military coup ousting Honduran President Manuel Zelaya a "classic military coup."

-- Eight Republican senators, including Minority Leader Mitch McConnell, warned Health and Human Services Secretary Kathleen Sebelius that "[we will not consent](#)" to Senate floor action on nearly a dozen nominations -- including the U.S. surgeon general -- until the department rescinds what they termed a "gag order" on health insurers.

-- Some nominations can't even get out of committee, with the Health, Education, Labor and Pensions (HELP) Committee a particular black hole. Two nominees for the National Labor Relations Board have been mired there since April. Patricia Smith, the nominee for solicitor of labor, is about to get a committee vote after having been stuck there since March.

Jackie Berrien was nominated in July to chair the Equal Employment Opportunity Commission, but Republicans have refused to act on her nomination until a pick for a Republican vacancy is named. Commissioner Christine Griffin has been confirmed to be deputy director of the Office of Personnel Management but can't leave to take that spot because the EEOC would be left without a quorum.

Being in the minority isn't fun. Gumming up the works with holds is one of the few ways to get attention -- and action. But it's no way to run a government.

01268-EPA-4935

**Richard Windsor/DC/USEPA/US**  
10/08/2009 03:23 PM

To "Chris Lu"  
cc  
bcc  
Subject China

Hi Chris,

We have lots going on with China and are working on a climate MOU. That said, I have a possible trip to New Orleans at what I believe is the same time. So if it isn't possible to travel with POTUS, I'd like to know so I can firm up my itinerary in New Orleans.

Thx, Lisa

01268-EPA-4936

"Lu, Christopher P."

(b) (6) Privacy

10/08/2009 03:45 PM

To Richard Windsor

cc

bcc

Subject RE: China

(b)(5) Deliberative

So, my best recommendation is that you should plan your NO trip, but I hope to get some answers from the NSC in the next few days.

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

From: Windsor.Richard@epamail.epa.gov  
[mailto:Windsor.Richard@epamail.epa.gov]  
Sent: Thursday, October 08, 2009 3:24 PM  
To: Lu, Christopher P.  
Subject: China

Hi Chris,

We have lots going on with China and are working on a climate MOU. That said, I have a possible trip to New Orleans at what I believe is the same time. So if it isn't possible to travel with POTUS, I'd like to know so I can firm up my itinerary in New Orleans.

Thx, Lisa



01268-EPA-4937

**Richard Windsor/DC/USEPA/US**  
10/08/2009 04:07 PM

To "Diane Thompson", "Michelle DePass"  
cc  
bcc  
Subject Fw: China

FYI. Do not fwd. Tx.

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

From: "Lu, Christopher P." [redacted] (b) (6) Privacy  
Sent: 10/08/2009 03:45 PM AST  
To: Richard Windsor  
Subject: RE: China

[redacted] (b)(5) Deliberative  
[redacted]  
So, my best recommendation is that you should plan your NO trip, but I hope to get some answers from the NSC in the next few days.

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

From: Windsor.Richard@epamail.epa.gov  
[mailto:Windsor.Richard@epamail.epa.gov]  
Sent: Thursday, October 08, 2009 3:24 PM  
To: Lu, Christopher P.  
Subject: China

Hi Chris,

We have lots going on with China and are working on a climate MOU. That said, I have a possible trip to New Orleans at what I believe is the same time. So if it isn't possible to travel with POTUS, I'd like to know so I can firm up my itinerary in New Orleans.

Thx, Lisa

01268-EPA-4938

**Bob Sussman/DC/USEPA/US**  
10/08/2009 07:23 PM

To "Lisa P. Jackson", "Diane Thompson", "Arvin Ganesan",  
"Seth Oster", "Gina McCarthy"  
cc "Charles Imohiosen"  
bcc

Subject Fw: Possible announcement of EPA/DOE MOU

Fyi. We need to gear up for this.

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

From: Kathleen Hogan  
Sent: 10/08/2009 06:11 PM EDT  
To: Bob Sussman; Gina McCarthy  
Cc: Charles Imohiosen; "Davidf Lee" <lee.davidf@epa.gov>; "Brian Mclean" <mclean.brian@epa.gov>; "Maria Vargas" <vargas.maria@epa.gov>  
Subject: Possible announcement of EPA/DOE MOU

All,

Wanted you to know that the WH is considering announcing the EPA/DOE agreement as part of announcing the recovery thru retrofit report next week.

Need to be ready for more questions.

Kathleen

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

From: "Chu, Edward H." [REDACTED] (b) (6) Privacy  
Sent: 10/08/2009 03:37 PM AST  
To: Kathleen Hogan  
Cc: Charles Imohiosen; "Sperling, Gil" <Gil.Sperling@ee.doe.gov>; <James.C.Lopez@hud.gov>; "Hagerman, Joseph" <Joseph.Hagerman@ee.doe.gov>  
Subject: RE: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

Fantastic! Could you send me the signed MOU as well? I will get this over to the VPs office. Thanks!

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

From: Hogan.Kathleen@epamail.epa.gov [mailto:Hogan.Kathleen@epamail.epa.gov]  
Sent: Thursday, October 08, 2009 3:27 PM  
To: Chu, Edward H.  
Cc: Imohiosen.Charles@epamail.epa.gov; Sperling, Gil; James.C.Lopez@hud.gov; Hagerman, Joseph  
Subject: RE: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

Here is a one page fact sheet on the agreement -- the building rating pieces are relevant to RTR

(See attached file: EPADOEAgreement Fact SheetFINAL .doc)

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| "Chu, Edward H." [REDACTED] (b) (6) Privacy |  
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| To: |  
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| Kathleen Hogan/DC/USEPA/US@EPA |  
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| Charles Imohiosen/DC/USEPA/US@EPA, "Sperling, Gil"  
<Gil.Sperling@ee.doe.gov>, <James.C.Lopez@hud.gov>, "Hagerman, Joseph"  
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| <Joseph.Hagerman@ee.doe.gov>  
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| RE: latest draft of the RTR information section -- please review and let me

know if you see a "show-stopper" |

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Great! We would like to announce the DOE/EPA MOU at the RTR event on Wednesday. Could you send a one-pager about the MOU (specifically highlighting the link to Solution 1 in the RTR Report)? Thank you!

Also, any chance we can use the www.energysavers.gov site for the Energy Retrofit Work Group (instead of creating a new one) if we need one?

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

From: Hogan.Kathleen@epamail.epa.gov [mailto:Hogan.Kathleen@epamail.epa.gov]  
Sent: Thursday, October 08, 2009 1:24 PM  
To: Chu, Edward H.  
Cc: Imohiosen.Charles@epamail.epa.gov; Sperling, Gil; James.C.Lopez@hud.gov; Hagerman, Joseph  
Subject: RE: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

It has been signed

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|"Chu, Edward H." (b) (6) Privacy  
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| To: |  
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|"Sperling, Gil" <Gil.Sperling@ee.doe.gov>, Kathleen Hogan/DC/USEPA/US@EPA, Charles Imohiosen/DC/USEPA/US@EPA  
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|<James.C.Lopez@hud.gov>, "Hagerman, Joseph"  
<Joseph.Hagerman@ee.doe.gov>  
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|RE: latest draft of the RTR information section -- please review and  
let me know if you see a "show-stopper" |

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We would like to announce the MOU at the RTR event on Wednesday. (b)(5) Deliberative



From: Sperling, Gil [mailto:Gil.Sperling@ee.doe.gov]  
Sent: Thursday, October 08, 2009 11:09 AM  
To: Chu, Edward H.; Hogan.Kathleen@epamail.epa.gov;  
Imohiosen.Charles@epamail.epa.gov  
Cc: James.C.Lopez@hud.gov; Hagerman, Joseph  
Subject: Re: latest draft of the RTR information section -- please review and  
let me know if you see a "show-stopper"

We agree

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

From: Chu, Edward H. (b) (6) Privacy  
 To: Hogan.Kathleen@epamail.epa.gov <Hogan.Kathleen@epamail.epa.gov>;  
 Imohiosen.Charles@epamail.epa.gov <Imohiosen.Charles@epamail.epa.gov>  
 Cc: Sperling, Gil; James C Lopez <James.C.Lopez@hud.gov>; Hagerman, Joseph  
 Sent: Thu Oct 08 10:32:06 2009  
 Subject: RE: latest draft of the RTR information section -- please review and  
 let me know if you see a "show-stopper"

Thanks, Kathleen!

Now, I just need to hear back from DOE.

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

From: Hogan.Kathleen@epamail.epa.gov [mailto:Hogan.Kathleen@epamail.epa.gov]  
 Sent: Thursday, October 08, 2009 10:31 AM  
 To: Imohiosen.Charles@epamail.epa.gov  
 Cc: Chu, Edward H.; Gil Sperling; James C Lopez; Joseph Hagerman  
 Subject: Re: latest draft of the RTR information section -- please review and  
 let me know if you see a "show-stopper"

All,

At this point we are ok with the language as written. (b)(5) Deliberative

-- but we are ok with the language at this point.

thanks

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|Charles Imohiosen/DC/USEPA/US

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 | To: |  
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|"Chu, Edward H." (b) (6) Privacy "David Rodgers"  
 <David.Rodgers@ee.doe.gov>, Kathleen Hogan/DC/USEPA/US@EPA, "Gil Sperling" |  
 |<Gil.Sperling@ee.doe.gov>

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| Cc: |  
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| "James C Lopez" <James.C.Lopez@hud.gov>, "Joseph Hagerman"  
<Joseph.Hagerman@ee.doe.gov>  
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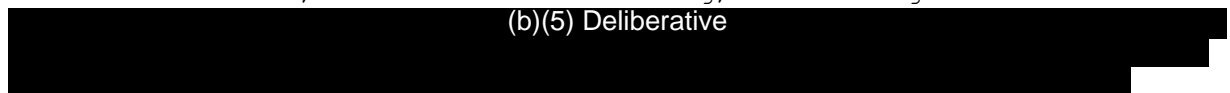
| Re: latest draft of the RTR information section -- please review and  
let me know if you see a "show-stopper" |

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I thought the original language proposed by David and Kathleen was helpful.

Kathleen and David, correct me if I am wrong, but I thought the main take away

(b)(5) Deliberative



(b)(5) Deliberative

Charles Imohiosen  
Office of the Administrator  
US Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.

From: "Chu, Edward H." (b) (6) Privacy  
Sent: 10/08/2009 09:40 AM AST  
To: Charles Imohiosen; "David Rodgers" <David.Rodgers@ee.doe.gov>; Kathleen Hogan; "Gil Sperling" <Gil.Sperling@ee.doe.gov>  
Cc: "James C Lopez" <James.C.Lopez@hud.gov>; "Joseph Hagerman" <Joseph.Hagerman@ee.doe.gov>  
Subject: RE: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

(b)(5) Deliberative

I am making final changes now and need to send over the final document to the WH staff secretary at 10.

From: Imohiosen.Charles@epamail.epa.gov [mailto:Imohiosen.Charles@epamail.epa.gov]  
Sent: Thursday, October 08, 2009 9:37 AM  
To: Chu, Edward H.; David Rodgers; Hogan.Kathleen@epamail.epa.gov; Gil Sperling  
Cc: James C Lopez; Joseph Hagerman  
Subject: Re: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

(b)(5) Deliberative

Charles Imohiosen  
Office of the Administrator  
US Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.

From: "Chu, Edward H." (b) (6) Privacy  
Sent: 10/08/2009 09:00 AM AST  
To: <David.Rodgers@ee.doe.gov>; Kathleen Hogan; Charles Imohiosen; <Gil.Sperling@ee.doe.gov>



Cc: <James.C.Lopez@hud.gov>; <Joseph.Hagerman@ee.doe.gov>  
Subject: Re: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

FYI, [REDACTED] (b)(5) Deliberative

Aloha, ED

Edward H. Chu  
Deputy Associate Director  
Green Jobs, Community Protection, and Climate Solutions

Council on Environmental Quality  
Executive Office of the President

(b) (6) Privacy Office  
(b) (6) Privacy Mobile

From: Rodgers, David  
To: Chu, Edward H.; hogan.kathleen@epa.gov ; imohiosen.charles@epa.gov ; Sperling, Gil  
Cc: James.C.Lopez@hud.gov ; Hagerman, Joseph  
Sent: Thu Oct 08 08:56:46 2009  
Subject: Re: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

Dear Ed. [REDACTED] (b)(5) Deliberative

[REDACTED] I'm trying to track him down now.

From: Chu, Edward H. [REDACTED] (b) (6) Privacy  
To: hogan.kathleen@epa.gov <hogan.kathleen@epa.gov>; imohiosen.charles@epa.gov <imohiosen.charles@epa.gov>; Rodgers, David; Sperling, Gil  
Cc: Lopez, James C <James.C.Lopez@hud.gov>  
Sent: Wed Oct 07 19:48:47 2009  
Subject: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

Just wanted to check in with you [REDACTED] (b)(5) Deliberative

[REDACTED] Okay? I need to hear back from you by 9 am.

(b)(5) Deliberative [REDACTED]

[REDACTED]

[REDACTED]

(b)(5) Deliberative [Redacted]

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01268-EPA-4939

Charles  
Imohiosen/DC/USEPA/US  
10/08/2009 07:33 PM

To Bob Sussman, Richard Windsor, Diane Thompson, Arvin  
Ganesan, Seth Oster, Gina McCarthy  
cc  
bcc

Subject Re: Possible announcement of EPA/DOE MOU

This is not yet certain. I will confirm tomorrow.

Charles Imohiosen  
Office of the Administrator  
US Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.

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

From: Bob Sussman  
Sent: 10/08/2009 07:23 PM EDT  
To: Richard Windsor; Diane Thompson; Arvin Ganesan; Seth Oster; Gina McCarthy  
Cc: Charles Imohiosen  
Subject: Fw: Possible announcement of EPA/DOE MOU

Fyi. We need to gear up for this.

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

From: Kathleen Hogan  
Sent: 10/08/2009 06:11 PM EDT  
To: Bob Sussman; Gina McCarthy  
Cc: Charles Imohiosen; "Davidf Lee" <lee.davidf@epa.gov>; "Brian Mclean"  
<mclean.brian@epa.gov>; "Maria Vargas" <vargas.maria@epa.gov>  
Subject: Possible announcement of EPA/DOE MOU

All,

Wanted you to know that the WH is considering announcing the EPA/DOE agreement as part of announcing the recovery thru retrofit report next week.

Need to be ready for more questions.

Kathleen

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

From: "Chu, Edward H." (b) (6) Privacy  
Sent: 10/08/2009 03:37 PM AST  
To: Kathleen Hogan  
Cc: Charles Imohiosen; "Sperling, Gil" <Gil.Sperling@ee.doe.gov>;  
<James.C.Lopez@hud.gov>; "Hagerman, Joseph" <Joseph.Hagerman@ee.doe.gov>

Subject: RE: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

Fantastic! Could you send me the signed MOU as well? I will get this over to the VPs office. Thanks!

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

From: Hogan.Kathleen@epamail.epa.gov [mailto:Hogan.Kathleen@epamail.epa.gov]

Sent: Thursday, October 08, 2009 3:27 PM

To: Chu, Edward H.

Cc: Imohiosen.Charles@epamail.epa.gov; Sperling, Gil; James.C.Lopez@hud.gov; Hagerman, Joseph

Subject: RE: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

Here is a one page fact sheet on the agreement -- the building rating pieces are relevant to RTR

(See attached file: EPADOEAgreement Fact SheetFINAL .doc)

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| Kathleen Hogan/DC/USEPA/US@EPA |  
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| Charles Imohiosen/DC/USEPA/US@EPA, "Sperling, Gil"  
<Gil.Sperling@ee.doe.gov>, <James.C.Lopez@hud.gov>, "Hagerman, Joseph"  
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| <Joseph.Hagerman@ee.doe.gov>  
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| RE: latest draft of the RTR information section -- please review and let me  
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Great! We would like to announce the DOE/EPA MOU at the RTR event on Wednesday. Could you send a one-pager about the MOU (specifically highlighting the link to Solution 1 in the RTR Report)? Thank you!

Also, any chance we can use the [www.energysavers.gov](http://www.energysavers.gov) site for the Energy Retrofit Work Group (instead of creating a new one) if we need one?

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

From: Hogan.Kathleen@epamail.epa.gov [mailto:Hogan.Kathleen@epamail.epa.gov]  
Sent: Thursday, October 08, 2009 1:24 PM  
To: Chu, Edward H.  
Cc: Imohiosen.Charles@epamail.epa.gov; Sperling, Gil; James.C.Lopez@hud.gov; Hagerman, Joseph  
Subject: RE: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

It has been signed

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| "Chu, Edward H." (b) (6) Privacy |

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|"Sperling, Gil" <Gil.Sperling@ee.doe.gov>, Kathleen Hogan/DC/USEPA/US@EPA,  
Charles Imohiosen/DC/USEPA/US@EPA

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|<James.C.Lopez@hud.gov>, "Hagerman, Joseph"  
<Joseph.Hagerman@ee.doe.gov>

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|RE: latest draft of the RTR information section -- please review and  
let me know if you see a "show-stopper" |

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We would like to announce the MOU at the RTR event on Wednesday. (b)(5) Deliberative

[Redacted]

From: Sperling, Gil [mailto:Gil.Sperling@ee.doe.gov]
Sent: Thursday, October 08, 2009 11:09 AM
To: Chu, Edward H.; Hogan.Kathleen@epamail.epa.gov;
Imohiosen.Charles@epamail.epa.gov
Cc: James.C.Lopez@hud.gov; Hagerman, Joseph
Subject: Re: latest draft of the RTR information section -- please review and
let me know if you see a "show-stopper"

We agree

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

From: Chu, Edward H. (b) (6) Privacy
To: Hogan.Kathleen@epamail.epa.gov <Hogan.Kathleen@epamail.epa.gov>;
Imohiosen.Charles@epamail.epa.gov <Imohiosen.Charles@epamail.epa.gov>
Cc: Sperling, Gil; James C Lopez <James.C.Lopez@hud.gov>; Hagerman, Joseph
Sent: Thu Oct 08 10:32:06 2009
Subject: RE: latest draft of the RTR information section -- please review and
let me know if you see a "show-stopper"

Thanks, Kathleen!

Now, I just need to hear back from DOE.

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

From: Hogan.Kathleen@epamail.epa.gov [
mailto:Hogan.Kathleen@epamail.epa.gov]
Sent: Thursday, October 08, 2009 10:31 AM
To: Imohiosen.Charles@epamail.epa.gov
Cc: Chu, Edward H.; Gil Sperling; James C Lopez; Joseph Hagerman
Subject: Re: latest draft of the RTR information section -- please review and
let me know if you see a "show-stopper"

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At this point we are ok with the language as written. (b)(5) Deliberative

-- but we are ok with the language at this point.

thanks

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|Charles Imohiosen/DC/USEPA/US
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|"Chu, Edward H." [REDACTED] (b) (6) Privacy, "David Rodgers"  
<David.Rodgers@ee.doe.gov>, Kathleen Hogan/DC/USEPA/US@EPA, "Gil Sperling" |  
|<Gil.Sperling@ee.doe.gov>  
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|"James C Lopez" <James.C.Lopez@hud.gov>, "Joseph Hagerman"  
<Joseph.Hagerman@ee.doe.gov>  
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|Re: latest draft of the RTR information section -- please review and  
let me know if you see a "show-stopper" |

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I thought the original language proposed by David and Kathleen was helpful.

Kathleen and David, correct me if I am wrong, but I thought the main take away

(b)(5) Deliberative  
[Redacted]

Charles Imohiosen  
Office of the Administrator  
US Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.

From: "Chu, Edward H." (b) (6) Privacy  
Sent: 10/08/2009 09:40 AM AST  
To: Charles Imohiosen; "David Rodgers" <David.Rodgers@ee.doe.gov>; Kathleen  
Hogan; "Gil Sperling" <Gil.Sperling@ee.doe.gov>  
Cc: "James C Lopez" <James.C.Lopez@hud.gov>; "Joseph Hagerman"  
<Joseph.Hagerman@ee.doe.gov>  
Subject: RE: latest draft of the RTR information section -- please review  
and let me know if you see a "show-stopper"

(b)(5) Deliberative  
[Redacted]

I am making final changes now and need to send over the final document to the  
WH staff secretary at 10.

From: Imohiosen.Charles@epamail.epa.gov [mailto:Imohiosen.Charles@epamail.epa.gov]  
Sent: Thursday, October 08, 2009 9:37 AM  
To: Chu, Edward H.; David Rodgers; Hogan.Kathleen@epamail.epa.gov; Gil  
Sperling  
Cc: James C Lopez; Joseph Hagerman  
Subject: Re: latest draft of the RTR information section -- please review and  
let me know if you see a "show-stopper"

(b)(5) Deliberative  
[Redacted]

Charles Imohiosen  
Office of the Administrator  
US Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.

From: "Chu, Edward H." (b) (6) Privacy  
Sent: 10/08/2009 09:00 AM AST  
To: <David.Rodgers@ee.doe.gov>; Kathleen Hogan; Charles Imohiosen;  
<Gil.Sperling@ee.doe.gov>  
Cc: <James.C.Lopez@hud.gov>; <Joseph.Hagerman@ee.doe.gov>  
Subject: Re: latest draft of the RTR information section -- please review  
and let me know if you see a "show-stopper"

FYI, (b)(5) Deliberative

Aloha, ED

Edward H. Chu  
Deputy Associate Director  
Green Jobs, Community Protection, and Climate Solutions

Council on Environmental Quality  
Executive Office of the President

(b) (6) Privacy Office  
(b) (6) Privacy Mobile

From: Rodgers, David  
To: Chu, Edward H.; hogan.kathleen@epa.gov ; imohiosen.charles@epa.gov ;  
Sperling, Gil  
Cc: James.C.Lopez@hud.gov ; Hagerman, Joseph  
Sent: Thu Oct 08 08:56:46 2009  
Subject: Re: latest draft of the RTR information section -- please review and  
let me know if you see a "show-stopper"

Dear Ed. (b)(5) Deliberative  
[Redacted] I'm trying to track him down now.

From: Chu, Edward H. (b) (6) Privacy  
To: hogan.kathleen@epa.gov <hogan.kathleen@epa.gov>; imohiosen.charles@epa.gov  
<imohiosen.charles@epa.gov>; Rodgers, David; Sperling, Gil  
Cc: Lopez, James C <James.C.Lopez@hud.gov>  
Sent: Wed Oct 07 19:48:47 2009  
Subject: latest draft of the RTR information section -- please review and let  
me know if you see a "show-stopper"  
Just wanted to check in with you regarding (b)(5) Deliberative  
[Redacted] Okay? I need to hear back from you by 9 am.

(b)(5) Deliberative [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

01268-EPA-4940

**Richard Windsor/DC/USEPA/US**  
10/08/2009 08:48 PM

To "Chris Lu"  
cc  
bcc "Diane Thompson"  
Subject Re: China

Got it. Tx.

(b)(5) Deliberative

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

From: "Lu, Christopher P." [redacted]  
Sent: 10/08/2009 03:45 PM AST  
To: Richard Windsor  
Subject: RE: China

(b) (6) Privacy

(b)(5) Deliberative

So, my best recommendation is that you should plan your NO trip, but I hope to get some answers from the NSC in the next few days.

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

From: Windsor.Richard@epamail.epa.gov  
[mailto:Windsor.Richard@epamail.epa.gov]  
Sent: Thursday, October 08, 2009 3:24 PM  
To: Lu, Christopher P.  
Subject: China

Hi Chris,

We have lots going on with China and are working on a climate MOU. That said, I have a possible trip to New Orleans at what I believe is the same time. So if it isn't possible to travel with POTUS, I'd like to know so I can firm up my itinerary in New Orleans.

Thx, Lisa

01268-EPA-4941

Charles Imohiosen/DC/USEPA/US  
10/09/2009 09:06 AM

To Bob Sussman, Richard Windsor, Diane Thompson, Arvin Ganesan, Seth Oster, Gina McCarthy  
cc  
bcc

Subject Re: Possible announcement of EPA/DOE MOU

(b)(5) Deliberative

Charles Imohiosen  
Office of the Administrator  
US Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.

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

From: Bob Sussman  
Sent: 10/08/2009 07:23 PM EDT  
To: Richard Windsor; Diane Thompson; Arvin Ganesan; Seth Oster; Gina McCarthy  
Cc: Charles Imohiosen  
Subject: Fw: Possible announcement of EPA/DOE MOU

Fyi. We need to gear up for this.

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

From: Kathleen Hogan  
Sent: 10/08/2009 06:11 PM EDT  
To: Bob Sussman; Gina McCarthy  
Cc: Charles Imohiosen; "Davidf Lee" <lee.davidf@epa.gov>; "Brian Mclean" <mclean.brian@epa.gov>; "Maria Vargas" <vargas.maria@epa.gov>  
Subject: Possible announcement of EPA/DOE MOU

All,

Wanted you to know that the WH is considering announcing the EPa/DOE agreement as part of announcing the recovery thru retrofit report next week.

Need to be ready for more questions.

Kathleen

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

From: "Chu, Edward H." (b) (6) Privacy  
Sent: 10/08/2009 03:37 PM AST

To: Kathleen Hogan  
Cc: Charles Imohiosen; "Sperling, Gil" <Gil.Sperling@ee.doe.gov>; <James.C.Lopez@hud.gov>; "Hagerman, Joseph" <Joseph.Hagerman@ee.doe.gov>  
Subject: RE: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

Fantastic! Could you send me the signed MOU as well? I will get this over to the VPs office. Thanks!

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

From: Hogan.Kathleen@epamail.epa.gov [mailto:Hogan.Kathleen@epamail.epa.gov]  
Sent: Thursday, October 08, 2009 3:27 PM  
To: Chu, Edward H.  
Cc: Imohiosen.Charles@epamail.epa.gov; Sperling, Gil; James.C.Lopez@hud.gov; Hagerman, Joseph  
Subject: RE: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

Here is a one page fact sheet on the agreement -- the building rating pieces are relevant to RTR

(See attached file: EPADOEAgreement Fact SheetFINAL .doc)

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| From: |  
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| "Chu, Edward H." [REDACTED] (b) (6) Privacy  
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| To: |  
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| Kathleen Hogan/DC/USEPA/US@EPA  
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| Cc: |  
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| Charles Imohiosen/DC/USEPA/US@EPA, "Sperling, Gil"  
<Gil.Sperling@ee.doe.gov>, <James.C.Lopez@hud.gov>, "Hagerman, Joseph"  
|  
| <Joseph.Hagerman@ee.doe.gov>  
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|10/08/2009 03:12 PM
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|RE: latest draft of the RTR information section -- please review and let me
know if you see a "show-stopper"
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Great! We would like to announce the DOE/EPA MOU at the RTR event on Wednesday. Could you send a one-pager about the MOU (specifically highlighting the link to Solution 1 in the RTR Report)? Thank you!

Also, any chance we can use the [www.energysavers.gov](http://www.energysavers.gov) site for the Energy Retrofit Work Group (instead of creating a new one) if we need one?

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-----Original Message-----
From: Hogan.Kathleen@epamail.epa.gov [mailto:Hogan.Kathleen@epamail.epa.gov]
Sent: Thursday, October 08, 2009 1:24 PM
To: Chu, Edward H.
Cc: Imohiosen.Charles@epamail.epa.gov; Sperling, Gil; James.C.Lopez@hud.gov;
Hagerman, Joseph
Subject: RE: latest draft of the RTR information section -- please review and
let me know if you see a "show-stopper"

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It has been signed

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| From:   |
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|"Chu, Edward H." [REDACTED] (b) (6) Privacy
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| To: |  
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| "Sperling, Gil" <Gil.Sperling@ee.doe.gov>, Kathleen Hogan/DC/USEPA/US@EPA,  
Charles Imohiosen/DC/USEPA/US@EPA  
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| Cc: |  
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| <James.C.Lopez@hud.gov>, "Hagerman, Joseph"  
<Joseph.Hagerman@ee.doe.gov>  
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| 10/08/2009 11:27 AM  
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| RE: latest draft of the RTR information section -- please review and  
let me know if you see a "show-stopper" |

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We would like to announce the MOU at the RTR event on Wednesday. (b)(5) Deliberative

[Redacted]

From: Sperling, Gil [mailto:Gil.Sperling@ee.doe.gov]  
Sent: Thursday, October 08, 2009 11:09 AM  
To: Chu, Edward H.; Hogan.Kathleen@epamail.epa.gov;  
Imohiosen.Charles@epamail.epa.gov  
Cc: James.C.Lopez@hud.gov; Hagerman, Joseph  
Subject: Re: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

We agree

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

From: Chu, Edward H. (b) (6) Privacy  
To: Hogan.Kathleen@epamail.epa.gov <Hogan.Kathleen@epamail.epa.gov>;  
Imohiosen.Charles@epamail.epa.gov <Imohiosen.Charles@epamail.epa.gov>  
Cc: Sperling, Gil; James C Lopez <James.C.Lopez@hud.gov>; Hagerman, Joseph  
Sent: Thu Oct 08 10:32:06 2009  
Subject: RE: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

Thanks, Kathleen!

Now, I just need to hear back from DOE.

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

From: Hogan.Kathleen@epamail.epa.gov [mailto:Hogan.Kathleen@epamail.epa.gov]  
Sent: Thursday, October 08, 2009 10:31 AM  
To: Imohiosen.Charles@epamail.epa.gov  
Cc: Chu, Edward H.; Gil Sperling; James C Lopez; Joseph Hagerman  
Subject: Re: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

All,

At this point we are ok with the language as written. (b)(5) Deliberative

[Redacted]  
-- but we are ok with the language at this point.

thanks

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| From: |  
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| Charles Imohiosen/DC/USEPA/US

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| "Chu, Edward H." [REDACTED] (b) (6) Privacy, "David Rodgers"  
<David.Rodgers@ee.doe.gov>, Kathleen Hogan/DC/USEPA/US@EPA, "Gil Sperling" |  
| <Gil.Sperling@ee.doe.gov>

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| "James C Lopez" <James.C.Lopez@hud.gov>, "Joseph Hagerman"  
<Joseph.Hagerman@ee.doe.gov>

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| 10/08/2009 09:50 AM

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 |Re: latest draft of the RTR information section -- please review and  
 let me know if you see a "show-stopper" |

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I thought the original language proposed by David and Kathleen was helpful.

Kathleen and David, correct me if I am wrong, but I thought the main take away

(b)(5) Deliberative  
 [Redacted]

Charles Imohiosen  
 Office of the Administrator  
 US Environmental Protection Agency  
 1200 Pennsylvania Avenue, N.W.

From: "Chu, Edward H." [Redacted] (b) (6) Privacy  
 Sent: 10/08/2009 09:40 AM AST  
 To: Charles Imohiosen; "David Rodgers" <David.Rodgers@ee.doe.gov>; Kathleen Hogan; "Gil Sperling" <Gil.Sperling@ee.doe.gov>  
 Cc: "James C Lopez" <James.C.Lopez@hud.gov>; "Joseph Hagerman" <Joseph.Hagerman@ee.doe.gov>  
 Subject: RE: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

(b)(5) Deliberative  
 [Redacted]

I am making final changes now and need to send over the final document to the WH staff secretary at 10.

From: Imohiosen.Charles@epamail.epa.gov [mailto:Imohiosen.Charles@epamail.epa.gov]  
 Sent: Thursday, October 08, 2009 9:37 AM  
 To: Chu, Edward H.; David Rodgers; Hogan.Kathleen@epamail.epa.gov; Gil Sperling  
 Cc: James C Lopez; Joseph Hagerman  
 Subject: Re: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

(b)(5) Deliberative  
[Redacted]

Charles Imohiosen  
Office of the Administrator  
US Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.

From: "Chu, Edward H." [Redacted] (b) (6) Privacy  
Sent: 10/08/2009 09:00 AM AST  
To: <David.Rodgers@ee.doe.gov>; Kathleen Hogan; Charles Imohiosen;  
<Gil.Sperling@ee.doe.gov>  
Cc: <James.C.Lopez@hud.gov>; <Joseph.Hagerman@ee.doe.gov>  
Subject: Re: latest draft of the RTR information section -- please review  
and let me know if you see a "show-stopper"

FYI, [Redacted] (b)(5) Deliberative

Aloha, ED

Edward H. Chu  
Deputy Associate Director  
Green Jobs, Community Protection, and Climate Solutions

Council on Environmental Quality  
Executive Office of the President

(b) (6) Privacy Office  
(b) (6) Privacy Mobile

From: Rodgers, David  
To: Chu, Edward H.; hogan.kathleen@epa.gov ; imohiosen.charles@epa.gov ;  
Sperling, Gil  
Cc: James.C.Lopez@hud.gov ; Hagerman, Joseph  
Sent: Thu Oct 08 08:56:46 2009  
Subject: Re: latest draft of the RTR information section -- please review and  
let me know if you see a "show-stopper"

Dear Ed. [Redacted] (b)(5) Deliberative  
[Redacted]

From: Chu, Edward H. [Redacted] (b) (6) Privacy  
To: hogan.kathleen@epa.gov <hogan.kathleen@epa.gov>; imohiosen.charles@epa.gov  
<imohiosen.charles@epa.gov>; Rodgers, David; Sperling, Gil  
Cc: Lopez, James C <James.C.Lopez@hud.gov>  
Sent: Wed Oct 07 19:48:47 2009  
Subject: latest draft of the RTR information section -- please review and let  
me know if you see a "show-stopper"

Just wanted to check in with you regarding (b)(5) Deliberative  
Okay? I need to hear back from you by 9 am.

(b)(5) Deliberative

[Redacted]

[Redacted]

[Redacted]

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[Redacted]

(b)(5) Deliberative

01268-EPA-4942

**Richard Windsor/DC/USEPA/US**  
10/09/2009 09:07 AM

To Charles Imohiosen  
cc  
bcc

Subject Re: Possible announcement of EPA/DOE MOU

Tx

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

From: Charles Imohiosen  
Sent: 10/09/2009 09:06 AM EDT  
To: Bob Sussman; Richard Windsor; Diane Thompson; Arvin Ganesan; Seth Oster; Gina McCarthy  
Subject: Re: Possible announcement of EPA/DOE MOU

(b)(5) Deliberative

Charles Imohiosen  
Office of the Administrator  
US Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.

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

From: Bob Sussman  
Sent: 10/08/2009 07:23 PM EDT  
To: Richard Windsor; Diane Thompson; Arvin Ganesan; Seth Oster; Gina McCarthy  
Cc: Charles Imohiosen  
Subject: Fw: Possible announcement of EPA/DOE MOU

Fyi. We need to gear up for this.

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

From: Kathleen Hogan  
Sent: 10/08/2009 06:11 PM EDT  
To: Bob Sussman; Gina McCarthy  
Cc: Charles Imohiosen; "Davidf Lee" <lee.davidf@epa.gov>; "Brian Mclean" <mclean.brian@epa.gov>; "Maria Vargas" <vargas.maria@epa.gov>  
Subject: Possible announcement of EPA/DOE MOU

All,

Wanted you to know that the WH is considering announcing the EPA/DOE agreement as part of announcing the recovery thru retrofit report next week.

Need to be ready for more questions.

Kathleen

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

From: "Chu, Edward H." [REDACTED] (b) (6) Privacy  
Sent: 10/08/2009 03:37 PM AST  
To: Kathleen Hogan  
Cc: Charles Imohiosen; "Sperling, Gil" <Gil.Sperling@ee.doe.gov>;  
<James.C.Lopez@hud.gov>; "Hagerman, Joseph" <Joseph.Hagerman@ee.doe.gov>  
Subject: RE: latest draft of the RTR information section -- please review and  
let me know if you see a "show-stopper"

Fantastic! Could you send me the signed MOU as well? I will get this over to the VPs office. Thanks!

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

From: Hogan.Kathleen@epamail.epa.gov [mailto:Hogan.Kathleen@epamail.epa.gov]  
Sent: Thursday, October 08, 2009 3:27 PM  
To: Chu, Edward H.  
Cc: Imohiosen.Charles@epamail.epa.gov; Sperling, Gil; James.C.Lopez@hud.gov;  
Hagerman, Joseph  
Subject: RE: latest draft of the RTR information section -- please review and  
let me know if you see a "show-stopper"

Here is a one page fact sheet on the agreement -- the building rating pieces are relevant to RTR

(See attached file: EPADOEAgreement Fact SheetFINAL .doc)

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| From: |  
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| "Chu, Edward H." [REDACTED] (b) (6) Privacy  
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| To: |  
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| Kathleen Hogan/DC/USEPA/US@EPA  
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| Charles Imohiosen/DC/USEPA/US@EPA, "Sperling, Gil"
| <Gil.Sperling@ee.doe.gov>, <James.C.Lopez@hud.gov>, "Hagerman, Joseph"
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| <Joseph.Hagerman@ee.doe.gov>
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| RE: latest draft of the RTR information section -- please review and let me
| know if you see a "show-stopper"
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Great! We would like to announce the DOE/EPA MOU at the RTR event on Wednesday. Could you send a one-pager about the MOU (specifically highlighting the link to Solution 1 in the RTR Report)? Thank you!

Also, any chance we can use the [www.energysavers.gov](http://www.energysavers.gov) site for the Energy Retrofit Work Group (instead of creating a new one) if we need one?

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

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From: Hogan.Kathleen@epamail.epa.gov [mailto:Hogan.Kathleen@epamail.epa.gov]
Sent: Thursday, October 08, 2009 1:24 PM
To: Chu, Edward H.
Cc: Imohiosen.Charles@epamail.epa.gov; Sperling, Gil; James.C.Lopez@hud.gov; Hagerman, Joseph
Subject: RE: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

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It has been signed

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| From: |  
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| "Chu, Edward H." [REDACTED] (b) (6) Privacy  
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| To: |  
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| "Sperling, Gil" <Gil.Sperling@ee.doe.gov>, Kathleen Hogan/DC/USEPA/US@EPA,  
Charles Imohiosen/DC/USEPA/US@EPA  
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| <James.C.Lopez@hud.gov>, "Hagerman, Joseph"  
<Joseph.Hagerman@ee.doe.gov>  
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 |RE: latest draft of the RTR information section -- please review and  
 let me know if you see a "show-stopper" |  
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We would like to announce the MOU at the RTR event on Wednesday. (b)(5) Deliberative

[Redacted]

From: Sperling, Gil [mailto:Gil.Sperling@ee.doe.gov]  
 Sent: Thursday, October 08, 2009 11:09 AM  
 To: Chu, Edward H.; Hogan.Kathleen@epamail.epa.gov;  
 Imohiosen.Charles@epamail.epa.gov  
 Cc: James.C.Lopez@hud.gov; Hagerman, Joseph  
 Subject: Re: latest draft of the RTR information section -- please review and  
 let me know if you see a "show-stopper"

We agree

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

From: Chu, Edward H. (b) (6) Privacy  
 To: Hogan.Kathleen@epamail.epa.gov <Hogan.Kathleen@epamail.epa.gov>;  
 Imohiosen.Charles@epamail.epa.gov <Imohiosen.Charles@epamail.epa.gov>  
 Cc: Sperling, Gil; James C Lopez <James.C.Lopez@hud.gov>; Hagerman, Joseph  
 Sent: Thu Oct 08 10:32:06 2009  
 Subject: RE: latest draft of the RTR information section -- please review and  
 let me know if you see a "show-stopper"

Thanks, Kathleen!

Now, I just need to hear back from DOE.

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

From: Hogan.Kathleen@epamail.epa.gov [mailto:Hogan.Kathleen@epamail.epa.gov]  
 Sent: Thursday, October 08, 2009 10:31 AM  
 To: Imohiosen.Charles@epamail.epa.gov  
 Cc: Chu, Edward H.; Gil Sperling; James C Lopez; Joseph Hagerman  
 Subject: Re: latest draft of the RTR information section -- please review and  
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All,

At this point we are ok with the language as written. (b)(5) Deliberative

[Redacted]  
 -- but we are ok with the language at this point.

thanks

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| Charles Imohiosen/DC/USEPA/US  
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| To: |  
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| "Chu, Edward H." [REDACTED] (b) (6) Privacy "David Rodgers"  
<David.Rodgers@ee.doe.gov>, Kathleen Hogan/DC/USEPA/US@EPA, "Gil Sperling" |  
| <Gil.Sperling@ee.doe.gov>  
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| Cc: |  
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| "James C Lopez" <James.C.Lopez@hud.gov>, "Joseph Hagerman"  
<Joseph.Hagerman@ee.doe.gov>  
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|10/08/2009 09:50 AM

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|Re: latest draft of the RTR information section -- please review and  
let me know if you see a "show-stopper" |

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I thought the original language proposed by David and Kathleen was helpful.

Kathleen and David, correct me if I am wrong, but I thought the main take away

(b)(5) Deliberative  
[Redacted]

Charles Imohiosen  
Office of the Administrator  
US Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.

From: "Chu, Edward H." (b) (6) Privacy  
Sent: 10/08/2009 09:40 AM AST  
To: Charles Imohiosen; "David Rodgers" <David.Rodgers@ee.doe.gov>; Kathleen  
Hogan; "Gil Sperling" <Gil.Sperling@ee.doe.gov>  
Cc: "James C Lopez" <James.C.Lopez@hud.gov>; "Joseph Hagerman"  
<Joseph.Hagerman@ee.doe.gov>  
Subject: RE: latest draft of the RTR information section -- please review  
and let me know if you see a "show-stopper"

(b)(5) Deliberative  
[Redacted]

I am making final changes now and need to send over the final document to the WH staff secretary at 10.

From: Imohiosen.Charles@epamail.epa.gov [mailto:Imohiosen.Charles@epamail.epa.gov]  
Sent: Thursday, October 08, 2009 9:37 AM  
To: Chu, Edward H.; David Rodgers; Hogan.Kathleen@epamail.epa.gov; Gil Sperling  
Cc: James C Lopez; Joseph Hagerman  
Subject: Re: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

(b)(5) Deliberative

Charles Imohiosen  
Office of the Administrator  
US Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.

From: "Chu, Edward H." (b) (6) Privacy  
Sent: 10/08/2009 09:00 AM AST  
To: <David.Rodgers@ee.doe.gov>; Kathleen Hogan; Charles Imohiosen; <Gil.Sperling@ee.doe.gov>  
Cc: <James.C.Lopez@hud.gov>; <Joseph.Hagerman@ee.doe.gov>  
Subject: Re: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

FYI, (b)(5) Deliberative

Aloha, ED

Edward H. Chu  
Deputy Associate Director  
Green Jobs, Community Protection, and Climate Solutions

Council on Environmental Quality  
Executive Office of the President

(b) (6) Privacy Office  
(b) (6) Privacy Mobile

From: Rodgers, David  
To: Chu, Edward H.; hogan.kathleen@epa.gov ; imohiosen.charles@epa.gov ; Sperling, Gil  
Cc: James.C.Lopez@hud.gov ; Hagerman, Joseph  
Sent: Thu Oct 08 08:56:46 2009  
Subject: Re: latest draft of the RTR information section -- please review and

let me know if you see a "show-stopper"

Dear Ed. [REDACTED] (b)(5) Deliberative

From: Chu, Edward H. [REDACTED] (b) (6) Privacy

To: hogan.kathleen@epa.gov <hogan.kathleen@epa.gov>; imohiosen.charles@epa.gov <imohiosen.charles@epa.gov>; Rodgers, David; Sperling, Gil

Cc: Lopez, James C <James.C.Lopez@hud.gov>

Sent: Wed Oct 07 19:48:47 2009

Subject: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

Just wanted to check in with you regarding [REDACTED] (b)(5) Deliberative

[REDACTED] Okay? I need to hear back from you by 9 am.

(b)(5) Deliberative [REDACTED]

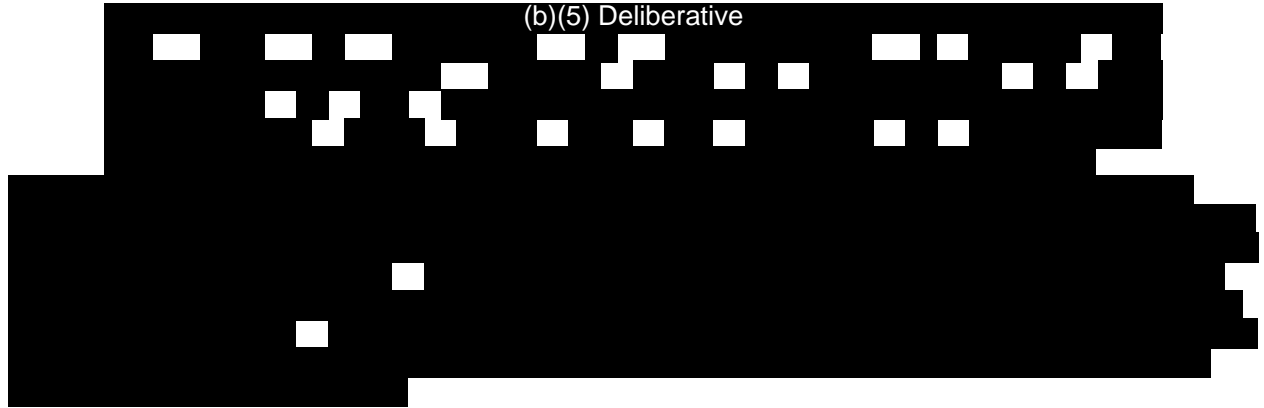
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(b)(5) Deliberative

A large black rectangular redaction box covers the majority of the page content. The text "(b)(5) Deliberative" is printed in white at the top center of this redacted area. The redaction extends across the width of the page and covers several lines of text.



01268-EPA-4944

Charles Imohiosen/DC/USEPA/US  
10/09/2009 06:40 PM

To Bob Sussman, "Arvin Ganesan", "Gina McCarthy", "Seth Oster", "Diane Thompson", Scott Fulton  
cc Richard Windsor  
bcc

Subject Re: Fw: Possible announcement of EPA/DOE MOU

I apologize for the moving target,

(b)(5) Deliberative

Also, as an FYI, the final version of the report was sent today to Lisa Brown, the President's Staff Secretary.

Charles Imohiosen  
Special Assistant to the Senior Policy Counsel  
Office of the Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460  
(202) 564-9025

Bob Sussman Fyi. We need to gear up for this. ----- O... 10/08/2009 07:23:45 PM

From: Bob Sussman/DC/USEPA/US  
To: "Lisa P. Jackson" <Windsor.Richard@epamail.epa.gov>, "Diane Thompson" <Thompson.Diane@epamail.epa.gov>, "Arvin Ganesan" <Ganesan.Arvin@epamail.epa.gov>, "Seth Oster" <Oster.Seth@epamail.epa.gov>, "Gina McCarthy" <McCarthy.Gina@epamail.epa.gov>  
Cc: "Charles Imohiosen" <Imohiosen.Charles@epamail.epa.gov>  
Date: 10/08/2009 07:23 PM  
Subject: Fw: Possible announcement of EPA/DOE MOU

Fyi. We need to gear up for this.

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

From: Kathleen Hogan  
Sent: 10/08/2009 06:11 PM EDT  
To: Bob Sussman; Gina McCarthy  
Cc: Charles Imohiosen; "Davidf Lee" <lee.davidf@epa.gov>; "Brian Mclean" <mclean.brian@epa.gov>; "Maria Vargas" <vargas.maria@epa.gov>  
Subject: Possible announcement of EPA/DOE MOU

All,

Wanted you to know that the WH is considering announcing the EPa/DOE agreement as part of announcing the recovery thru retrofit report next week.

Need to be ready for more questions.

Kathleen

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

From: "Chu, Edward H." [REDACTED] (b) (6) Privacy  
 Sent: 10/08/2009 03:37 PM AST  
 To: Kathleen Hogan  
 Cc: Charles Imohiosen; "Sperling, Gil" <Gil.Sperling@ee.doe.gov>;  
 <James.C.Lopez@hud.gov>; "Hagerman, Joseph" <Joseph.Hagerman@ee.doe.gov>  
 Subject: RE: latest draft of the RTR information section -- please review and  
 let me know if you see a "show-stopper"

Fantastic! Could you send me the signed MOU as well? I will get this over to the VPs office. Thanks!

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

From: Hogan.Kathleen@epamail.epa.gov [mailto:Hogan.Kathleen@epamail.epa.gov]  
 Sent: Thursday, October 08, 2009 3:27 PM  
 To: Chu, Edward H.  
 Cc: Imohiosen.Charles@epamail.epa.gov; Sperling, Gil; James.C.Lopez@hud.gov;  
 Hagerman, Joseph  
 Subject: RE: latest draft of the RTR information section -- please review and  
 let me know if you see a "show-stopper"

Here is a one page fact sheet on the agreement -- the building rating pieces are relevant to RTR

(See attached file: EPADOEAgreement Fact SheetFINAL .doc)

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 | From: |  
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 | "Chu, Edward H." [REDACTED] (b) (6) Privacy  
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 | To: |  
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 | Kathleen Hogan/DC/USEPA/US@EPA  
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| Cc: |  
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| Charles Imohiosen/DC/USEPA/US@EPA, "Sperling, Gil"  
<Gil.Sperling@ee.doe.gov>, <James.C.Lopez@hud.gov>, "Hagerman, Joseph"  
|  
| <Joseph.Hagerman@ee.doe.gov>  
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| RE: latest draft of the RTR information section -- please review and let me  
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Great! We would like to announce the DOE/EPA MOU at the RTR event on Wednesday. Could you send a one-pager about the MOU (specifically highlighting the link to Solution 1 in the RTR Report)? Thank you!

Also, any chance we can use the [www.energysavers.gov](http://www.energysavers.gov) site for the Energy Retrofit Work Group (instead of creating a new one) if we need one?

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

From: Hogan.Kathleen@epamail.epa.gov [mailto:Hogan.Kathleen@epamail.epa.gov]  
Sent: Thursday, October 08, 2009 1:24 PM  
To: Chu, Edward H.  
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Subject: RE: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

It has been signed

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| "Chu, Edward H." [REDACTED] (b) (6) Privacy  
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| "Sperling, Gil" <Gil.Sperling@ee.doe.gov>, Kathleen Hogan/DC/USEPA/US@EPA,  
Charles Imohiosen/DC/USEPA/US@EPA  
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|<James.C.Lopez@hud.gov>, "Hagerman, Joseph"  
<Joseph.Hagerman@ee.doe.gov>  
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|RE: latest draft of the RTR information section -- please review and  
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We would like to announce the MOU at the RTR event on Wednesday. (b)(5) Deliberative

[Redacted]

From: Sperling, Gil [mailto:Gil.Sperling@ee.doe.gov]  
 Sent: Thursday, October 08, 2009 11:09 AM  
 To: Chu, Edward H.; Hogan.Kathleen@epamail.epa.gov;  
 Imohiosen.Charles@epamail.epa.gov  
 Cc: James.C.Lopez@hud.gov; Hagerman, Joseph  
 Subject: Re: latest draft of the RTR information section -- please review and  
 let me know if you see a "show-stopper"

We agree

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

From: Chu, Edward H. (b) (6) Privacy  
 To: Hogan.Kathleen@epamail.epa.gov <Hogan.Kathleen@epamail.epa.gov>;  
 Imohiosen.Charles@epamail.epa.gov <Imohiosen.Charles@epamail.epa.gov>  
 Cc: Sperling, Gil; James C Lopez <James.C.Lopez@hud.gov>; Hagerman, Joseph  
 Sent: Thu Oct 08 10:32:06 2009  
 Subject: RE: latest draft of the RTR information section -- please review and  
 let me know if you see a "show-stopper"

Thanks, Kathleen!

Now, I just need to hear back from DOE.

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

From: Hogan.Kathleen@epamail.epa.gov [mailto:Hogan.Kathleen@epamail.epa.gov]  
 Sent: Thursday, October 08, 2009 10:31 AM  
 To: Imohiosen.Charles@epamail.epa.gov  
 Cc: Chu, Edward H.; Gil Sperling; James C Lopez; Joseph Hagerman  
 Subject: Re: latest draft of the RTR information section -- please review and  
 let me know if you see a "show-stopper"

All,

At this point we are ok with the language as written. (b)(5) Deliberative

[Redacted]  
 -- but we are ok with the language at this point.

thanks

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| Charles Imohiosen/DC/USEPA/US  
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| "Chu, Edward H." [REDACTED] (b) (6) Privacy, "David Rodgers"  
<David.Rodgers@ee.doe.gov>, Kathleen Hogan/DC/USEPA/US@EPA, "Gil Sperling" |  
| <Gil.Sperling@ee.doe.gov>  
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| Cc: |  
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| "James C Lopez" <James.C.Lopez@hud.gov>, "Joseph Hagerman"  
<Joseph.Hagerman@ee.doe.gov>  
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| 10/08/2009 09:50 AM  
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|Re: latest draft of the RTR information section -- please review and  
let me know if you see a "show-stopper" |

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I thought the original language proposed by David and Kathleen was helpful.

Kathleen and David, correct me if I am wrong, but I thought the main take away

(b)(5) Deliberative  
[Redacted]

Charles Imohiosen  
Office of the Administrator  
US Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.

From: "Chu, Edward H." (b) (6) Privacy  
Sent: 10/08/2009 09:40 AM AST  
To: Charles Imohiosen; "David Rodgers" <David.Rodgers@ee.doe.gov>; Kathleen  
Hogan; "Gil Sperling" <Gil.Sperling@ee.doe.gov>  
Cc: "James C Lopez" <James.C.Lopez@hud.gov>; "Joseph Hagerman"  
<Joseph.Hagerman@ee.doe.gov>  
Subject: RE: latest draft of the RTR information section -- please review  
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(b)(5) Deliberative  
[Redacted]

I am making final changes now and need to send over the final document to the

WH staff secretary at 10.

From: Imohiosen.Charles@epamail.epa.gov [mailto:Imohiosen.Charles@epamail.epa.gov]  
Sent: Thursday, October 08, 2009 9:37 AM  
To: Chu, Edward H.; David Rodgers; Hogan.Kathleen@epamail.epa.gov; Gil Sperling  
Cc: James C Lopez; Joseph Hagerman  
Subject: Re: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

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Charles Imohiosen  
Office of the Administrator  
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FYI, (b)(5) Deliberative

Aloha, ED

Edward H. Chu  
Deputy Associate Director  
Green Jobs, Community Protection, and Climate Solutions

Council on Environmental Quality  
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From: Rodgers, David  
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Dear Ed. (b)(5) Deliberative



(b)(5) Deliberative

From: Chu, Edward H. (b) (6) Privacy  
To: hogan.kathleen@epa.gov <hogan.kathleen@epa.gov>; imohiosen.charles@epa.gov <imohiosen.charles@epa.gov>; Rodgers, David; Sperling, Gil  
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Okay? I need to hear back from you by 9 am.

(b)(5) Deliberative

[Redacted]

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[Redacted]

[Redacted]

(b)(5) Deliberative



01268-EPA-4945

**Bob Sussman/DC/USEPA/US**

10/09/2009 06:42 PM

To Charles Imohiosen

cc "Arvin Ganesan", "Gina McCarthy", "Seth Oster", Richard Windsor, Scott Fulton, "Diane Thompson"

bcc

Subject Re: Fw: Possible announcement of EPA/DOE MOU

Seth -- assume you'll dig into the details of the announcement and make sure it works for EPA. Sounds like we have a little time to get it right.

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

Charles Imohiosen | I apologize for the moving target, bu... | 10/09/2009 06:40:26 PM

From: Charles Imohiosen/DC/USEPA/US  
To: Bob Sussman/DC/USEPA/US@EPA, "Arvin Ganesan" <Ganesan.Arvin@epamail.epa.gov>, "Gina McCarthy" <McCarthy.Gina@epamail.epa.gov>, "Seth Oster" <Oster.Seth@epamail.epa.gov>, "Diane Thompson" <Thompson.Diane@epamail.epa.gov>, Scott Fulton/DC/USEPA/US@EPA  
Cc: Richard Windsor/DC/USEPA/US@EPA  
Date: 10/09/2009 06:40 PM  
Subject: Re: Fw: Possible announcement of EPA/DOE MOU

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Also, as an FYI, the final version of the report was sent today to Lisa Brown, the President's Staff Secretary.

Charles Imohiosen  
Special Assistant to the Senior Policy Counsel  
Office of the Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460  
(202) 564-9025

Bob Sussman | Fyi. We need to gear up for this. ----- O... | 10/08/2009 07:23:45 PM

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Cc: "Charles Imohiosen" <Imohiosen.Charles@epamail.epa.gov>  
Date: 10/08/2009 07:23 PM  
Subject: Fw: Possible announcement of EPA/DOE MOU

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From: Kathleen Hogan  
Sent: 10/08/2009 06:11 PM EDT  
To: Bob Sussman; Gina McCarthy  
Cc: Charles Imohiosen; "Davidf Lee" <lee.davidf@epa.gov>; "Brian Mclean" <mclean.brian@epa.gov>; "Maria Vargas" <vargas.maria@epa.gov>  
Subject: Possible announcement of EPA/DOE MOU

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Need to be ready for more questions.

Kathleen

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

From: "Chu, Edward H." [REDACTED] (b) (6) Privacy  
Sent: 10/08/2009 03:37 PM AST  
To: Kathleen Hogan  
Cc: Charles Imohiosen; "Sperling, Gil" <Gil.Sperling@ee.doe.gov>; <James.C.Lopez@hud.gov>; "Hagerman, Joseph" <Joseph.Hagerman@ee.doe.gov>  
Subject: RE: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

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To: Chu, Edward H.  
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| Charles Imohiosen/DC/USEPA/US@EPA, "Sperling, Gil"  
<Gil.Sperling@ee.doe.gov>, <James.C.Lopez@hud.gov>, "Hagerman, Joseph"  
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| <Joseph.Hagerman@ee.doe.gov> |  
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Subject: RE: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

It has been signed

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|"Chu, Edward H." (b) (6) Privacy

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|"Sperling, Gil" <Gil.Sperling@ee.doe.gov>, Kathleen Hogan/DC/USEPA/US@EPA, Charles Imohiosen/DC/USEPA/US@EPA

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|<James.C.Lopez@hud.gov>, "Hagerman, Joseph" <Joseph.Hagerman@ee.doe.gov>

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[Redacted]

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Sent: Thursday, October 08, 2009 11:09 AM  
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To: Hogan.Kathleen@epamail.epa.gov <Hogan.Kathleen@epamail.epa.gov>;  
Imohiosen.Charles@epamail.epa.gov <Imohiosen.Charles@epamail.epa.gov>  
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| Charles Imohiosen/DC/USEPA/US

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| "Chu, Edward H." (b) (6) Privacy, "David Rodgers"  
<David.Rodgers@ee.doe.gov>, Kathleen Hogan/DC/USEPA/US@EPA, "Gil Sperling" |  
| <Gil.Sperling@ee.doe.gov>

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|"James C Lopez" <James.C.Lopez@hud.gov>, "Joseph Hagerman"  
<Joseph.Hagerman@ee.doe.gov>

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[Redacted]

Charles Imohiosen  
Office of the Administrator  
US Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.

From: "Chu, Edward H." [REDACTED] (b) (6) Privacy  
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[REDACTED] (b)(5) Deliberative

I am making final changes now and need to send over the final document to the WH staff secretary at 10.

From: Imohiosen.Charles@epamail.epa.gov [mailto:Imohiosen.Charles@epamail.epa.gov]  
 Sent: Thursday, October 08, 2009 9:37 AM  
 To: Chu, Edward H.; David Rodgers; Hogan.Kathleen@epamail.epa.gov; Gil Sperling  
 Cc: James C Lopez; Joseph Hagerman  
 Subject: Re: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

[REDACTED] (b)(5) Deliberative

Charles Imohiosen  
 Office of the Administrator  
 US Environmental Protection Agency  
 1200 Pennsylvania Avenue, N.W.

From: "Chu, Edward H." [REDACTED] (b) (6) Privacy  
 Sent: 10/08/2009 09:00 AM AST  
 To: <David.Rodgers@ee.doe.gov>; Kathleen Hogan; Charles Imohiosen; <Gil.Sperling@ee.doe.gov>  
 Cc: <James.C.Lopez@hud.gov>; <Joseph.Hagerman@ee.doe.gov>  
 Subject: Re: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

FYI, [REDACTED] (b)(5) Deliberative

Aloha, ED

Edward H. Chu  
Deputy Associate Director  
Green Jobs, Community Protection, and Climate Solutions

Council on Environmental Quality  
Executive Office of the President

(b) (6) Privacy Office  
(b) (6) Privacy Mobile

From: Rodgers, David  
To: Chu, Edward H.; hogan.kathleen@epa.gov ; imohiosen.charles@epa.gov ;  
Sperling, Gil  
Cc: James.C.Lopez@hud.gov ; Hagerman, Joseph  
Sent: Thu Oct 08 08:56:46 2009  
Subject: Re: latest draft of the RTR information section -- please review and  
let me know if you see a "show-stopper"

Dear Ed. (b)(5) Deliberative

From: Chu, Edward H. (b) (6) Privacy  
To: hogan.kathleen@epa.gov <hogan.kathleen@epa.gov>; imohiosen.charles@epa.gov  
<imohiosen.charles@epa.gov>; Rodgers, David; Sperling, Gil  
Cc: Lopez, James C <James.C.Lopez@hud.gov>  
Sent: Wed Oct 07 19:48:47 2009  
Subject: latest draft of the RTR information section -- please review and let  
me know if you see a "show-stopper"

Just wanted to check in with you regarding (b)(5) Deliberative  
Okay? I need to hear back from you by 9 am.

(b)(5) Deliberative

[Redacted]

[Redacted]

(b)(5) Deliberative [Redacted]  
[Redacted]  
[Redacted]

[Redacted]

[Redacted]

01268-EPA-4946

Seth Oster/DC/USEPA/US  
10/09/2009 06:47 PM

To Bob Sussman, Charles Imohiosen  
cc Arvin Ganesan, Gina McCarthy, Richard Windsor, Scott  
Fulton, Diane Thompson  
bcc  
Subject Re: Fw: Possible announcement of EPA/DOE MOU

(b)(5) Deliberative [Redacted] We will follow yp with them on  
Monday.

Charles -- it would be helpful to know who you are dealing with over there and what the objective is that they have in this. Let's talk Tuesday.

Seth  
Bob Sussman

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

From: Bob Sussman  
Sent: 10/09/2009 06:42 PM EDT  
To: Charles Imohiosen  
Cc: Arvin Ganesan; Gina McCarthy; Seth Oster; Richard Windsor; Scott  
Fulton; Diane Thompson  
Subject: Re: Fw: Possible announcement of EPA/DOE MOU

Seth -- assume you'll dig into the details of the announcement and make sure it works for EPA. Sounds like we have a little time to get it right.

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

Charles Imohiosen | I apologize for the moving target, bu... | 10/09/2009 06:40:26 PM

From: Charles Imohiosen/DC/USEPA/US  
To: Bob Sussman/DC/USEPA/US@EPA, "Arvin Ganesan" <Ganesan.Arvin@epamail.epa.gov>, "Gina McCarthy" <McCarthy.Gina@epamail.epa.gov>, "Seth Oster" <Oster.Seth@epamail.epa.gov>, "Diane Thompson" <Thompson.Diane@epamail.epa.gov>, Scott Fulton/DC/USEPA/US@EPA  
Cc: Richard Windsor/DC/USEPA/US@EPA  
Date: 10/09/2009 06:40 PM  
Subject: Re: Fw: Possible announcement of EPA/DOE MOU

I apologize for the moving target, (b)(5) Deliberative [Redacted]

Also, as an FYI, the final version of the report was sent today to Lisa Brown, the President's Staff Secretary.

Charles Imohiosen

Special Assistant to the Senior Policy Counsel  
 Office of the Administrator  
 U.S. Environmental Protection Agency  
 1200 Pennsylvania Avenue, N.W.  
 Washington, D.C. 20460  
 (202) 564-9025

Bob Sussman      [Fyi. We need to gear up for this. ----- O...](#)      10/08/2009 07:23:45 PM

From: Bob Sussman/DC/USEPA/US  
 To: "Lisa P. Jackson" <Windsor.Richard@epamail.epa.gov>, "Diane Thompson" <Thompson.Diane@epamail.epa.gov>, "Arvin Ganesan" <Ganesan.Arvin@epamail.epa.gov>, "Seth Oster" <Oster.Seth@epamail.epa.gov>, "Gina McCarthy" <McCarthy.Gina@epamail.epa.gov>  
 Cc: "Charles Imohiosen" <Imohiosen.Charles@epamail.epa.gov>  
 Date: 10/08/2009 07:23 PM  
 Subject: Fw: Possible announcement of EPA/DOE MOU

Fyi. We need to gear up for this.

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

From: Kathleen Hogan  
 Sent: 10/08/2009 06:11 PM EDT  
 To: Bob Sussman; Gina McCarthy  
 Cc: Charles Imohiosen; "Davidf Lee" <lee.davidf@epa.gov>; "Brian Mclean" <mclean.brian@epa.gov>; "Maria Vargas" <vargas.maria@epa.gov>  
 Subject: Possible announcement of EPA/DOE MOU

All,

Wanted you to know that the WH is considering announcing the EPA/DOE agreement as part of announcing the recovery thru retrofit report next week.

Need to be ready for more questions.

Kathleen

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

From: "Chu, Edward H." <[REDACTED]> (b) (6) Privacy  
 Sent: 10/08/2009 03:37 PM AST  
 To: Kathleen Hogan  
 Cc: Charles Imohiosen; "Sperling, Gil" <Gil.Sperling@ee.doe.gov>; <James.C.Lopez@hud.gov>; "Hagerman, Joseph" <Joseph.Hagerman@ee.doe.gov>  
 Subject: RE: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

Fantastic! Could you send me the signed MOU as well? I will get this over to the VPs office. Thanks!

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

From: Hogan.Kathleen@epamail.epa.gov [mailto:Hogan.Kathleen@epamail.epa.gov]  
Sent: Thursday, October 08, 2009 3:27 PM  
To: Chu, Edward H.  
Cc: Imohiosen.Charles@epamail.epa.gov; Sperling, Gil; James.C.Lopez@hud.gov; Hagerman, Joseph  
Subject: RE: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

Here is a one page fact sheet on the agreement -- the building rating pieces are relevant to RTR

(See attached file: EPADOEAgreement Fact SheetFINAL .doc)

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| From: |  
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| "Chu, Edward H." [REDACTED] (b) (6) Privacy  
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| To: |  
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| Kathleen Hogan/DC/USEPA/US@EPA  
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| Charles Imohiosen/DC/USEPA/US@EPA, "Sperling, Gil"  
<Gil.Sperling@ee.doe.gov>, <James.C.Lopez@hud.gov>, "Hagerman, Joseph"  
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| <Joseph.Hagerman@ee.doe.gov>  
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 |RE: latest draft of the RTR information section -- please review and let me  
 know if you see a "show-stopper" |

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Great! We would like to announce the DOE/EPA MOU at the RTR event on  
 Wednesday. Could you send a one-pager about the MOU (specifically  
 highlighting the link to Solution 1 in the RTR Report)? Thank you!

Also, any chance we can use the [www.energysavers.gov](http://www.energysavers.gov) site for the Energy  
 Retrofit Work Group (instead of creating a new one) if we need one?

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

From: Hogan.Kathleen@epamail.epa.gov [  
 mailto:Hogan.Kathleen@epamail.epa.gov]  
 Sent: Thursday, October 08, 2009 1:24 PM  
 To: Chu, Edward H.  
 Cc: Imohiosen.Charles@epamail.epa.gov; Sperling, Gil; James.C.Lopez@hud.gov;  
 Hagerman, Joseph  
 Subject: RE: latest draft of the RTR information section -- please review and  
 let me know if you see a "show-stopper"

It has been signed

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 | From: |  
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|"Chu, Edward H." (b) (6) Privacy  
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 | To: |  
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| "Sperling, Gil" <Gil.Sperling@ee.doe.gov>, Kathleen Hogan/DC/USEPA/US@EPA,  
Charles Imohiosen/DC/USEPA/US@EPA

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| Cc: |  
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| <James.C.Lopez@hud.gov>, "Hagerman, Joseph"  
<Joseph.Hagerman@ee.doe.gov>

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| 10/08/2009 11:27 AM

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| RE: latest draft of the RTR information section -- please review and  
let me know if you see a "show-stopper" |

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We would like to announce the MOU at the RTR event on Wednesday. (b)(5) Deliberative

[Redacted block]

From: Sperling, Gil [mailto:Gil.Sperling@ee.doe.gov]  
Sent: Thursday, October 08, 2009 11:09 AM  
To: Chu, Edward H.; Hogan.Kathleen@epamail.epa.gov;

Imohiosen.Charles@epamail.epa.gov  
Cc: James.C.Lopez@hud.gov; Hagerman, Joseph  
Subject: Re: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

We agree

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

From: Chu, Edward H. (b) (6) Privacy  
To: Hogan.Kathleen@epamail.epa.gov <Hogan.Kathleen@epamail.epa.gov>; Imohiosen.Charles@epamail.epa.gov <Imohiosen.Charles@epamail.epa.gov>  
Cc: Sperling, Gil; James C Lopez <James.C.Lopez@hud.gov>; Hagerman, Joseph  
Sent: Thu Oct 08 10:32:06 2009  
Subject: RE: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

Thanks, Kathleen!

Now, I just need to hear back from DOE.

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

From: Hogan.Kathleen@epamail.epa.gov [mailto:Hogan.Kathleen@epamail.epa.gov]  
Sent: Thursday, October 08, 2009 10:31 AM  
To: Imohiosen.Charles@epamail.epa.gov  
Cc: Chu, Edward H.; Gil Sperling; James C Lopez; Joseph Hagerman  
Subject: Re: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

All,

At this point we are ok with the language as written. (b)(5) Deliberative

-- but we are ok with the language at this point.

thanks

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|Charles Imohiosen/DC/USEPA/US

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| To: |  
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| "Chu, Edward H." [REDACTED] (b) (6) Privacy, "David Rodgers"  
<David.Rodgers@ee.doe.gov>, Kathleen Hogan/DC/USEPA/US@EPA, "Gil Sperling" |  
| <Gil.Sperling@ee.doe.gov>

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| Cc: |  
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| "James C Lopez" <James.C.Lopez@hud.gov>, "Joseph Hagerman"  
<Joseph.Hagerman@ee.doe.gov>

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|10/08/2009 09:50 AM

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|Re: latest draft of the RTR information section -- please review and  
let me know if you see a "show-stopper" |

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I thought the original language proposed by David and Kathleen was helpful.

Kathleen and David, correct me if I am wrong, but I thought the main take away

(b)(5) Deliberative

Charles Imohiosen  
Office of the Administrator  
US Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.

From: "Chu, Edward H." (b) (6) Privacy  
Sent: 10/08/2009 09:40 AM AST  
To: Charles Imohiosen; "David Rodgers" <David.Rodgers@ee.doe.gov>; Kathleen Hogan; "Gil Sperling" <Gil.Sperling@ee.doe.gov>  
Cc: "James C Lopez" <James.C.Lopez@hud.gov>; "Joseph Hagerman" <Joseph.Hagerman@ee.doe.gov>  
Subject: RE: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

(b)(5) Deliberative

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From: Imohiosen.Charles@epamail.epa.gov [mailto:Imohiosen.Charles@epamail.epa.gov]  
Sent: Thursday, October 08, 2009 9:37 AM  
To: Chu, Edward H.; David Rodgers; Hogan.Kathleen@epamail.epa.gov; Gil Sperling  
Cc: James C Lopez; Joseph Hagerman  
Subject: Re: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

(b)(5) Deliberative

Charles Imohiosen

Office of the Administrator  
US Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.

From: "Chu, Edward H." [REDACTED] (b) (6) Privacy  
Sent: 10/08/2009 09:00 AM AST  
To: <David.Rodgers@ee.doe.gov>; Kathleen Hogan; Charles Imohiosen;  
<Gil.Sperling@ee.doe.gov>  
Cc: <James.C.Lopez@hud.gov>; <Joseph.Hagerman@ee.doe.gov>  
Subject: Re: latest draft of the RTR information section -- please review  
and let me know if you see a "show-stopper"

FYI, [REDACTED] (b)(5) Deliberative .

Aloha, ED

Edward H. Chu  
Deputy Associate Director  
Green Jobs, Community Protection, and Climate Solutions

Council on Environmental Quality  
Executive Office of the President

(b) (6) Privacy Office  
(b) (6) Privacy Mobile

From: Rodgers, David  
To: Chu, Edward H.; hogan.kathleen@epa.gov ; imohiosen.charles@epa.gov ;  
Sperling, Gil  
Cc: James.C.Lopez@hud.gov ; Hagerman, Joseph  
Sent: Thu Oct 08 08:56:46 2009  
Subject: Re: latest draft of the RTR information section -- please review and  
let me know if you see a "show-stopper"

Dear Ed. [REDACTED] (b)(5) Deliberative

From: Chu, Edward H. [REDACTED] (b) (6) Privacy  
To: hogan.kathleen@epa.gov <hogan.kathleen@epa.gov>; imohiosen.charles@epa.gov  
<imohiosen.charles@epa.gov>; Rodgers, David; Sperling, Gil  
Cc: Lopez, James C <James.C.Lopez@hud.gov>  
Sent: Wed Oct 07 19:48:47 2009  
Subject: latest draft of the RTR information section -- please review and let  
me know if you see a "show-stopper"

Just wanted to check in with you regarding [REDACTED] (b)(5) Deliberative  
[REDACTED] Okay? I need to hear back from you by 9 am.

(b)(5) Deliberative [REDACTED]

[REDACTED]

(b)(5) Deliberative [Redacted]

[Redacted]

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[Redacted]

[Redacted]

01268-EPA-4947

Charles Imohiosen/DC/USEPA/US  
10/09/2009 06:48 PM

To Seth Oster  
cc Arvin Ganesan, Bob Sussman, Diane Thompson, Gina McCarthy, Richard Windsor, Scott Fulton  
bcc  
Subject Re: Fw: Possible announcement of EPA/DOE MOU

Will do. Thanks Seth.

Charles Imohiosen  
Special Assistant to the Senior Policy Counsel  
Office of the Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460  
(202) 564-9025

Seth Oster (b)(5) Deliberative 10/09/2009 06:47:22 PM

From: Seth Oster/DC/USEPA/US  
To: Bob Sussman/DC/USEPA/US@EPA, Charles Imohiosen/DC/USEPA/US@EPA  
Cc: Arvin Ganesan/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA  
Date: 10/09/2009 06:47 PM  
Subject: Re: Fw: Possible announcement of EPA/DOE MOU

(b)(5) Deliberative We will follow yp with them on Monday.

Charles -- it would be helpful to know who you are dealing with over there and what the objective is that they have in this. Let's talk Tuesday.

Seth

Bob Sussman

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

From: Bob Sussman  
Sent: 10/09/2009 06:42 PM EDT  
To: Charles Imohiosen  
Cc: Arvin Ganesan; Gina McCarthy; Seth Oster; Richard Windsor; Scott Fulton; Diane Thompson  
Subject: Re: Fw: Possible announcement of EPA/DOE MOU

Seth -- assume you'll dig into the details of the announcement and make sure it works for EPA. Sounds like we have a little time to get it right.

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

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From: Charles Imohiosen/DC/USEPA/US  
 To: Bob Sussman/DC/USEPA/US@EPA, "Arvin Ganesan" <Ganesan.Arvin@epamail.epa.gov>, "Gina McCarthy" <McCarthy.Gina@epamail.epa.gov>, "Seth Oster" <Oster.Seth@epamail.epa.gov>, "Diane Thompson" <Thompson.Diane@epamail.epa.gov>, Scott Fulton/DC/USEPA/US@EPA  
 Cc: Richard Windsor/DC/USEPA/US@EPA  
 Date: 10/09/2009 06:40 PM  
 Subject: Re: Fw: Possible announcement of EPA/DOE MOU

I apologize for the moving target, (b)(5) Deliberative

Also, as an FYI, the final version of the report was sent today to Lisa Brown, the President's Staff Secretary.

Charles Imohiosen  
 Special Assistant to the Senior Policy Counsel  
 Office of the Administrator  
 U.S. Environmental Protection Agency  
 1200 Pennsylvania Avenue, N.W.  
 Washington, D.C. 20460  
 (202) 564-9025

Bob Sussman      Fyi. We need to gear up for this. ----- O...      10/08/2009 07:23:45 PM

From: Bob Sussman/DC/USEPA/US  
 To: "Lisa P. Jackson" <Windsor.Richard@epamail.epa.gov>, "Diane Thompson" <Thompson.Diane@epamail.epa.gov>, "Arvin Ganesan" <Ganesan.Arvin@epamail.epa.gov>, "Seth Oster" <Oster.Seth@epamail.epa.gov>, "Gina McCarthy" <McCarthy.Gina@epamail.epa.gov>  
 Cc: "Charles Imohiosen" <Imohiosen.Charles@epamail.epa.gov>  
 Date: 10/08/2009 07:23 PM  
 Subject: Fw: Possible announcement of EPA/DOE MOU

Fyi. We need to gear up for this.

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

From: Kathleen Hogan  
 Sent: 10/08/2009 06:11 PM EDT  
 To: Bob Sussman; Gina McCarthy  
 Cc: Charles Imohiosen; "Davidf Lee" <lee.davidf@epa.gov>; "Brian Mclean" <mclean.brian@epa.gov>; "Maria Vargas" <vargas.maria@epa.gov>  
 Subject: Possible announcement of EPA/DOE MOU

All,

Wanted you to know that the WH is considering announcing the EPA/DOE agreement as part of announcing the recovery thru retrofit report next week.

Need to be ready for more questions.



Kathleen

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

From: "Chu, Edward H." [REDACTED] (b) (6) Privacy  
Sent: 10/08/2009 03:37 PM AST  
To: Kathleen Hogan  
Cc: Charles Imohiosen; "Sperling, Gil" <Gil.Sperling@ee.doe.gov>;  
<James.C.Lopez@hud.gov>; "Hagerman, Joseph" <Joseph.Hagerman@ee.doe.gov>  
Subject: RE: latest draft of the RTR information section -- please review and  
let me know if you see a "show-stopper"

Fantastic! Could you send me the signed MOU as well? I will get this over to  
the VPs office. Thanks!

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

From: Hogan.Kathleen@epamail.epa.gov [mailto:Hogan.Kathleen@epamail.epa.gov]  
Sent: Thursday, October 08, 2009 3:27 PM  
To: Chu, Edward H.  
Cc: Imohiosen.Charles@epamail.epa.gov; Sperling, Gil; James.C.Lopez@hud.gov;  
Hagerman, Joseph  
Subject: RE: latest draft of the RTR information section -- please review and  
let me know if you see a "show-stopper"

Here is a one page fact sheet on the agreement -- the building rating pieces  
are relevant to RTR

(See attached file: EPADOEAgreement Fact SheetFINAL .doc)

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| From: |  
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| "Chu, Edward H." [REDACTED] (b) (6) Privacy  
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| To: |  
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| Kathleen Hogan/DC/USEPA/US@EPA  
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| Cc: |  
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| Charles Imohiosen/DC/USEPA/US@EPA, "Sperling, Gil"  
<Gil.Sperling@ee.doe.gov>, <James.C.Lopez@hud.gov>, "Hagerman, Joseph"  
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| <Joseph.Hagerman@ee.doe.gov>  
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Great! We would like to announce the DOE/EPA MOU at the RTR event on Wednesday. Could you send a one-pager about the MOU (specifically highlighting the link to Solution 1 in the RTR Report)? Thank you!

Also, any chance we can use the [www.energysavers.gov](http://www.energysavers.gov) site for the Energy Retrofit Work Group (instead of creating a new one) if we need one?

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

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Sent: Thursday, October 08, 2009 1:24 PM  
To: Chu, Edward H.  
Cc: Imohiosen.Charles@epamail.epa.gov; Sperling, Gil; James.C.Lopez@hud.gov; Hagerman, Joseph  
Subject: RE: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

It has been signed

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| From: |  
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| "Chu, Edward H." [REDACTED] (b) (6) Privacy  
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| To: |  
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| "Sperling, Gil" <Gil.Sperling@ee.doe.gov>, Kathleen Hogan/DC/USEPA/US@EPA,  
Charles Imohiosen/DC/USEPA/US@EPA  
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| Cc: |  
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| <James.C.Lopez@hud.gov>, "Hagerman, Joseph"  
<Joseph.Hagerman@ee.doe.gov>  
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| Date: |  
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| 10/08/2009 11:27 AM  
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|RE: latest draft of the RTR information section -- please review and  
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We would like to announce the MOU at the RTR event on Wednesday. (b)(5) Deliberative

[Redacted]

From: Sperling, Gil [mailto:Gil.Sperling@ee.doe.gov]  
 Sent: Thursday, October 08, 2009 11:09 AM  
 To: Chu, Edward H.; Hogan.Kathleen@epamail.epa.gov;  
 Imohiosen.Charles@epamail.epa.gov  
 Cc: James.C.Lopez@hud.gov; Hagerman, Joseph  
 Subject: Re: latest draft of the RTR information section -- please review and  
 let me know if you see a "show-stopper"

We agree

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

From: Chu, Edward H. (b) (6) Privacy  
 To: Hogan.Kathleen@epamail.epa.gov <Hogan.Kathleen@epamail.epa.gov>;  
 Imohiosen.Charles@epamail.epa.gov <Imohiosen.Charles@epamail.epa.gov>  
 Cc: Sperling, Gil; James C Lopez <James.C.Lopez@hud.gov>; Hagerman, Joseph  
 Sent: Thu Oct 08 10:32:06 2009  
 Subject: RE: latest draft of the RTR information section -- please review and  
 let me know if you see a "show-stopper"

Thanks, Kathleen!

Now, I just need to hear back from DOE.

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

From: Hogan.Kathleen@epamail.epa.gov [mailto:Hogan.Kathleen@epamail.epa.gov]  
 Sent: Thursday, October 08, 2009 10:31 AM  
 To: Imohiosen.Charles@epamail.epa.gov  
 Cc: Chu, Edward H.; Gil Sperling; James C Lopez; Joseph Hagerman  
 Subject: Re: latest draft of the RTR information section -- please review and  
 let me know if you see a "show-stopper"

All,

At this point we are ok with the language as written. (b)(5) Deliberative

[Redacted]  
 -- but we are ok with the language at this point.

thanks

|----->  
| From: |  
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| Charles Imohiosen/DC/USEPA/US  
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|----->  
| To: |  
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>-----  
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| "Chu, Edward H." [REDACTED] (b) (6) Privacy, "David Rodgers"  
<David.Rodgers@ee.doe.gov>, Kathleen Hogan/DC/USEPA/US@EPA, "Gil Sperling" |  
| <Gil.Sperling@ee.doe.gov>  
|

>-----  
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|----->  
| Cc: |  
|----->

>-----  
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| "James C Lopez" <James.C.Lopez@hud.gov>, "Joseph Hagerman"  
<Joseph.Hagerman@ee.doe.gov>  
|

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|----->  
| Date: |  
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| 10/08/2009 09:50 AM  
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| Subject: |  
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|Re: latest draft of the RTR information section -- please review and  
let me know if you see a "show-stopper" |

>-----  
-----|

I thought the original language proposed by David and Kathleen was helpful.

Kathleen and David, correct me if I am wrong, but I thought the main take away

(b)(5) Deliberative  
[Redacted]

Charles Imohiosen  
Office of the Administrator  
US Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.

From: "Chu, Edward H." (b) (6) Privacy  
Sent: 10/08/2009 09:40 AM AST  
To: Charles Imohiosen; "David Rodgers" <David.Rodgers@ee.doe.gov>; Kathleen  
Hogan; "Gil Sperling" <Gil.Sperling@ee.doe.gov>  
Cc: "James C Lopez" <James.C.Lopez@hud.gov>; "Joseph Hagerman"  
<Joseph.Hagerman@ee.doe.gov>  
Subject: RE: latest draft of the RTR information section -- please review  
and let me know if you see a "show-stopper"

(b)(5) Deliberative  
[Redacted]

I am making final changes now and need to send over the final document to the

WH staff secretary at 10.

From: Imohiosen.Charles@epamail.epa.gov [mailto:Imohiosen.Charles@epamail.epa.gov]  
Sent: Thursday, October 08, 2009 9:37 AM  
To: Chu, Edward H.; David Rodgers; Hogan.Kathleen@epamail.epa.gov; Gil Sperling  
Cc: James C Lopez; Joseph Hagerman  
Subject: Re: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

(b)(5) Deliberative  
[Redacted]

Charles Imohiosen  
Office of the Administrator  
US Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.

From: "Chu, Edward H." [Redacted] (b) (6) Privacy  
Sent: 10/08/2009 09:00 AM AST  
To: <David.Rodgers@ee.doe.gov>; Kathleen Hogan; Charles Imohiosen; <Gil.Sperling@ee.doe.gov>  
Cc: <James.C.Lopez@hud.gov>; <Joseph.Hagerman@ee.doe.gov>  
Subject: Re: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

FYI, [Redacted] (b)(5) Deliberative

Aloha, ED

Edward H. Chu  
Deputy Associate Director  
Green Jobs, Community Protection, and Climate Solutions

Council on Environmental Quality  
Executive Office of the President

(b) (6) Privacy Office  
(b) (6) Privacy Mobile

From: Rodgers, David  
To: Chu, Edward H.; hogan.kathleen@epa.gov ; imohiosen.charles@epa.gov ; Sperling, Gil  
Cc: James.C.Lopez@hud.gov ; Hagerman, Joseph  
Sent: Thu Oct 08 08:56:46 2009  
Subject: Re: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

Dear Ed. [Redacted] (b)(5) Deliberative

(b)(5) Deliberative

From: Chu, Edward H. (b) (6) Privacy  
To: hogan.kathleen@epa.gov <hogan.kathleen@epa.gov>; imohiosen.charles@epa.gov <imohiosen.charles@epa.gov>; Rodgers, David; Sperling, Gil  
Cc: Lopez, James C <James.C.Lopez@hud.gov>  
Sent: Wed Oct 07 19:48:47 2009  
Subject: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"  
Just wanted to check in with you regarding (b)(5) Deliberative  
Okay? I need to hear back from you by 9 am.

(b)(5) Deliberative

[Redacted]

[Redacted]

[Redacted]

[Redacted]



(b)(5) Deliberative



01268-EPA-4949

Richard Windsor/DC/USEPA/US  
10/11/2009 07:33 AM

To Charles Imohiosen  
cc  
bcc

Subject Re: Fw: Possible announcement of EPA/DOE MOU

Hey. Did I miss something? (b)(5) Deliberative ?  
Charles Imohiosen

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

**From:** Charles Imohiosen  
**Sent:** 10/09/2009 06:40 PM EDT  
**To:** Bob Sussman; Arvin Ganesan; Gina McCarthy; Seth Oster; Diane Thompson; Scott Fulton  
**Cc:** Richard Windsor  
**Subject:** Re: Fw: Possible announcement of EPA/DOE MOU

I apologize for the moving target, (b)(5) Deliberative

Also, as an FYI, the final version of the report was sent today to Lisa Brown, the President's Staff Secretary.

Charles Imohiosen  
Special Assistant to the Senior Policy Counsel  
Office of the Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460  
(202) 564-9025

Bob Sussman Fyi. We need to gear up for this. ----- O... 10/08/2009 07:23:45 PM

**From:** Bob Sussman/DC/USEPA/US  
**To:** "Lisa P. Jackson" <Windsor.Richard@epamail.epa.gov>, "Diane Thompson" <Thompson.Diane@epamail.epa.gov>, "Arvin Ganesan" <Ganesan.Arvin@epamail.epa.gov>, "Seth Oster" <Oster.Seth@epamail.epa.gov>, "Gina McCarthy" <McCarthy.Gina@epamail.epa.gov>  
**Cc:** "Charles Imohiosen" <Imohiosen.Charles@epamail.epa.gov>  
**Date:** 10/08/2009 07:23 PM  
**Subject:** Fw: Possible announcement of EPA/DOE MOU

Fyi. We need to gear up for this.

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

**From:** Kathleen Hogan  
**Sent:** 10/08/2009 06:11 PM EDT  
**To:** Bob Sussman; Gina McCarthy  
**Cc:** Charles Imohiosen; "Davidf Lee" <lee.davidf@epa.gov>; "Brian Mclean" <mclean.brian@epa.gov>; "Maria Vargas" <vargas.maria@epa.gov>

Subject: Possible announcement of EPA/DOE MOU

All,

Wanted you to know that the WH is considering announcing the EPA/DOE agreement as part of announcing the recovery thru retrofit report next week.

Need to be ready for more questions.

Kathleen

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

From: "Chu, Edward H." (b) (6) Privacy  
Sent: 10/08/2009 03:37 PM AST  
To: Kathleen Hogan  
Cc: Charles Imohiosen; "Sperling, Gil" <Gil.Sperling@ee.doe.gov>; <James.C.Lopez@hud.gov>; "Hagerman, Joseph" <Joseph.Hagerman@ee.doe.gov>  
Subject: RE: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

Fantastic! Could you send me the signed MOU as well? I will get this over to the VPs office. Thanks!

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

From: Hogan.Kathleen@epamail.epa.gov [mailto:Hogan.Kathleen@epamail.epa.gov]  
Sent: Thursday, October 08, 2009 3:27 PM  
To: Chu, Edward H.  
Cc: Imohiosen.Charles@epamail.epa.gov; Sperling, Gil; James.C.Lopez@hud.gov; Hagerman, Joseph  
Subject: RE: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

Here is a one page fact sheet on the agreement -- the building rating pieces are relevant to RTR

(See attached file: EPADOEAgreement Fact SheetFINAL .doc)

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| From: |  
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| "Chu, Edward H." (b) (6) Privacy  
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| Kathleen Hogan/DC/USEPA/US@EPA
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| Cc:
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| Charles Imohiosen/DC/USEPA/US@EPA, "Sperling, Gil"
| <Gil.Sperling@ee.doe.gov>, <James.C.Lopez@hud.gov>, "Hagerman, Joseph"
|
| <Joseph.Hagerman@ee.doe.gov>
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| Date:
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| 10/08/2009 03:12 PM
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| Subject:
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| RE: latest draft of the RTR information section -- please review and let me
| know if you see a "show-stopper"
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Great! We would like to announce the DOE/EPA MOU at the RTR event on Wednesday. Could you send a one-pager about the MOU (specifically highlighting the link to Solution 1 in the RTR Report)? Thank you!

Also, any chance we can use the [www.energysavers.gov](http://www.energysavers.gov) site for the Energy Retrofit Work Group (instead of creating a new one) if we need one?

-----Original Message-----  
From: Hogan.Kathleen@epamail.epa.gov [

mailto:Hogan.Kathleen@epamail.epa.gov]
Sent: Thursday, October 08, 2009 1:24 PM
To: Chu, Edward H.
Cc: Imohiosen.Charles@epamail.epa.gov; Sperling, Gil; James.C.Lopez@hud.gov;
Hagerman, Joseph
Subject: RE: latest draft of the RTR information section -- please review and
let me know if you see a "show-stopper"

It has been signed

|----->
| From: |
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|"Chu, Edward H." (b) (6) Privacy

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|----->
| To: |
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|"Sperling, Gil" <Gil.Sperling@ee.doe.gov>, Kathleen Hogan/DC/USEPA/US@EPA,
Charles Imohiosen/DC/USEPA/US@EPA

>-----

|----->
| Cc: |
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|<James.C.Lopez@hud.gov>, "Hagerman, Joseph"
<Joseph.Hagerman@ee.doe.gov>

>-----

|----->
| Date: |
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|10/08/2009 11:27 AM

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| Subject: |  
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|RE: latest draft of the RTR information section -- please review and  
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We would like to announce the MOU at the RTR event on Wednesday. (b)(5) Deliberative

[Redacted]

From: Sperling, Gil [mailto:Gil.Sperling@ee.doe.gov]  
Sent: Thursday, October 08, 2009 11:09 AM  
To: Chu, Edward H.; Hogan.Kathleen@epamail.epa.gov;  
Imohiosen.Charles@epamail.epa.gov  
Cc: James.C.Lopez@hud.gov; Hagerman, Joseph  
Subject: Re: latest draft of the RTR information section -- please review and  
let me know if you see a "show-stopper"

We agree

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

From: Chu, Edward H. (b) (6) Privacy  
To: Hogan.Kathleen@epamail.epa.gov <Hogan.Kathleen@epamail.epa.gov>;  
Imohiosen.Charles@epamail.epa.gov <Imohiosen.Charles@epamail.epa.gov>  
Cc: Sperling, Gil; James C Lopez <James.C.Lopez@hud.gov>; Hagerman, Joseph  
Sent: Thu Oct 08 10:32:06 2009  
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Subject: Re: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

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| From: |  
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| Charles Imohiosen/DC/USEPA/US

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| To: |  
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| "Chu, Edward H." (b) (6) Privacy, "David Rodgers"  
<David.Rodgers@ee.doe.gov>, Kathleen Hogan/DC/USEPA/US@EPA, "Gil Sperling" |  
| <Gil.Sperling@ee.doe.gov>

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| Cc: |  
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| "James C Lopez" <James.C.Lopez@hud.gov>, "Joseph Hagerman"  
<Joseph.Hagerman@ee.doe.gov>

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| Date: |  
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|10/08/2009 09:50 AM

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| Subject: |  
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|Re: latest draft of the RTR information section -- please review and  
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(b)(5) Deliberative  
[Redacted]

Charles Imohiosen  
Office of the Administrator  
US Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.

From: "Chu, Edward H." (b) (6) Privacy  
Sent: 10/08/2009 09:40 AM AST  
To: Charles Imohiosen; "David Rodgers" <David.Rodgers@ee.doe.gov>; Kathleen Hogan; "Gil Sperling" <Gil.Sperling@ee.doe.gov>  
Cc: "James C Lopez" <James.C.Lopez@hud.gov>; "Joseph Hagerman" <Joseph.Hagerman@ee.doe.gov>



Subject: RE: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

(b)(5) Deliberative

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From: Imohiosen.Charles@epamail.epa.gov [mailto:Imohiosen.Charles@epamail.epa.gov]  
Sent: Thursday, October 08, 2009 9:37 AM  
To: Chu, Edward H.; David Rodgers; Hogan.Kathleen@epamail.epa.gov; Gil Sperling  
Cc: James C Lopez; Joseph Hagerman  
Subject: Re: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

(b)(5) Deliberative

Charles Imohiosen  
Office of the Administrator  
US Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.

From: "Chu, Edward H." (b) (6) Privacy  
Sent: 10/08/2009 09:00 AM AST  
To: <David.Rodgers@ee.doe.gov>; Kathleen Hogan; Charles Imohiosen; <Gil.Sperling@ee.doe.gov>  
Cc: <James.C.Lopez@hud.gov>; <Joseph.Hagerman@ee.doe.gov>  
Subject: Re: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

FYI, (b)(5) Deliberative

Aloha, ED

Edward H. Chu  
Deputy Associate Director  
Green Jobs, Community Protection, and Climate Solutions

Council on Environmental Quality  
Executive Office of the President

(b) (6) Privacy Office

(b) (6) Privacy Mobile

From: Rodgers, David  
To: Chu, Edward H.; hogan.kathleen@epa.gov ; imohiosen.charles@epa.gov ; Sperling, Gil  
Cc: James.C.Lopez@hud.gov ; Hagerman, Joseph  
Sent: Thu Oct 08 08:56:46 2009  
Subject: Re: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"  
Dear Ed. (b)(5) Deliberative

From: Chu, Edward H. (b) (6) Privacy  
To: hogan.kathleen@epa.gov <hogan.kathleen@epa.gov>; imohiosen.charles@epa.gov <imohiosen.charles@epa.gov>; Rodgers, David; Sperling, Gil  
Cc: Lopez, James C <James.C.Lopez@hud.gov>  
Sent: Wed Oct 07 19:48:47 2009  
Subject: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"  
Just wanted to check in with you regarding (b)(5) Deliberative  
Okay? I need to hear back from you by 9 am.

(b)(5) Deliberative

[Redacted]

[Redacted]

[Redacted]

(b)(5) Deliberative [Redacted]

[Redacted]

01268-EPA-4950

Charles  
Imohiosen/DC/USEPA/US  
10/11/2009 09:15 AM

To Richard Windsor  
cc  
bcc

Subject Re: Fw: Possible announcement of EPA/DOE MOU

Hi. Hope you are being afforded some relaxation time over the long weekend.

(b)(5) Deliberative  
[Redacted]

[Redacted]

[Redacted]

[Redacted]

Have a great weekend!

Best regards,

Charles

Charles Imohiosen  
Office of the Administrator  
US Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Richard Windsor

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

**From:** Richard Windsor  
**Sent:** 10/11/2009 07:33 AM EDT  
**To:** Charles Imohiosen  
**Subject:** Re: Fw: Possible announcement of EPA/DOE MOU

Hey. Did I miss something? (b)(5) Deliberative ?  
Charles Imohiosen

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

**From:** Charles Imohiosen  
**Sent:** 10/09/2009 06:40 PM EDT  
**To:** Bob Sussman; Arvin Ganesan; Gina McCarthy; Seth Oster; Diane Thompson; Scott Fulton  
**Cc:** Richard Windsor  
**Subject:** Re: Fw: Possible announcement of EPA/DOE MOU

I apologize for the moving target, (b)(5) Deliberative

(b)(5) Deliberative

Also, as an FYI, the final version of the report was sent today to Lisa Brown, the President's Staff Secretary.

Charles Imohiosen  
 Special Assistant to the Senior Policy Counsel  
 Office of the Administrator  
 U.S. Environmental Protection Agency  
 1200 Pennsylvania Avenue, N.W.  
 Washington, D.C. 20460  
 (202) 564-9025

Bob Sussman      Fyi. We need to gear up for this. ----- O...      10/08/2009 07:23:45 PM

From: Bob Sussman/DC/USEPA/US  
 To: "Lisa P. Jackson" <Windsor.Richard@epamail.epa.gov>, "Diane Thompson" <Thompson.Diane@epamail.epa.gov>, "Arvin Ganesan" <Ganesan.Arvin@epamail.epa.gov>, "Seth Oster" <Oster.Seth@epamail.epa.gov>, "Gina McCarthy" <McCarthy.Gina@epamail.epa.gov>  
 Cc: "Charles Imohiosen" <Imohiosen.Charles@epamail.epa.gov>  
 Date: 10/08/2009 07:23 PM  
 Subject: Fw: Possible announcement of EPA/DOE MOU

Fyi. We need to gear up for this.

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

From: Kathleen Hogan  
 Sent: 10/08/2009 06:11 PM EDT  
 To: Bob Sussman; Gina McCarthy  
 Cc: Charles Imohiosen; "Davidf Lee" <lee.davidf@epa.gov>; "Brian Mclean" <mclean.brian@epa.gov>; "Maria Vargas" <vargas.maria@epa.gov>  
 Subject: Possible announcement of EPA/DOE MOU

All,

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Need to be ready for more questions.

Kathleen

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

From: "Chu, Edward H." (b) (6) Privacy  
 Sent: 10/08/2009 03:37 PM AST

To: Kathleen Hogan  
Cc: Charles Imohiosen; "Sperling, Gil" <Gil.Sperling@ee.doe.gov>; <James.C.Lopez@hud.gov>; "Hagerman, Joseph" <Joseph.Hagerman@ee.doe.gov>  
Subject: RE: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

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

From: Hogan.Kathleen@epamail.epa.gov [mailto:Hogan.Kathleen@epamail.epa.gov]  
Sent: Thursday, October 08, 2009 3:27 PM  
To: Chu, Edward H.  
Cc: Imohiosen.Charles@epamail.epa.gov; Sperling, Gil; James.C.Lopez@hud.gov; Hagerman, Joseph  
Subject: RE: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

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(See attached file: EPADOEAgreement Fact SheetFINAL .doc)

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| From: |  
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| "Chu, Edward H." [REDACTED] (b) (6) Privacy  
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| To: |  
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| Kathleen Hogan/DC/USEPA/US@EPA  
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| Charles Imohiosen/DC/USEPA/US@EPA, "Sperling, Gil"  
<Gil.Sperling@ee.doe.gov>, <James.C.Lopez@hud.gov>, "Hagerman, Joseph"  
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| <Joseph.Hagerman@ee.doe.gov>  
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|10/08/2009 03:12 PM
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| Subject: |
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Also, any chance we can use the [www.energysavers.gov](http://www.energysavers.gov) site for the Energy Retrofit Work Group (instead of creating a new one) if we need one?

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

From: Hogan.Kathleen@epamail.epa.gov [mailto:Hogan.Kathleen@epamail.epa.gov]  
 Sent: Thursday, October 08, 2009 1:24 PM  
 To: Chu, Edward H.  
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 Subject: RE: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

It has been signed

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|----->
| From:   |
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| "Chu, Edward H." [REDACTED] (b) (6) Privacy
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| To: |  
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| "Sperling, Gil" <Gil.Sperling@ee.doe.gov>, Kathleen Hogan/DC/USEPA/US@EPA,  
Charles Imohiosen/DC/USEPA/US@EPA  
|

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|----->  
| Cc: |  
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| <James.C.Lopez@hud.gov>, "Hagerman, Joseph"  
<Joseph.Hagerman@ee.doe.gov>  
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| Date: |  
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| 10/08/2009 11:27 AM  
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| Subject: |  
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We would like to announce the MOU at the RTR event on Wednesday. (b)(5) Deliberative

[Redacted]

From: Sperling, Gil [mailto:Gil.Sperling@ee.doe.gov]  
Sent: Thursday, October 08, 2009 11:09 AM  
To: Chu, Edward H.; Hogan.Kathleen@epamail.epa.gov;  
Imohiosen.Charles@epamail.epa.gov  
Cc: James.C.Lopez@hud.gov; Hagerman, Joseph  
Subject: Re: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

We agree

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

From: Chu, Edward H. (b) (6) Privacy  
To: Hogan.Kathleen@epamail.epa.gov <Hogan.Kathleen@epamail.epa.gov>;  
Imohiosen.Charles@epamail.epa.gov <Imohiosen.Charles@epamail.epa.gov>  
Cc: Sperling, Gil; James C Lopez <James.C.Lopez@hud.gov>; Hagerman, Joseph  
Sent: Thu Oct 08 10:32:06 2009  
Subject: RE: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

Thanks, Kathleen!

Now, I just need to hear back from DOE.

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

From: Hogan.Kathleen@epamail.epa.gov [mailto:Hogan.Kathleen@epamail.epa.gov]  
Sent: Thursday, October 08, 2009 10:31 AM  
To: Imohiosen.Charles@epamail.epa.gov  
Cc: Chu, Edward H.; Gil Sperling; James C Lopez; Joseph Hagerman  
Subject: Re: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

All,

At this point we are ok with the language as written. (b)(5) Deliberative

[Redacted]  
-- but we are ok with the language at this point.

thanks

|----->  
| From: |  
|----->

>-----  
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| Charles Imohiosen/DC/USEPA/US

|

>-----  
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|----->  
| To: |  
|----->

>-----  
-----|

| "Chu, Edward H." [REDACTED] (b) (6) Privacy, "David Rodgers"  
<David.Rodgers@ee.doe.gov>, Kathleen Hogan/DC/USEPA/US@EPA, "Gil Sperling" |  
| <Gil.Sperling@ee.doe.gov>

|

>-----  
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|----->  
| Cc: |  
|----->

>-----  
-----|

| "James C Lopez" <James.C.Lopez@hud.gov>, "Joseph Hagerman"  
<Joseph.Hagerman@ee.doe.gov>

|

>-----  
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|----->  
| Date: |  
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| 10/08/2009 09:50 AM

|

>-----  
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|----->  
| Subject: |  
|----->

>-----

-----|  
 |Re: latest draft of the RTR information section -- please review and  
 let me know if you see a "show-stopper" |

>-----

I thought the original language proposed by David and Kathleen was helpful.

Kathleen and David, correct me if I am wrong, but I thought the main take away

(b)(5) Deliberative  
 [Redacted]

Charles Imohiosen  
 Office of the Administrator  
 US Environmental Protection Agency  
 1200 Pennsylvania Avenue, N.W.

From: "Chu, Edward H." (b) (6) Privacy  
 Sent: 10/08/2009 09:40 AM AST  
 To: Charles Imohiosen; "David Rodgers" <David.Rodgers@ee.doe.gov>; Kathleen Hogan; "Gil Sperling" <Gil.Sperling@ee.doe.gov>  
 Cc: "James C Lopez" <James.C.Lopez@hud.gov>; "Joseph Hagerman" <Joseph.Hagerman@ee.doe.gov>  
 Subject: RE: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

(b)(5) Deliberative  
 [Redacted]

I am making final changes now and need to send over the final document to the WH staff secretary at 10.

From: Imohiosen.Charles@epamail.epa.gov [mailto:Imohiosen.Charles@epamail.epa.gov]  
 Sent: Thursday, October 08, 2009 9:37 AM  
 To: Chu, Edward H.; David Rodgers; Hogan.Kathleen@epamail.epa.gov; Gil Sperling  
 Cc: James C Lopez; Joseph Hagerman  
 Subject: Re: latest draft of the RTR information section -- please review and let me know if you see a "show-stopper"

(b)(5) Deliberative  
[Redacted]

Charles Imohiosen  
Office of the Administrator  
US Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.

From: "Chu, Edward H." [Redacted] (b) (6) Privacy  
Sent: 10/08/2009 09:00 AM AST  
To: <David.Rodgers@ee.doe.gov>; Kathleen Hogan; Charles Imohiosen;  
<Gil.Sperling@ee.doe.gov>  
Cc: <James.C.Lopez@hud.gov>; <Joseph.Hagerman@ee.doe.gov>  
Subject: Re: latest draft of the RTR information section -- please review  
and let me know if you see a "show-stopper"

FYI, [Redacted] (b)(5) Deliberative

Aloha, ED

Edward H. Chu  
Deputy Associate Director  
Green Jobs, Community Protection, and Climate Solutions

Council on Environmental Quality  
Executive Office of the President

(b) (6) Privacy Office  
(b) (6) Privacy Mobile

From: Rodgers, David  
To: Chu, Edward H.; hogan.kathleen@epa.gov ; imohiosen.charles@epa.gov ;  
Sperling, Gil  
Cc: James.C.Lopez@hud.gov ; Hagerman, Joseph  
Sent: Thu Oct 08 08:56:46 2009  
Subject: Re: latest draft of the RTR information section -- please review and  
let me know if you see a "show-stopper"

Dear Ed. [Redacted] (b)(5) Deliberative  
[Redacted]

From: Chu, Edward H. [Redacted] (b) (6) Privacy  
To: hogan.kathleen@epa.gov <hogan.kathleen@epa.gov>; imohiosen.charles@epa.gov  
<imohiosen.charles@epa.gov>; Rodgers, David; Sperling, Gil  
Cc: Lopez, James C <James.C.Lopez@hud.gov>  
Sent: Wed Oct 07 19:48:47 2009  
Subject: latest draft of the RTR information section -- please review and let  
me know if you see a "show-stopper"

Just wanted to check in with you regarding (b)(5) Deliberative  
Okay? I need to hear back from you by 9 am.

(b)(5) Deliberative

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

(b)(5) Deliberative

01268-EPA-4951

**David McIntosh/DC/USEPA/US**  
10/12/2009 06:12 PM

To windsor.richard  
cc thompson.diane  
bcc

Subject Fw: Talking Points: Obama Administration Commitment to Passing Comprehensive Energy Legislation

FYI

----- Forwarded by David McIntosh/DC/USEPA/US on 10/12/2009 06:11 PM -----

From: "Maher, Jessica A." <(b) (6) Privacy>  
To: "Maher, Jessica A." <(b) (6) Privacy>  
Date: 10/12/2009 04:39 PM  
Subject: FW: Talking Points: Obama Administration Commitment to Passing Comprehensive Energy Legislation

Hi,

Your communications folks have already received the below, but we wanted to make sure that you had them as well given your Department's involvement in helping to move comprehensive energy legislation forward.

Thanks.

Jess

**Jessica Maher**  
Legislative Affairs  
White House Council on Environmental Quality  
730 Jackson Place, NW  
Washington, DC 20503  
Main Line: (b) (6) Privacy  
Direct: (b) (6) Privacy  
Cell: (b) (6) Privacy  
(b) (6) Privacy

**From:** Lehrich, Matthew A.  
**Sent:** Monday, October 12, 2009 4:21 PM  
**To:** Lehrich, Matthew A.  
**Subject:** Talking Points: Obama Administration Commitment to Passing Comprehensive Energy Legislation

**Talking Points: Obama Administration Commitment to Passing Comprehensive Energy Legislation**

- (b)(5) Deliberative  
[Redacted]

[Redacted]

(b)(5) Deliberative [Redacted]  
[Redacted]

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[Redacted]  
[Redacted]  
[Redacted]



01268-EPA-4952

**Diane  
Thompson/DC/USEPA/US**  
10/13/2009 09:36 AM

To Richard Windsor, Gina McCarthy, David McIntosh, Lisa  
Heinzerling, Bob Perciasepe, Scott Fulton  
cc Aaron Dickerson, Robert Goulding, Eric Wachter  
bcc

Subject Fw: Talking Points: Obama Administration Commitment to  
Passing Comprehensive Energy Legislation

FYI

\*\*\*\*\*

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

----- Forwarded by Diane Thompson/DC/USEPA/US on 10/13/2009 09:34 AM -----

From: "Milakofsky, Benjamin E." <(b) (6) Privacy >  
To: "Lu, Christopher P." <(b) (6) Privacy > "Smith, Elizabeth S." <(b) (6) Privacy >  
<(b) (6) Privacy > "Kimball, Astri B." <(b) (6) Privacy >  
"French, Michael J." <(b) (6) Privacy > "Greenawalt, Andrei M." <(b) (6) Privacy >  
<(b) (6) Privacy > "Milakofsky, Benjamin E." <(b) (6) Privacy >  
<(b) (6) Privacy > "Taylor, Adam R." <(b) (6) Privacy >  
Date: 10/13/2009 08:21 AM  
Subject: Talking Points: Obama Administration Commitment to Passing Comprehensive Energy Legislation

Dear Chiefs of Staff:

Please see the below talking points on comprehensive energy legislation.

--Cabinet Affairs

**Talking Points: Obama Administration Commitment to Passing Comprehensive Energy Legislation**

(b)(5) Deliberative [Redacted]

[Redacted]

[Redacted]

[Redacted]

(b)(5) Deliberative

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

01268-EPA-4953

**Charles  
Imohiosen/DC/USEPA/US**  
10/13/2009 09:43 AM

To Richard Windsor  
cc  
bcc

Subject Fw: Final RTR Report

Charles Imohiosen  
Special Assistant to the Senior Policy Counsel  
Office of the Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460  
(202) 564-9025

----- Forwarded by Charles Imohiosen/DC/USEPA/US on 10/13/2009 09:43 AM -----

From: "Chu, Edward H." [REDACTED] (b) (6) Privacy  
To: Charles Imohiosen/DC/USEPA/US@EPA  
Date: 10/13/2009 09:36 AM  
Subject: Final RTR Report

---

(b)(5) Deliberative  
[REDACTED]

Here's the report that went over to the President Friday night. RTR OVP Draft v6.docx

01268-EPA-4954

**Charles  
Imohiosen/DC/USEPA/US**  
10/13/2009 12:17 PM

To Diane Thompson, Seth Oster, Scott Fulton, Gina McCarthy  
cc Richard Windsor  
bcc

Subject

Attached below are copies of the Recovery Through Retrofit Final Report and cover memo that was sent to the President over the weekend.

Regards,

Charles

Charles Imohiosen  
Special Assistant to the Senior Policy Counsel  
Office of the Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460  
(202) 564-9025

(b)(5) Deliberative

(b)(5) Deliberative

RTRCoverMEMO\_Draft.pdf RTR OVP Draft v6.pdf

01268-EPA-4955

**Charles Imohiosen/DC/USEPA/US**  
10/13/2009 06:03 PM

To Gina McCarthy  
cc Richard Windsor  
bcc

Subject RTR report and cover letter

Charles Imohiosen  
Special Assistant to the Senior Policy Counsel  
Office of the Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460  
(202) 564-9025

----- Forwarded by Charles Imohiosen/DC/USEPA/US on 10/13/2009 06:03 PM -----

From: Charles Imohiosen/DC/USEPA/US  
To: Diane Thompson/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA, Gina McCarthy/DC/USEPA/US@EPA  
Cc: Richard Windsor/DC/USEPA/US@EPA  
Date: 10/13/2009 12:17 PM  
Subject:

---

Attached below are copies of the Recovery Through Retrofit Final Report and cover memo that was sent to the President over the weekend.

Regards,

Charles

Charles Imohiosen  
Special Assistant to the Senior Policy Counsel  
Office of the Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460  
(202) 564-9025

(b)(5) Deliberative

(b)(5) Deliberative

RTRCoverMEMO\_Draft.pdf RTR OVP Draft v6.pdf

01268-EPA-4957

Bob Sussman/DC/USEPA/US

10/14/2009 06:05 PM

To Seth Oster, Richard Windsor

cc

bcc

Subject Fw: More from Charleston about the Hearing

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

----- Forwarded by Bob Sussman/DC/USEPA/US on 10/14/2009 06:04 PM -----

From: Gregory Peck/DC/USEPA/US  
To: Bob Sussman/DC/USEPA/US@EPA  
Cc: Suzanne Schwartz/DC/USEPA/US@EPA, Kevin Minoli, (b) (6) Privacy  
Date: 10/14/2009 04:12 PM  
Subject: More from Charleston about the Hearing

## Corps: MTR hearing ‘conducted in an orderly fashion’

by Ken Ward Jr.



*Corps of Engineers officials, left to right, Deb Tabor, Robert Peterson, Gina Gaffney-Smith, ran last night's public hearing on mountaintop removal. G Dorst.*

My buddy Ry Rivard at the Charleston Daily Mail (whose editors must not care about buried his story inside their paper) [reports this morning](#) on some mountaintop removal into last night's hearing and didn't get much help from local police.

On The Huffington Post, Jeff Biggers [recounts similar stories](#) from coalfield activists. The lead of [The Associated Press story concluded](#) that coal supporters “shouted down them, and Erica Peterson at West Virginia Public Broadcasting [explained how some lost some of their time](#) at the microphone because the yelling and jeering drowned th

But when I asked Meg Gaffney-Smith, chief of the U.S. Army Corps of Engineers p  
this, here's what she said:

*I believe that the hearing was conducted in an orderly fashion. It was conducted in an orderly fashion.*

Gaffney-Smith, who works in Washington but was in Charleston for last night's hearing

*I think it is difficult to manage the safety of all speakers and the intent was to ensure that everyone could hear what was said and ensure the safety of all speakers.*

Now during the hearing, Bill Price of the Sierra Club specifically asked Corps Col. Peterson to have police remove folks who were disrupting other speakers from the room.

Peterson refused, and Gaffney-Smith explained this decision to me by saying that Corps authorities were worried that removing some of the coal supporters could create a "scene" for the officials, police and other speakers in attendance. Instead, Gaffney-Smith said, the Corps tried to manage the situation so that the Corps could hear everybody who wanted to speak. She said:

*My belief is that we were able to maintain order and receive comments from everyone. I don't believe anyone was intimidated from speaking. We recognized that the crowd was large and very vocal. They probably could have been more respectful.*

And here's some video of the scene outside the Civic Center:

---

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

202-564-5778

01268-EPA-4958

Adora Andy/DC/USEPA/US  
10/15/2009 02:03 PM

To "Seth Oster", "Richard Windsor"  
cc "Betsaida Alcantara", "Brendan Gilfillan", "Michael Moats"  
bcc  
Subject Internal TPs on the CBO Director's comments about the energy bill

---

**From:** "LaBolt, Benjamin" <(b) (6) Privacy>  
**Sent:** 10/15/2009 01:24 PM AST  
**To:** "LaBolt, Benjamin" <(b) (6) Privacy> "Glunz, Christine M." <(b) (6) Privacy> <Dan.Leistikow@hq.doe.gov>; <Matt\_Lee-Ashley@ios.doi.gov>; Allyn Brooks-LaSure; "Levine, Jacob C." <(b) (6) Privacy> "Zichal, Heather R." <(b) (6) Privacy> "Betsy Hildebrandt" <Betsy\_Hildebrandt@ios.doi.gov>; "Weiss, Rick" <(b) (6) Privacy> Seth Oster; Adora Andy; "Mather, Chris" <Chris.Mather@oc.usda.gov>; <Kendra\_Barkoff@ios.doi.gov>; "Kobren, Benjamin M" <KobrenBM@state.gov>; <justin.kenney@noaa.gov>; "Gilson, Shannon" <SGilson@doc.gov>; <Uzzell.Megan@dol.gov>; "Lehrich, Matthew A." <(b) (6) Privacy> "Shah, Parita" <PShah@doc.gov>; "Griffis, Kevin" <KGriffis@doc.gov>  
**Subject:** Internal TPs on the CBO Director's comments about the energy bill

Don't blast these out but wanted to make sure you and your bosses had them if asked about Elmendorf's comments yesterday.

Compiled by OECC. Thanks.

(b)(5) Deliberative

[Redacted]

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(b)(5) ve [Redacted]

[Redacted]

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(b)(5) Deliberative

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01268-EPA-4960

**Robert  
Goulding/DC/USEPA/US**  
10/19/2009 11:17 AM

To David McIntosh  
cc Allyn Brooks-LaSure, Diane Thompson, Richard Windsor,  
Seth Oster  
bcc

Subject Re: update from today's 11am WH energy reform campaign  
call

Thanks Dave. Did they say if they would have specific target states for specific principals? While not ideal, there can be a trip after the Congressional breakfast LPJ's hosting on 10/28, but before the evening reception on 10/29.

Robert Goulding  
US EPA - Office of the Administrator  
1200 Pennsylvania Ave., NW  
Washington, DC 20460  
(p) 202-564-0473 - (f) 202-501-1450

\*Please consider the environment before printing this e-mail

David McIntosh	<a href="#">The cabinet affairs representative repor...</a>	10/19/2009 11:13:02 AM
----------------	---	------------------------

From: David McIntosh/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Robert Goulding/DC/USEPA/US@EPA  
Date: 10/19/2009 11:13 AM  
Subject: update from today's 11am WH energy reform campaign call

---

The cabinet affairs representative reported that the President's energy announcement will take place on Tuesday, October 27. That is the same day that Administrator Jackson will be testifying before Senate EPW about the Kerry-Boxer energy/climate bill. The cabinet affairs person said that Administration principals will be asked to fan out across the country to amplify the President's announcement in the days immediately following it. He said that agency chiefs of staff and schedulers will soon be getting contacted about it.

01268-EPA-4961

"Holdren, John P."

<[REDACTED] (b) (6) Privacy [REDACTED]>

10/20/2009 07:55 AM

To "Koonin, Steven", "Lubchenco, Jane", Richard Windsor

cc

bcc

Subject FW: Time sensitive - US Position on Ocean Fertilization research funding

Steve, Jane, Lisa --

I just received this morning the note below and attachments from Dr Ken Buesseler, long-time head of the biology department at the Woods Hole Oceanographic Institution and a personal friend for whose judgment I have high regard. He has been a leader both in expressing skepticism about the readiness of iron fertilization of the ocean as a climate-change mitigation measure but also in fomenting workshops, symposia, and research to understand the science of the issue.

[REDACTED] (b)(5) Deliberative [REDACTED]

[REDACTED] (b)(5) Deliberative [REDACTED]

[REDACTED] (b)(5) Deliberative [REDACTED]

[REDACTED] (b)(5) Deliberative [REDACTED]

(b)(5) Deliberative

Given the short time fuse on this, I would be most grateful to have as quickly as possible any insights you can offer.

Thanks,  
John

JOHN P. HOLDREN

Assistant to the President for Science and Technology  
and Director, Office of Science and Technology Policy  
Executive Office of the President of the United States

(b) (6) Privacy

(b) (6) Privacy

Executive Assistant Pat McLaughlin

(b) (6) Privacy

(b) (6) Privacy

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

From: Ken Buesseler [mailto:kbuesseler@whoi.edu]

Sent: Tuesday, October 20, 2009 2:29 AM

To: Holdren, John P.

Subject: Time sensitive - US Position on Ocean Fertilization research funding

Hi John-

I can't believe the US Government is going to take a position against funding scientific research in a single specific geoengineering field, namely ocean fertilization. This smacks of the Bush Administration ban on stem cell research!

Per the email I am forwarding from the US State Department, they are asking for input by Tuesday noon (all of 3.5 days time for input starting last Friday afternoon) on a US research funding ban we heard was being formulated, and to which a group of us addressed out concerns in an email to your office on Oct 14th (attached again here). Even if someone is against geoengineering or in this case ocean fertilization for philosophical or any other reason, this is no way to determine US research priorities and specifically exclude funding of a particular set of large scale ocean experiments that have helped us understand so much about how the ocean works and its role in the C and climate cycles.

I think your office may be the only one to stop this as the US State Department, EPA, NOAA, DOE and NSF have apparently signed on to this process and US Position Statement.

I'm at a meeting in Croatia on the ocean's biological pump and C cycle, so apologize that I can't call or be reached as easily until I return on the 27th but this is time sensitive, as the new US Policy is designed for release at the Oct 26-30 meeting of the London Convention, and would also impact the US position at the upcoming Copenhagen meetings.

Cheers, Ken



Rothstein et al OF Letter to Holdren.doc

----- Message from "Heather Benway" <hbenway@whoi.edu> on Fri, 16 Oct 2009 15:30:53 -0400 -----

To: <ocb-ssc@whoi.edu>, <ocb-fert@whoi.edu>

**Subject: [Ocb-fert] Fw: Draft USG Ocean Fertilization Position: JSOST Review by October 20**

Dear OCB SSC and Ocean Fertilization Subcommittee members,  
Please see message below regarding the US government position on ocean fertilization. The draft position statement is attached. Please send your comments directly to Elizabeth Kim by 10/20 as requested below.

Thanks,  
Heather

-----  
Subject: Draft USG Ocean Fertilization Position: JSOST Review by October 20

JSOST Members:

Your prompt review of the draft U.S. Government position on ocean fertilization, attached, is appreciated. Per the message below, please send your comments to Elizabeth Kim (KimEAB@state.gov<mailto:KimEAB@state.gov>) by noon Tuesday, October 20, or earlier.

Regards,  
Polly and Lara

JSOST Executive Secretaries  
polly.e.holmberg@noaa.gov<mailto:polly.e.holmberg@noaa.gov>  
lhutto@nsf.gov<mailto:lhutto@nsf.gov>

\*\*\*\*\*

Dear JSOST Members:

Attached please find a draft U.S. Government position on ocean fertilization. This position has been prepared over the past few months by the London Convention interagency group, and has been reviewed and cleared by interested agencies including DOS (ocean affairs and climate change), EPA, NOAA, DOE, and NSF. The position will be used at the upcoming meeting of parties to the London Convention (Oct 26-30).

If you have any comments or questions on this position, please send them to me by noon Tuesday Oct 20 (or earlier if possible). We are hoping to provide this position to interested scientists and companies for discussion next week. I apologize for this quick turnaround, but the position has been undergoing the highest level of review at various agencies and just received final clearance last night.

Thank you for your consideration. Please feel free to contact me if you have any questions.

Sincerely,

Elizabeth Kim

Elizabeth Kim, JD, PhD

US Department of State, Office of Ocean and Polar Affairs  
(OES/OPA<<http://www.state.gov/g/oes/index.htm>>)

2201 C Street, NW, Rm 2665, Washington, DC 20520

202.647.4824 (T); 202.647.4353 (F); KimEAB@state.gov<mailto:kimeab@state.gov>

<<LC31 4 OF General 16 Oct 2009 NOAA.doc>>

--  
Polly Endreny Holmberg  
Marine Ecologist  
NOAA Oceanic and Atmospheric Research  
Office of Policy, Planning, and Evaluation  
SSMC3, Rm.# 11419  
1315 East West Highway  
Silver Spring, MD 20910  
Ph.: (301) 734-1192

----- End forwarded message -----

--

>< << >< << >< << >< << >< << >< <<  
Heather Benway  
Ocean Carbon & Biogeochemistry (OCB) Project Office  
Woods Hole Oceanographic Institution, MS #43  
Woods Hole, MA 02543  
(508) 289-2838  
(508) 457-2161 (fax)  
hbenway@whoi.edu  
<http://www.us-ocb.org/>  
<http://www.whoi.edu/people/hbenway>  
>< << >< << >< << >< << >< <<

**(b)(5) Deliberative**



LC31 4 OF General 16 Oct 2009 NOAA.docATT34351.txt

October 14, 2009

Dr. John Holdren  
Director, Office of Science and Technology Policy  
New Exec. Office of the President  
725 17th St.. NW  
Washington DC

Dear Dr. Holdren,

We are writing to express our concern over several independent reports that the United States is reviewing a formal position, led by the Office of the Special Envoy on Climate Change, that ocean fertilization (OF) techniques should not be considered as part of an overall climate mitigation strategy. While the specifics of such a position are unavailable to us, we are troubled that the US government might take a position on climate mitigation strategies that have not yet been fully researched by the scientific community and for which the international scientific community – no less the US scientific community – has not expressed a consensus.

We are aware of the uncertainties regarding the carbon sequestration potential of various OF techniques, as well as uncertainties and concerns about the potential for environmental impacts of these techniques, especially if conducted at global scales. However the scientific community most familiar with these techniques affirmed the need for additional research in a Science Magazine Policy Forum statement (Buesseler et al., *Science* **319**, 162, 2008; attached). This statement appeared following a symposium at Woods Hole Oceanographic Institution in September 2007 that brought together international scientists, US funding agency representatives and policy makers, commercial OF groups, and NGO's to discuss the current state of our knowledge concerning efficacy, impacts, legal and economic potential of OF (<http://www.whoi.edu/page.do?pid=14617>).

More recent publications in the peer-reviewed literature have followed the Woods Hole symposium, and while emphasizing uncertainties, have suggested elements of a next generation of experiments designed to address them (Lampitt, et al 2008, Smetacek, et al 2008, Watson, et al 2008; attached). In addition various international oceanographic bodies such as the Scientific Committee for Ocean Research (SCOR), the North Pacific Marine Science Organization (PICES), and the International Oceanographic Commission (IOC) have carefully considered the next OF research questions and their risks.

Regulation of OF experiments has also received serious attention as part of the London Convention/London Protocol process beginning in 2007 – and has followed the evolution of the LC/LP OF Risk Management Framework now in draft form. We



anticipate that these efforts will provide a regulatory structure and a standards based process for future research programs.

We also note the British Royal Society study on Geoengineering techniques (Sept. 2009), calls for further research on the climate mitigation potential of many different techniques, including OF, and the forthcoming US National Academies "Americas Climate Choices" study which will explore the need for further Geoengineering research.

The common thread in all aforementioned studies and open deliberations is the scientific community's call for further research on the carbon sequestration capability of the ocean and the impacts and efficacy of OF. We are therefore dismayed that the US Government is considering a statement that could pre-empt government supported research and subsequent scientific consensus on this issue – particularly as the current administration has articulated its interest in using the best science as a guide for decision-making. We are concerned that a recent policy forum article on Ocean Iron Fertilization in *Oceanography Magazine* (Strong et al., *Oceanography*, **22(3)**, 236-261 (2009)) and the abstracted version of this article in *Nature* by Strong and coauthors (*Nature* **461**, 347-348, 17 September 2009) may have influenced US government thinking on this issue. These authors argue that no further research is necessary to dismiss OF as a carbon sequestration technique. We disagree. We strongly believe that the scientific 'jury' is still out on the potential of OF techniques for climate mitigation and urge that the US Government not take a policy position before it is fully informed by continuing science research.

We are not suggesting that ocean fertilization is ready to become a part of the US climate mitigation strategy - or any other nation's strategy. Clearly, such a decision can only come out of a comprehensive research program. We simply urge that the US position on OF be guided by future scientific research (whose funding should be vetted, as always, by our cherished peer review process) and the consensus of the research community dedicated to this area. We also urge that the US not take a position likely to impact the ability to raise funding to support future research programs in this area.

Sincerely,

Lewis M. Rothstein

David Karl

Ken Buesseler

Paul Falkowski



Professor  
Univ. of Rhode Island

Professor  
Univ. of Hawaii

Senior Scientist  
Woods Hole Ocean. Inst.

Professor  
Rutgers Univ.

Francisco Chavez



Senior Scientist

Monterey Bay Aquarium Res. Inst.

Victor Smetacek



Professor

Alfred Wegener Inst.

Richard Lampitt



Principal Scientist

National Ocean Cntr. Southampton

Cc: The Honorable Todd Stern  
Dr. Jane Lubchenco  
Dr. Arden Bement  
The Honorable Carol Browner  
Dr. Elizabeth Kim  
Dr. Darrell Brown

01268-EPA-4962

"Koonin, Steven"  
<Steven.Koonin@science.doe.gov>

To "Holdren, John P.", "Lubchenco, Jane", Richard Windsor  
cc  
bcc

10/20/2009 09:30 AM

Subject RE: Time sensitive - US Position on Ocean Fertilization  
research funding

First I've heard of this and don't know who in DOE might have signed off- I'll try to find out.

(b)(5) Deliberative

SEK

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

From: Holdren, John P. [mailto: (b) (6) Privacy]  
Sent: Tuesday, October 20, 2009 7:55 AM  
To: Koonin, Steven; Lubchenco, Jane; Windsor.Richard@epa.gov  
Subject: FW: Time sensitive - US Position on Ocean Fertilization  
research funding  
Importance: High

Steve, Jane, Lisa --

I just received this morning the note below and attachments from Dr Ken Buesseler, long-time head of the biology department at the Woods Hole Oceanographic Institution and a personal friend for whose judgment I have high regard. He has been a leader both in expressing skepticism about the readiness of iron fertilization of the ocean as a climate-change mitigation measure but also in fomenting workshops, symposia, and research to understand the science of the issue.

(b)(5) Deliberative

(b)(5) Deliberative

(b)(5) Deliberative

(b)(5) Deliberative

[Redacted]

[Redacted]

Given the short time fuse on this, I would be most grateful to have as quickly as possible any insights you can offer.

Thanks,  
John

JOHN P. HOLDREN  
Assistant to the President for Science and Technology and Director,  
Office of Science and Technology Policy Executive Office of the  
President of the United States (b) (6) Privacy (b) (6) Privacy  
Executive Assistant Pat McLaughlin (b) (6) Privacy  
(b) (6) Privacy

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

From: Ken Buesseler [mailto:kbuesseler@whoi.edu]  
Sent: Tuesday, October 20, 2009 2:29 AM  
To: Holdren, John P.  
Subject: Time sensitive - US Position on Ocean Fertilization research funding

Hi John-

I can't believe the US Government is going to take a position against funding scientific research in a single specific geoengineering field, namely ocean fertilization. This smacks of the Bush Administration ban on stem cell research!

Per the email I am forwarding from the US State Department, they are asking for input by Tuesday noon (all of 3.5 days time for input starting last Friday afternoon) on a US research funding ban we heard was being formulated, and to which a group of us addressed out concerns in an email to your office on Oct 14th (attached again here). Even if someone is against geoengineering or in this case ocean fertilization for philosophical or any other reason, this is no way to determine US research priorities and specifically exclude funding of a particular set of large scale ocean experiments that have helped us understand so much about how the ocean works and its role in the C and climate cycles.

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Cheers, Ken

01268-EPA-4963

Richard Windsor/DC/USEPA/US  
10/20/2009 10:20 AM

To "Diane Thompson"  
cc  
bcc

Subject Fw: Time sensitive - US Position on Ocean Fertilization research funding

Diane,

Let's discuss when I call you. Time is short if there is any action that is compelled by Dr. Holdren's bringing this to my attention. Lj

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

From: "Holdren, John P." [REDACTED] (b) (6) Privacy  
Sent: 10/20/2009 07:55 AM AST  
To: "Koonin, Steven" <Steven.Koonin@science.doe.gov>; "Lubchenco, Jane" <lubchenco@oregonstate.edu>; Richard Windsor  
Subject: FW: Time sensitive - US Position on Ocean Fertilization research funding

Steve, Jane, Lisa --

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[REDACTED] (b)(5) Deliberative

[REDACTED] (b)(5) Deliberative

[REDACTED]

(b)(5) Deliberative  
[Redacted]

[Redacted]

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Thanks,  
John

JOHN P. HOLDREN  
Assistant to the President for Science and Technology  
and Director, Office of Science and Technology Policy  
Executive Office of the President of the United States  
[Redacted] (b) (6) Privacy [Redacted] (b) (6) Privacy  
Executive Assistant Pat McLaughlin  
[Redacted] (b) (6) Privacy [Redacted] (b) (6) Privacy

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Sent: Tuesday, October 20, 2009 2:29 AM  
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Subject: Time sensitive - US Position on Ocean Fertilization research funding

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Cheers, Ken



Rothstein et al OF Letter to Holdren.doc

See attachment to 01268-  
EPA-4691

----- Message from "Heather Benway" <hbenway@who.edu> on Fri, 16 Oct 2009 15:30:53 -0400 -----

**To:** <ocb-ssc@who.edu>, <ocb-fert@who.edu>

**Subject:** [Ocb-fert]

Dear OCB SSC and Ocean Fertilization Subcommittee members,  
Please see message below regarding the US government position on ocean fertilization. The draft position statement is attached. Please send your comments directly to Elizabeth Kim by 10/20 as requested below.

Thanks,  
Heather

-----  
Subject: Draft USG Ocean Fertilization Position: JSOST Review by October 20

JSOST Members:

Your prompt review of the draft U.S. Government position on ocean fertilization, attached, is appreciated. Per the message below, please send your comments to Elizabeth Kim (KimEAB@state.gov<mailto:KimEAB@state.gov>) by noon Tuesday, October 20, or earlier.

Regards,  
Polly and Lara

JSOST Executive Secretaries  
polly.e.holmberg@noaa.gov<mailto:polly.e.holmberg@noaa.gov>  
lhutto@nsf.gov<mailto:lhutto@nsf.gov>

\*\*\*\*\*

Dear JSOST Members:

Attached please find a draft U.S. Government position on ocean fertilization. This position has been prepared over the past few months by the London Convention interagency group, and has been reviewed and cleared by interested agencies including DOS (ocean affairs and climate change), EPA, NOAA, DOE, and NSF. The position will be used at the upcoming meeting of parties to the London Convention (Oct 26-30).

If you have any comments or questions on this position, please send them to me by noon Tuesday Oct 20 (or earlier if possible). We are hoping to provide this



position to interested scientists and companies for discussion next week. I apologize for this quick turnaround, but the position has been undergoing the highest level of review at various agencies and just received final clearance last night.

Thank you for your consideration. Please feel free to contact me if you have any questions.

Sincerely,

Elizabeth Kim

Elizabeth Kim, JD, PhD

US Department of State, Office of Ocean and Polar Affairs  
(OES/OPA<<http://www.state.gov/g/oes/index.htm>>)

2201 C Street, NW, Rm 2665, Washington, DC 20520

202.647.4824 (T); 202.647.4353 (F); KimEAB@state.gov<<mailto:kimeab@state.gov>>

<<LC31 4 OF General 16 Oct 2009 NOAA.doc>>

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Polly Endreny Holmberg  
Marine Ecologist  
NOAA Oceanic and Atmospheric Research  
Office of Policy, Planning, and Evaluation  
SSMC3, Rm.# 11419  
1315 East West Highway  
Silver Spring, MD 20910  
Ph.: (301) 734-1192

----- End forwarded message -----

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>< <> >< <> >< <> >< <> >< <> >< <>  
Heather Benway  
Ocean Carbon & Biogeochemistry (OCB) Project Office  
Woods Hole Oceanographic Institution, MS #43  
Woods Hole, MA 02543  
(508) 289-2838  
(508) 457-2161 (fax)  
[hbenway@whoi.edu](mailto:hbenway@whoi.edu)  
<http://www.us-ocb.org/>  
<http://www.whoi.edu/people/hbenway>  
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**(b)(5) Deliberative**



LC31 4 OF General 16 Oct 2009 NOAA.docATT34351.txt

01268-EPA-4964

Richard Windsor/DC/USEPA/US  
10/20/2009 10:21 AM

To "Holdren, John P.", "Koonin, Steven", "Lubchenco, Jane"  
cc "Diane Thompson"  
bcc  
Subject Re: Time sensitive - US Position on Ocean Fertilization research funding

Hi John.

I'm in Indonesia but have just forwarded your email to my CoS, Diane Thompson, who will try to ascertain EPA's state of play on this matter. Thx, Lisa

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

From: "Holdren, John P." [REDACTED] (b) (6) Privacy  
Sent: 10/20/2009 07:55 AM AST  
To: "Koonin, Steven" <Steven.Koonin@science.doe.gov>; "Lubchenco, Jane" <lubchenco@oregonstate.edu>; Richard Windsor  
Subject: FW: Time sensitive - US Position on Ocean Fertilization research funding

Steve, Jane, Lisa --

I just received this morning the note below and attachments from Dr Ken Buesseler, long-time head of the biology department at the Woods Hole Oceanographic Institution and a personal friend for whose judgment I have high regard. He has been a leader both in expressing skepticism about the readiness of iron fertilization of the ocean as a climate-change mitigation measure but also in fomenting workshops, symposia, and research to understand the science of the issue.

[REDACTED] (b)(5) Deliberative

[REDACTED] (b)(5) Deliberative

[REDACTED]

(b)(5) Deliberative [REDACTED]

[REDACTED]

Given the short time fuse on this, I would be most grateful to have as quickly as possible any insights you can offer.

Thanks,  
John

JOHN P. HOLDREN  
Assistant to the President for Science and Technology  
and Director, Office of Science and Technology Policy  
Executive Office of the President of the United States  
[REDACTED] (b) (6) Privacy [REDACTED] (b) (6) Privacy  
Executive Assistant Pat McLaughlin  
[REDACTED] (b) (6) Privacy [REDACTED] (b) (6) Privacy

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

From: Ken Buesseler [mailto:kbuesseler@whoi.edu]  
Sent: Tuesday, October 20, 2009 2:29 AM  
To: Holdren, John P.  
Subject: Time sensitive - US Position on Ocean Fertilization research funding

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Cheers, Ken

----- Message from "Heather Benway" <hbenway@whoi.edu> on Fri, 16 Oct 2009 15:30:53 -0400 -----

**To:** <ocb-ssc@whoi.edu>, <ocb-fert@whoi.edu>

**Subject:** [Ocb-fert]

Dear OCB SSC and Ocean Fertilization Subcommittee members,  
Please see message below regarding the US government position on ocean fertilization. The draft position statement is attached. Please send your comments directly to Elizabeth Kim by 10/20 as requested below.

Thanks,  
Heather

-----  
Subject: Draft USG Ocean Fertilization Position: JSOST Review by October 20

JSOST Members:

Your prompt review of the draft U.S. Government position on ocean fertilization, attached, is appreciated. Per the message below, please send your comments to Elizabeth Kim (KimEAB@state.gov<mailto:KimEAB@state.gov>) by noon Tuesday, October 20, or earlier.

Regards,  
Polly and Lara

JSOST Executive Secretaries  
polly.e.holmberg@noaa.gov<mailto:polly.e.holmberg@noaa.gov>  
lhutto@nsf.gov<mailto:lhutto@nsf.gov>

\*\*\*\*\*

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Attached please find a draft U.S. Government position on ocean fertilization. This position has been prepared over the past few months by the London Convention interagency group, and has been reviewed and cleared by interested agencies including DOS (ocean affairs and climate change), EPA, NOAA, DOE, and NSF. The position will be used at the upcoming meeting of parties to the London Convention (Oct 26-30).

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Thank you for your consideration. Please feel free to contact me if you have any questions.

Sincerely,

Elizabeth Kim

Elizabeth Kim, JD, PhD

US Department of State, Office of Ocean and Polar Affairs  
(OES/OPA<<http://www.state.gov/g/oes/index.htm>>)

2201 C Street, NW, Rm 2665, Washington, DC 20520

202.647.4824 (T); 202.647.4353 (F); KimEAB@state.gov<<mailto:kimeab@state.gov>>

<<LC31 4 OF General 16 Oct 2009 NOAA.doc>>

--

Polly Endreny Holmberg  
Marine Ecologist  
NOAA Oceanic and Atmospheric Research  
Office of Policy, Planning, and Evaluation  
SSMC3, Rm.# 11419  
1315 East West Highway  
Silver Spring, MD 20910  
Ph.: (301) 734-1192

----- End forwarded message -----

--

><> <<< ><> <<< ><> <<< ><> <<< ><> <<< ><> <<<  
Heather Benway  
Ocean Carbon & Biogeochemistry (OCB) Project Office  
Woods Hole Oceanographic Institution, MS #43  
Woods Hole, MA 02543  
(508) 289-2838  
(508) 457-2161 (fax)  
hbenway@whoi.edu  
<http://www.us-ocb.org/>  
<http://www.whoi.edu/people/hbenway>  
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01268-EPA-4965

Richard Windsor/DC/USEPA/US  
10/20/2009 10:23 AM

To "Diane Thompson"  
cc  
bcc

Subject Fw: Time sensitive - US Position on Ocean Fertilization research funding

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

From: "Koonin, Steven" [Steven.Koonin@science.doe.gov]  
Sent: 10/20/2009 09:30 AM AST  
To: "Holdren, John P." <(b) (6) Privacy> "Lubchenco, Jane" <lubchenco@oregonstate.edu>; Richard Windsor  
Subject: RE: Time sensitive - US Position on Ocean Fertilization research funding

First I've heard of this and don't know who in DOE might have signed off- I'll try to find out.

(b)(5) Deliberative

SEK

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

From: Holdren, John P. [mailto:(b) (6) Privacy]  
Sent: Tuesday, October 20, 2009 7:55 AM  
To: Koonin, Steven; Lubchenco, Jane; Windsor.Richard@epa.gov  
Subject: FW: Time sensitive - US Position on Ocean Fertilization research funding  
Importance: High

Steve, Jane, Lisa --

I just received this morning the note below and attachments from Dr Ken Buesseler, long-time head of the biology department at the Woods Hole Oceanographic Institution and a personal friend for whose judgment I have high regard. He has been a leader both in expressing skepticism about the readiness of iron fertilization of the ocean as a climate-change mitigation measure but also in fomenting workshops, symposia, and research to understand the science of the issue.

(b)(5) Deliberative

(b)(5) Deliberative

(b)(5) Deliberative

[Redacted]

[Redacted]

[Redacted]

Given the short time fuse on this, I would be most grateful to have as quickly as possible any insights you can offer.

Thanks,  
John

JOHN P. HOLDREN  
Assistant to the President for Science and Technology and Director,  
Office of Science and Technology Policy Executive Office of the  
President of the United States (b) (6) Privacy (b) (6) Privacy  
Executive Assistant Pat McLaughlin (b) (6) Privacy  
(b) (6) Privacy

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

From: Ken Buesseler [mailto:kbuesseler@whoi.edu]  
Sent: Tuesday, October 20, 2009 2:29 AM  
To: Holdren, John P.  
Subject: Time sensitive - US Position on Ocean Fertilization research funding

Hi John-

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Cheers, Ken



01268-EPA-4966

"Lubchenco, Jane"  
<lubchenco@oregonstate.edu  
>

10/20/2009 05:38 PM

To John\_P.\_Holdren, Steven.Koonin, Richard Windsor

cc

bcc

Subject Re: Time sensitive - US Position on Ocean Fertilization  
research funding

Hi, John,

We've seen multiple drafts of this document over the last few months. It was modified to include statements about the importance of continuing to do research to understand basic biogeochemical and ecosystem science in oceans. These changes are intended to make sure that basic research is not precluded. It's pretty clear that the significant uncertainties associated with ocean iron fertilization (OIF) are not likely to be addressed by further research. Therefore using OIF as a pretext for more research doesn't seem useful or necessary. Moreover the likely negative impacts of OIF are considerable. The statement is intended to help prevent irresponsible actions, whether couched as science or not.

Hope this helps.

Jane

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

From: Holdren, John P. <(b) (6) Privacy

To: Koonin, Steven <Steven.Koonin@science.doe.gov>; Lubchenco, Jane; Windsor.Richard@epa.gov  
<Windsor.Richard@epa.gov>

Sent: Tue Oct 20 04:55:04 2009

Subject: FW: Time sensitive - US Position on Ocean Fertilization research funding

Steve, Jane, Lisa --

I just received this morning the note below and attachments from Dr Ken Buesseler, long-time head of the biology department at the Woods Hole Oceanographic Institution and a personal friend for whose judgment I have high regard. He has been a leader both in expressing skepticism about the readiness of iron fertilization of the ocean as a climate-change mitigation measure but also in fomenting workshops, symposia, and research to understand the science of the issue.

(b)(5) Deliberative

(b)(5) Deliberative

(b)(5) Deliberative  
[Redacted]

[Redacted]

Given the short time fuse on this, I would be most grateful to have as quickly as possible any insights you can offer.

Thanks,  
John

JOHN P. HOLDREN  
Assistant to the President for Science and Technology  
and Director, Office of Science and Technology Policy  
Executive Office of the President of the United States  
(b) (6) Privacy (b) (6) Privacy  
Executive Assistant Pat McLaughlin  
(b) (6) Privacy (b) (6) Privacy

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

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To: Holdren, John P.  
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Cheers, Ken

01268-EPA-4967

**Richard Windsor/DC/USEPA/US**  
10/20/2009 06:24 PM

To "Diane Thompson"  
cc  
bcc

Subject Fw: Time sensitive - US Position on Ocean Fertilization research funding

There ya go

---

**From:** "Lubchenco, Jane" [lubchenco@oregonstate.edu]  
**Sent:** 10/20/2009 02:38 PM MST  
**To:** <(b) (6) Privacy ><Steven.Koonin@science.doe.gov>; Richard Windsor  
**Subject:** Re: Time sensitive - US Position on Ocean Fertilization research funding

Hi, John,

We've seen multiple drafts of this document over the last few months. It was modified to include statements about the importance of continuing to do research to understand basic biogeochemical and ecosystem science in oceans. These changes are intended to make sure that basic research is not precluded. It's pretty clear that the significant uncertainties associated with ocean iron fertilization (OIF) are not likely to be addressed by further research. Therefore using OIF as a pretext for more research doesn't seem useful or necessary. Moreover the likely negative impacts of OIF are considerable. The statement is intended to help prevent irresponsible actions, whether couched as science or not.

Hope this helps.  
Jane

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

From: Holdren, John P. <(b) (6) Privacy >  
To: Koonin, Steven <Steven.Koonin@science.doe.gov>; Lubchenco, Jane; Windsor.Richard@epa.gov <Windsor.Richard@epa.gov>  
Sent: Tue Oct 20 04:55:04 2009  
Subject: FW: Time sensitive - US Position on Ocean Fertilization research funding

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(b)(5) Deliberative

(b)(5) Deliberative

(b)(5) Deliberative  
[Redacted]

[Redacted]

[Redacted]

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Thanks,  
John

JOHN P. HOLDREN  
Assistant to the President for Science and Technology  
and Director, Office of Science and Technology Policy  
Executive Office of the President of the United States

(b) (6) Privacy (b) (6) Privacy  
Executive Assistant Pat McLaughlin  
(b) (6) Privacy (b) (6) Privacy

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

From: Ken Buesseler [<mailto:kbuesseler@whoi.edu>]  
Sent: Tuesday, October 20, 2009 2:29 AM  
To: Holdren, John P.  
Subject: Time sensitive - US Position on Ocean Fertilization research funding

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I can't believe the US Government is going to take a position against funding scientific research in a single specific geoengineering field, namely ocean fertilization. This smacks of the Bush Administration ban on stem cell research!

Per the email I am forwarding from the US State Department, they are asking for input by Tuesday noon (all of 3.5 days time for input starting last Friday afternoon) on a US research funding ban we heard was being formulated, and to which a group of us addressed out concerns in an email to your office on Oct 14th (attached again here). Even if someone is against geoengineering or in this case ocean fertilization for philosophical or any other reason, this is no way to determine US research priorities and specifically exclude funding of a particular set of large scale ocean experiments that have helped us understand so much about how the ocean works and its role in the C and climate cycles.

I think your office may be the only one to stop this as the US State Department, EPA, NOAA, DOE and NSF have apparently signed on to this process and US Position Statement.

I'm at a meeting in Croatia on the ocean's biological pump and C cycle, so apologize that I can't call or be reached as easily until I return on the 27th but this is time sensitive, as the new US Policy is designed for release at the Oct 26-30 meeting of the London Convention, and would also impact the US position at the upcoming Copenhagen meetings.

Cheers, Ken

01268-EPA-4972

Bob Sussman/DC/USEPA/US  
10/23/2009 06:52 PM

To Richard Windsor, Diane Thompson, Bob Perciasepe, Seth Oster, Robert Goulding, Peter Silva  
cc  
bcc

Subject Fw: Visit to Appalachia: Planning

CEQ is moving into high gear on planning the November 11-12 "principals" trip to Appalachia. I've been asked, along with Rock Salt and Wilma Lewis, to develop messaging and meeting plans for the principals. As previously noted, Seth's participation with me is essential and I hope he will loop into next week's planned CEQ meeting.

Career staff (with EPA as lead) will handle logistics, meeting arrangements, briefing materials etc.

(b)(5) Deliberative

Note that Salazar is not planning to make the trip; DOI would be represented by Wilma Lewis. The Admin, Nancy Sutley and Rock/Jo-Ellyn would be the other participants.

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

----- Forwarded by Bob Sussman/DC/USEPA/US on 10/23/2009 06:45 PM -----

From: "Salzman, Amelia S." <(b) (6) Privacy>  
To: <Rock.Salt@us.army.mil>, Bob Sussman/DC/USEPA/US@EPA, <wilma\_lewis@ios.doi.gov>  
Cc: "Boots, Michael J." <(b) (6) Privacy>, "Klasen, Matthew N." <(b) (6) Privacy>  
<(b) (6) Privacy>, "Hight, Courtney" <(b) (6) Privacy>  
"Freundlich, Christina L." <(b) (6) Privacy>, "Carson, Jonathan K." <(b) (6) Privacy>  
<(b) (6) Privacy>, "Hyland, Dana E." <(b) (6) Privacy>  
Date: 10/23/2009 12:58 PM  
Subject: Visit to Appalachia: Planning

Dear All,

I have been working with staff from your agencies to prepare for the public meetings in Appalachia agreed to in the surface coal mining MOU signed in June. With the decision last week that the Principals should do the first round of meetings in November, I would like to create two interagency teams to make sure that the meetings are as successful as possible. One team will be responsible for developing the substantive message and scoping the presentations of the principals. The other will be charged with producing/visuals for the presentations, briefing materials, and carefully managing and planning the ground logistics.

I would like to invite you to participate on the first team. As you all know, the MOU itself set forth this purpose: to "significantly reduce the harmful environmental consequences of Appalachian surface coal mining operations, while ensuring that future mining remains consistent with federal law." In addition, I believe (b)(5) Deliberative

(b)(5) Deliberative

In addition, I wanted to confirm with you that the folks who have been working with us to date are the right ones as we move forward:

Army Corps: Meg Gaffney-Smith  
Desiree (Dez) Hann  
William James (Nashville)

EPA: Greg Peck  
Brian Frazer  
Region 3 rep tbd

DOI/OSM: Kat Pustay  
Tom Shope (Charlston)

Courtney Hight, who works with Mike Boots, has agreed to help us set up a meeting early next week so we can start to develop our frame and planning and to confirm that the right staff are engaged in the logistical end. I look forward to seeing you then.

Thank you,

Amy

*Amelia Salzman*  
Associate Director for Policy Outreach  
White House Council on Environmental Quality  
730 Jackson Place, NW  
Washington, DC, 20530

(b)(5) Deliberative

(b) (6) Privacy Appalachia trip plan.doc



01268-EPA-4973

Diane  
Thompson/DC/USEPA/US  
10/24/2009 07:39 PM

To Bob Sussman, Richard Windsor, Bob Perciasepe, Seth  
Oster, Robert Goulding, Peter Silva  
cc  
bcc

Subject Re: Visit to Appalachia: Planning

(b)(5) Deliberative  
[Redacted]

DT  
Bob Sussman

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

**From:** Bob Sussman  
**Sent:** 10/23/2009 06:52 PM EDT  
**To:** Richard Windsor; Diane Thompson; Bob Perciasepe; Seth Oster; Robert  
Goulding; Peter Silva  
**Subject:** Fw: Visit to Appalachia: Planning

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(b)(5) Deliberative  
[Redacted]

Note that Salazar is not planning to make the trip; DOI would be represented by Wilma Lewis. The Admin, Nancy Sutley and Rock/Jo-Ellyn would be the other participants.

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

----- Forwarded by Bob Sussman/DC/USEPA/US on 10/23/2009 06:45 PM -----

From: "Salzman, Amelia S." <(b) (6) Privacy>  
To: <Rock.Salt@us.army.mil>, Bob Sussman/DC/USEPA/US@EPA, <wilma\_lewis@ios.doi.gov>  
Cc: "Boots, Michael J." <(b) (6) Privacy>, "Klasen, Matthew N." <(b) (6) Privacy>  
<(b) (6) Privacy>, "Hight, Courtney" <(b) (6) Privacy>  
<(b) (6) Privacy>, "Freundlich, Christina L." <(b) (6) Privacy>, "Carson, Jonathan K." <(b) (6) Privacy>  
<(b) (6) Privacy>, "Hyland, Dana E." <(b) (6) Privacy>  
Date: 10/23/2009 12:58 PM  
Subject: Visit to Appalachia: Planning

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I would like to invite you to participate on the first team. As you all know, the MOU itself set forth this purpose: to "significantly reduce the harmful environmental consequences of Appalachian surface coal mining operations, while ensuring that future mining remains consistent with federal law." In addition, I believe [REDACTED] (b)(5) Deliberative [REDACTED]

In addition, I wanted to confirm with you that the folks who have been working with us to date are the right ones as we move forward:

Army Corps: Meg Gaffney-Smith  
Desiree (Dez) Hann  
William James (Nashville)

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Brian Frazer  
Region 3 rep tbd

DOI/OSM: Kat Pustay  
Tom Shope (Charlston)

Courtney Hight, who works with Mike Boots, has agreed to help us set up a meeting early next week so we can start to develop our frame and planning and to confirm that the right staff are engaged in the logistical end. I look forward to seeing you then.

Thank you,

Amy

*Amelia Salzman*  
Associate Director for Policy Outreach  
White House Council on Environmental Quality  
730 Jackson Place, NW  
Washington, DC 20530

(b) (6) Privacy

[attachment "Appalachia trip plan.doc" deleted by Diane Thompson/DC/USEPA/US]

01268-EPA-4974

**Peter Silva/DC/USEPA/US**

10/26/2009 10:13 AM

To Diane Thompson

cc Bob Perciasepe, Bob Sussman, Richard Windsor, Robert Goulding, Seth Oster

bcc

Subject Re: Visit to Appalachia: Planning

I agree with your recommendation.

(b)(5) Deliberative

Peter S. Silva  
Assistant Administrator  
Environmental Protection Agency  
Office of Water  
Telephone: (202) 564-5700  
FAX: (202) 564-0488

Mailing Address: 1200 Pennsylvania Ave., NW, Mail Code 4101M, Washington, DC 20460-0001

Physical/FedEx/Courier Address: 1201 Constitution Ave., NW, Rm. 3219 EPA East Building, Washington, DC 20004-3302

Diane Thompson

(b)(5) Deliberative

10/24/2009 07:39:25 PM

From: Diane Thompson/DC/USEPA/US  
To: Bob Sussman/DC/USEPA/US@EPA, Richard Windsor/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Robert Goulding/DC/USEPA/US@EPA, Peter Silva/DC/USEPA/US@EPA  
Date: 10/24/2009 07:39 PM  
Subject: Re: Visit to Appalachia: Planning

(b)(5) Deliberative

We shld revisit

this with the Adm on Monday. DT

Bob Sussman

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

**From:** Bob Sussman  
**Sent:** 10/23/2009 06:52 PM EDT  
**To:** Richard Windsor; Diane Thompson; Bob Perciasepe; Seth Oster; Robert Goulding; Peter Silva  
**Subject:** Fw: Visit to Appalachia: Planning

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(b)(5) Deliberative

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Robert M. Sussman

Senior Policy Counsel to the Administrator  
Office of the Administrator  
US Environmental Protection Agency

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To: <Rock.Salt@us.army.mil>, Bob Sussman/DC/USEPA/US@EPA, <wilma\_lewis@ios.doi.gov>  
Cc: "Boots, Michael J." <(b) (6) Privacy>, "Klasen, Matthew N." <(b) (6) Privacy>, "Hight, Courtney" <(b) (6) Privacy>, "Freundlich, Christina L." <(b) (6) Privacy>, "Carson, Jonathan K." <(b) (6) Privacy>, "Hyland, Dana E." <(b) (6) Privacy>  
Date: 10/23/2009 12:58 PM  
Subject: Visit to Appalachia: Planning

---

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[REDACTED]

[REDACTED]

[REDACTED]

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Region 3 rep tbd

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Thank you,

Amy

*Amelia Salzman*

Associate Director for Policy Outreach  
White House Council on Environmental Quality  
730 Jackson Place, NW  
Washington, DC 20530

**(b) (6) Privacy**

[attachment "Appalachia trip plan.doc" deleted by Diane Thompson/DC/USEPA/US]

01268-EPA-4976

Diane  
Thompson/DC/USEPA/US  
11/02/2009 08:02 AM

To "Richard Windsor"  
cc  
bcc

Subject Fw: DAILY GUIDANCE AND PRESS SCHEDULE FOR  
MONDAY, NOVEMBER 2, 2009

FYI, but I think u hv this already

---

**From:** "Milakofsky, Benjamin E." <(b) (6) Privacy>  
**Sent:** 11/01/2009 11:30 PM EST  
**To:** "Lu, Christopher P." <(b) (6) Privacy> "Smith, Elizabeth S." <(b) (6) Privacy>  
 <(b) (6) Privacy> "Kimball, Astri B." <(b) (6) Privacy>  
 "French, Michael J." <(b) (6) Privacy> "Greenawalt, Andrei M." <(b) (6) Privacy>  
 <(b) (6) Privacy> "Milakofsky, Benjamin E." <(b) (6) Privacy>  
 <(b) (6) Privacy> "Taylor, Adam R." <(b) (6) Privacy>  
 <(b) (6) Privacy>  
**Subject:** DAILY GUIDANCE AND PRESS SCHEDULE FOR MONDAY, NOVEMBER 2, 2009

Dear Chiefs of Staff:

Please see the below daily guidance mentioning the NEC meeting tomorrow.

Thanks.

--Cabinet Affairs

THE WHITE HOUSE  
Office of the Press Secretary

---

FOR IMMEDIATE RELEASE  
November 1, 2009

**DAILY GUIDANCE AND PRESS SCHEDULE FOR  
MONDAY, NOVEMBER 2, 2009**

In the morning, the President will receive the Presidential Daily Briefing. This meeting is closed press.

As the economy moves beyond crisis and into recovery, the President's Economic

Recovery Advisory Board (PERAB) will hold a meeting with the President to discuss long-term, innovation based ideas to sustain growth and continue to create jobs of the future. The meeting will be the second full board meeting of the PERAB and it will be live streamed at <http://www.whitehouse.gov/live> from start to finish. There will be a pool spray at the top of the meeting.

In the afternoon, the President will meet with Prime Minister Fredrik Reinfeldt of Sweden. There will be a pool spray at the bottom of the meeting.

Later, the President will meet with senior advisors in the Oval Office. This meeting is closed press.

There will also be a principals-level meeting of the National Economic Council in the Roosevelt Room at 2:00PM. The meeting will focus on the state of the economy as well as Administration efforts to create new jobs and put the country on the path to sustainable, long-term growth. The meeting will be led by Lawrence Summers, Director of the National Economic Council, and will include DPC Director Melody Barnes, Office of Energy and Climate Change Director Carol Browner, Chief Technology Officer Aneesh Chopra, Energy Secretary Steven Chu, HUD Secretary Shaun Donovan, Treasury Secretary Timothy Geithner, Export-Import Bank Chairman Fred Hochberg, EPA Administrator Lisa Jackson, Senior Advisor Valerie Jarrett, NSC Director James Jones, U.S. Trade Representative Ron Kirk, Chief of Staff to the Vice President Ron Klain, Commerce Secretary Gary Locke, SBA Administrator Karen Mills, OMB Director Peter Orszag, Interior Secretary Ken Salazar, HHS Secretary Kathleen Sebelius, Labor Secretary Hilda Solis, and Agriculture Secretary Tom Vilsack. This meeting is closed press.

In a continuing effort to provide communities with the latest information on health care reform, at 3:30PM, White House Senior Advisor Valerie Jarrett will participate in a live online chat session to discuss the importance of needed changes in our health care system for traditionally underserved communities throughout the country. The chat will be streamed live at <http://www.whitehouse.gov/live> as well as through the White House's Facebook page where questions will be taken live from the chat: <http://www.facebook.com/whitehouse>

### **In-Town Travel Pool**

Wires: AP, Reuters, Bloomberg

Wire Photos: AP, Reuters, AFP

TV Corr & Crew: ABC

Print: Washington Examiner

Radio: AURN

Travel Photo: New York Times

**EDT**

**9:00AM Pool Call Time**

**10:00AM THE PRESIDENT receives the Presidential Daily Briefing**

*Oval Office*

*Closed Press*

**11:10AM THE PRESIDENT meets with the PERAB**

*Roosevelt Room*

*Pooled Spray at the Top (Gather Time 11:00AM – Briefing Room)*

**2:00PM THE PRESIDENT meets with Prime Minister Fredrik Reinfeldt of Sweden**

*Oval Office*

*Pool Spray at the bottom (Gather Time 2:20PM – Briefing Room)*

**3:00PM THE PRESIDENT meets with senior advisors**

*Oval Office*

*Closed Press*

**Briefing Schedule**

**12:45PM Briefing by Press Secretary Robert Gibbs**

**##**



01268-EPA-4977

**Richard Windsor/DC/USEPA/US**  
11/04/2009 12:47 PM

To mfroman, Mike Froman  
cc Scott Fulton, Michelle DePass, carol\_m.\_browner, sterntd, Aaron Dickerson  
bcc Diane Thompson  
Subject From: Lisa Jackson, EPA

Hi Mike,

(b) (5) [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Lisa

(b)(5) Deliberative  
[Redacted]

01268-EPA-4978

**Richard Windsor/DC/USEPA/US**  
11/04/2009 12:51 PM

To mfroman, jsimonetti  
cc Scott Fulton, Michelle DePass, carol\_m.\_browner, sterntd, Aaron Dickerson  
bcc  
Subject From: Lisa Jackson, EPA (this is my private email address)

Hi Mike,

(b) (5) [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Lisa

(b)(5) Deliberative [Redacted]

01268-EPA-4979

Richard Windsor/DC/USEPA/US  
11/05/2009 09:28 AM

To Diane Thompson  
cc  
bcc

Subject Fw: From: Lisa Jackson, EPA (this is my private email address)

I forgot to cc you on this one! Sorry. This is the original note I sent to Froman. Scott - sent the urgent one in follow up last night.

----- Forwarded by Richard Windsor/DC/USEPA/US on 11/05/2009 09:27 AM -----

From: Richard Windsor/DC/USEPA/US  
To: (b) (6) Privacy (b) (6) Privacy  
Cc: Scott Fulton/DC/USEPA/US@EPA, Michelle DePass/DC/USEPA/US@EPA, (b) (6) Privacy sterntd@state.gov, Aaron Dickerson/DC/USEPA/US@EPA  
Date: 11/04/2009 12:51 PM  
Subject: From: Lisa Jackson, EPA (this is my private email address)

Hi Mike,

(b) (5) [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Lisa

(b)(5) Deliberative

NDRC-EPA MOC draft 10.26.doc

01268-EPA-4980

Scott Fulton/DC/USEPA/US

To "Richard Windsor"

11/05/2009 10:57 AM

cc

bcc

Subject Recent info re Tar Creek

Fyi

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

From: Sam Coleman

Sent: 11/05/2009 10:48 AM EST

To: Scott Fulton; "Chu, Edward H." [REDACTED] (b) (6) Privacy; James Woolford

Cc: "Lawrence Starfield" <starfield.lawrence@epa.gov>; Jeannine Hale; "Deborah Ponder" <ponder.deborah@epa.gov>; "Catherine McCabe" <mccabe.catherine@epa.gov>

Subject: Re: URGENT

Good.

A couple of new points:

- 1. [REDACTED] (b)(5) Deliberative [REDACTED]

Samuel Coleman, PE  
Superfund Div Region 6  
214.665.6701 Ofc  
214.789.2016 Cell

Sent by EPA Wireless E-Mail Services

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

From: Scott Fulton

Sent: 11/05/2009 10:38 AM EST

To: "Chu, Edward H." [REDACTED] (b) (6) Privacy Sam Coleman; James Woolford

Subject: Re: URGENT

We found it. Thx

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

From: "Chu, Edward H." [REDACTED] (b) (6) Privacy

Sent: 11/05/2009 10:30 AM EST

To: Sam Coleman; James Woolford

Cc: Scott Fulton

Subject: Re: URGENT

General question about Tar Creek SF site and wanting to know what we are doing to protect from harm.

Aloha, ED

Edward H. Chu  
Deputy Associate Director  
Green Jobs, Community Protection, and Climate Solutions

Council on Environmental Quality  
Executive Office of the President

(b) (6) Privacy Office  
(b) (6) Privacy Mobile

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

From: Coleman.Sam@epamail.epa.gov <Coleman.Sam@epamail.epa.gov>  
To: Chu, Edward H.; woolford jim <woolford.jim@epa.gov>;  
Woolford.James@epamail.epa.gov <Woolford.James@epamail.epa.gov>  
Cc: Fulton.Scott@epamail.epa.gov <Fulton.Scott@epamail.epa.gov>  
Sent: Thu Nov 05 10:22:01 2009  
Subject: Re: URGENT

Do you have any specifics?

Samuel Coleman, PE  
Superfund Div Region 6  
214.665.6701 Ofc  
214.789.2016 Cell

Sent by EPA Wireless E-Mail Services

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

From: "Chu, Edward H." (b) (6) Privacy  
Sent: 11/05/2009 10:14 AM EST  
To: <woolford.jim@epa.gov>; James Woolford; Sam Coleman  
Cc: Scott Fulton  
Subject: URGENT

Jim and Sam,

I am at the President's Tribal Conference. A tribal chief from OK raised a concern about Tar Creek directly to the President. The President committed that Administrator Jackson would respond.

Please send any information that you think would help Lisa to Scott Fulton right away. Lisa will be on a panel shortly. (Blackberry friendly, please.)

Aloha, ED

Edward H. Chu

Deputy Associate Director  
Green Jobs, Community Protection, and Climate Solutions

Council on Environmental Quality  
Executive Office of the President

(b) (6) Privacy Office  
(b) (6) Privacy Mobile

01268-EPA-4981

**Diane  
Thompson/DC/USEPA/US**  
11/05/2009 12:45 PM

To Richard Windsor  
cc  
bcc  
Subject Re: msg to potus

How about this:

(b)(5) Deliberative  
[Redacted]

\*\*\*\*\*

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

Richard Windsor (b)(5) Deliberative 11/05/2009 12:28:32 PM

From: Richard Windsor/DC/USEPA/US  
To: Diane Thompson/DC/USEPA/US@EPA  
Date: 11/05/2009 12:28 PM  
Subject: Re: msg to potus

(b)(5) Deliberative  
[Redacted]

Diane Thompson

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

**From:** Diane Thompson  
**Sent:** 11/05/2009 12:12 PM EST  
**To:** Richard Windsor  
**Cc:** Christopher Busch  
**Subject:** msg to potus

??

\*\*\*\*\*

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



01268-EPA-4982

**Richard Windsor/DC/USEPA/US**  
11/05/2009 01:32 PM

To Diane Thompson  
cc  
bcc  
Subject Re: msg to potus

Great. Tx.  
Diane Thompson

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

**From:** Diane Thompson  
**Sent:** 11/05/2009 12:45 PM EST  
**To:** Richard Windsor  
**Subject:** Re: msg to potus

How about this:

(b)(5) Deliberative  
[Redacted]

\*\*\*\*\*

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

Richard Windsor (b)(5) Deliberative 11/05/2009 12:28:32 PM

**From:** Richard Windsor/DC/USEPA/US  
**To:** Diane Thompson/DC/USEPA/US@EPA  
**Date:** 11/05/2009 12:28 PM  
**Subject:** Re: msg to potus

(b)(5) Deliberative  
[Redacted]

Diane Thompson

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

**From:** Diane Thompson  
**Sent:** 11/05/2009 12:12 PM EST  
**To:** Richard Windsor  
**Cc:** Christopher Busch  
**Subject:** msg to potus

??

\*\*\*\*\*

Diane E. Thompson  
Chief of Staff  
U. S. Environmental Protection Agency

202-564-6999

01268-EPA-4983

Diane  
Thompson/DC/USEPA/US  
11/05/2009 02:34 PM

To Richard Windsor  
cc  
bcc  
Subject Fw: Chinese MOU

FYI

\*\*\*\*\*

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

----- Forwarded by Diane Thompson/DC/USEPA/US on 11/05/2009 02:34 PM -----

From: Diane Thompson/DC/USEPA/US  
To: "Lu, Christopher P." <(b) (6) Privacy>  
Cc: "Greenawalt, Andrei M." <(b) (6) Privacy>  
Date: 11/05/2009 10:01 AM  
Subject: Fw: Chinese MOU

Chris,

You may recall that we advised we were working with the Chinese government on a number of environmental issues, one of which is an MOU to build capacity for addressing climate change. Below is a memo the Administrator sent to Mike Froman regarding these negotiations, suggesting that this could be a deliverable for the President to highlight. (b)(5) Deliberative

[Redacted]

Of course, please feel free to call either me or the Administrator to follow-up.

Thanks,  
Diane

\*\*\*\*\*

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

----- Forwarded by Richard Windsor/DC/USEPA/US on 11/05/2009 09:27 AM -----

From: Richard Windsor/DC/USEPA/US  
To: (b) (6) Privacy (b) (6) Privacy  
Cc: Scott Fulton/DC/USEPA/US@EPA, Michelle DePass/DC/USEPA/US@EPA, (b) (6) Privacy sterntd@state.gov, Aaron Dickerson/DC/USEPA/US@EPA  
Date: 11/04/2009 12:51 PM  
Subject: From: Lisa Jackson, EPA (this is my private email address)

Hi Mike,

(b) (5)

(b) (5) [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Lisa

(b)(5) Deliberative  
[Redacted]

NDRC-EPA MOC draft 10.26.doc

01268-EPA-4984

**Diane Thompson/DC/USEPA/US**  
11/05/2009 03:54 PM

To Richard Windsor  
cc  
bcc

Subject Fw: Chinese MOU

FYI

\*\*\*\*\*

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

----- Forwarded by Diane Thompson/DC/USEPA/US on 11/05/2009 03:53 PM -----

From: "Lu, Christopher P." <[REDACTED] (b) (6) Privacy >  
To: Diane Thompson/DC/USEPA/US@EPA  
Cc: "Greenawalt, Andrei M." <[REDACTED] (b) (6) Privacy >  
Date: 11/05/2009 02:40 PM  
Subject: RE: Chinese MOU

Diane – I’m running this by NEC and NSC right now and will try to get you a quick answer.

**From:** Thompson.Diane@epamail.epa.gov [mailto:Thompson.Diane@epamail.epa.gov]  
**Sent:** Thursday, November 05, 2009 10:02 AM  
**To:** Lu, Christopher P.  
**Cc:** Greenawalt, Andrei M.  
**Subject:** Fw: Chinese MOU

Chris,

You may recall that we advised we were working with the Chinese government on a number of environmental issues, one of which is an MOU to build capacity for addressing climate change. Below is a memo the Administrator sent to Mike Froman regarding these negotiations, suggesting that this could be a deliverable for the President to highlight. [REDACTED] (b)(5) Deliberative

[REDACTED]

Of course, please feel free to call either me or the Administrator to follow-up.

Thanks,  
Diane

\*\*\*\*\*

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

----- Forwarded by Richard Windsor/DC/USEPA/US on 11/05/2009 09:27 AM -----

From: Richard Windsor/DC/USEPA/US

To: (b) (6) Privacy (b) (6) Privacy

Cc: Scott Fulton/DC/USEPA/US@EPA, Michelle DePass/DC/USEPA/US@EPA, (b) (6) Privacy sterntd@state.gov,

Aaron Dickerson/DC/USEPA/US@EPA

Date: 11/04/2009 12:51 PM

Subject: Lisa Jackson, EPA (this is my private email address)

t:

Hi Mike,

(b) (5) [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Lisa

01268-EPA-4985

**Daniel Gerasimowicz/DC/USEPA/US**  
11/05/2009 05:49 PM

To Heidi Ellis, Christopher Busch, Clay Diette, Stephanie Owens, Bob Perciasepe, Craig Hooks, Michelle DePass, Steve Owens, Peter Silva, Peter Grevatt, Sarah Pallone, Mathy Stanislaus, Cynthia Giles-AA, Gina McCarthy, Alicia Kaiser, Lawrence Elworth, Seth Oster, Katharine Gage, Stephanie Washington, Diane Thompson, Arvin Ganesan, Marcus McClendon, Ray Spears, Sarah Dale, Georgia Bednar, Carla Veney, Scott Fulton, Bob Sussman, Allyn Brooks-LaSure, Richard Windsor, Eric Wachter, (b) (6) Robert Goulding, Lisa Heinzerling, David McIntosh

cc

bcc

Subject Friday, November 6, 2009 Schedule for Lisa P. Jackson

\*\*\* do not copy or forward this information \*\*\*

**Schedule for Lisa P. Jackson EPA Administrator**  
**Friday, November 6, 2009**

Notes:		
Drivers	Shift Leaders	Staff Contact
AM (b) (6) Privacy	AM (b) (6) Privacy	Robert Goulding
PM (b) (6) Privacy		(b) (6) Privacy
07:30 AM - 08:15 AM	Residence	Depart for Ariel Rios
08:15 AM - 08:30 AM	Ariel Rios	Depart for USDA
08:30 AM - 09:00 AM	USDA Headquarters 1400 Independence Avenue, S.W. Room 200A Washington, DC	Meeting with Secretary Vilsack Ct: Sally Cluthe (b) (6) Privacy  Topic: Chesapeake Bay  *The Administrator should enter from Jefferson Drive  Staff:  Larry Elworth (OA) Pete Silva (OW) Chuck Fox (CBPO)
08:45 AM - 09:15 AM	Administrator's Office	FYI - Daily Meeting
09:00 AM - 09:15 AM	USDA	Depart for Ariel Rios
09:15 AM - 09:45 AM	Administrator's Office	1 on 1 with Seth Oster Ct: Sherry Stewart (OPA) 564-8368  Optional attendees: Diane Thompson, Bob Perciasepe, Bob Sussman (OA)
09:45 AM - 10:00 AM	Ariel Rios	Depart for EEOB David McIntosh will travel with the Administrator

10:00 AM - 11:00 AM	EEOB, Room 101 (Cabinet Affairs Conference Room)	Follow-Up Meeting Ct: Steve Moilanen (Office of Energy and Climate Change) (b) (6) Privacy  Staff: David McIntosh (OCIR)  Attendees:  Secretary Chu + 1 Secretary Salazar +1 WH Office of Energy and Climate Change WH Legislative Affairs
11:00 AM - 12:30 PM	EEOB 350	Domestic Policy Council (DPC) Meeting Ct: Ben Milakofsky (WH) (b) (6) Privacy or Matt Onek (DPC Chief of Staff) (b) (6) Privacy
12:30 PM - 12:45 PM	EEOB	Depart for Ariel Rios
01:00 PM - 02:00 PM	Administrator's Office	No Meetings
02:00 PM - 03:00 PM	Bullet Room	FYI - OECA Program Update Meeting Ct: Georgia Bednar 564-9816
02:00 PM - 02:15 PM	Administrator's Office	Call with Representative Gene Green Ct: Timothy Merritt (Green's Office) (b) (6) Privacy  The Administrator will call (b) (6) Privacy or (b) (6) Privacy to be connected to the Congressman  Staff: Arvin Ganesan (OCIR)
03:00 PM - 03:30 PM	Administrator's Office	1 on 1 with David McIntosh Ct: Rhonda Robinson (OCIR) 564-0126  Optional attendees: Diane Thompson, Bob Sussman, Bob Perciasepe (OA)
03:30 PM - 04:00 PM	Administrator's Office	Meeting with Nancy Sutley Ct: Kristin Avery (CEQ), (b) (6) Privacy
04:15 PM - 05:00 PM	Administrator's Office	Energy Star Briefing Ct: Betsaida Alcantara (OPA) 564-1692  Staff: Seth Oster, Adora Andy, Betsaida Alcantara (OPA) Gina McCarthy, Brian McLean, John Millett, Maria Vargas (OAR)
07:00 PM - 08:30 PM	9220 Black Riffles Ct., Great Falls, VA	Dinner



01268-EPA-4986

"McGrath, Shaun L."  
[REDACTED] (b) (6) Privacy

11/08/2009 06:26 PM

To Richard Windsor

cc "Munoz, Cecilia"

bcc

Subject Fw: Following up

Here is the attachment from Cecilia's original email.

-----  
[Sent using BlackBerry](#)

**From:** Munoz, Cecilia

**To:** Browner, Carol M.; Sutley, Nancy H.

**Cc:** McGrath, Shaun L.

**Sent:** Sun Nov 08 15:31:08 2009

**Subject:** Following up

Hi all: First of all, I'm afraid I don't have Lisa's email address; could someone loop her in, please?

Attached you'll find my attempt at summarizing the results of our discussion into a scheduling memo for the President. The pieces I'm not entirely sure about are highlighted in red – please review carefully and let me know if you think it does the job. We can further refine the Governors list and the choreography as we go – I figure our first task is to get it on the schedule. I'll get this to Valerie once you all have taken a look, but preferably by Wednesday, as she is traveling with the President. (b)(5) Deliberative

Thanks!

[REDACTED] (b)(5) Deliberative

Ceciliaenergy\_govs\_Potus meeting DRAFT schedule proposal.doc

01268-EPA-4987

"Browner, Carol M."

(b) (6) Privacy

11/09/2009 09:43 AM

To Richard Windsor

cc

bcc

Subject FW: Following up

Just in case you still don't have attachment

**From:** Munoz, Cecilia

**Sent:** Sunday, November 08, 2009 3:31 PM

**To:** Browner, Carol M.; Sutley, Nancy H.

**Cc:** McGrath, Shaun L.

**Subject:** Following up

Hi all: First of all, I'm afraid I don't have Lisa's email address; could someone loop her in, please? Attached you'll find my attempt at summarizing the results of our discussion into a scheduling memo for the President. The pieces I'm not entirely sure about are highlighted in red – please review carefully and let me know if you think it does the job. We can further refine the Governors list and the choreography as we go – I figure our first task is to get it on the schedule. I'll get this to Valerie once you all have taken a look, but preferably by Wednesday, as she is traveling with the President. (b)(5) Deliberative

Thanks!

(b)(5) Deliberative

Ceciliaenergy\_govs\_Potus meeting DRAFT schedule proposal.doc

01268-EPA-4988

**Richard Windsor/DC/USEPA/US**  
11/09/2009 11:25 AM

To Seth Oster, Allyn Brooks-LaSure, Arvin Ganesan, Bob Sussman, Diane Thompson  
cc Robert Goulding, Heidi Ellis

bcc

Subject Fw: Following up

Hi,

Can you each take a look at the attached memo and let Rob know by NOON if you have any comments/concerns. Tx, Lisa

----- Forwarded by Richard Windsor/DC/USEPA/US on 11/09/2009 11:23 AM -----

From: "Browner, Carol M." <[REDACTED] (b) (6) Privacy >  
To: Richard Windsor/DC/USEPA/US@EPA  
Date: 11/09/2009 09:44 AM  
Subject: FW: Following up

Just in case you still don't have attachment

**From:** Munoz, Cecilia  
**Sent:** Sunday, November 08, 2009 3:31 PM  
**To:** Browner, Carol M.; Sutley, Nancy H.  
**Cc:** McGrath, Shaun L.  
**Subject:** Following up

Hi all: First of all, I'm afraid I don't have Lisa's email address; could someone loop her in, please? Attached you'll find my attempt at summarizing the results of our discussion into a scheduling memo for the President. The pieces I'm not entirely sure about are highlighted in red – please review carefully and let me know if you think it does the job. We can further refine the Governors list and the choreography as we go – I figure our first task is to get it on the schedule. I'll get this to Valerie once you all have taken a look, but preferably by Wednesday, as she is traveling with the President. (b)(5) Deliberative

[REDACTED]

Thanks!

(b)(5) Deliberative

Cecilia energy\_govs\_Potus meeting DRAFT schedule proposal.doc

01268-EPA-4989

**Robert  
Goulding/DC/USEPA/US**  
11/09/2009 11:33 AM

To Richard Windsor  
cc  
bcc

Subject Re: Fw: Following up

OK to circulate to Sarah P?

Robert Goulding  
US EPA - Office of the Administrator  
1200 Pennsylvania Ave., NW  
Washington, DC 20460  
(p) 202-564-0473 - (f) 202-501-1450

\*Please consider the environment before printing this e-mail

Richard Windsor [Hi, Can you each take a look at the att...](#) 11/09/2009 11:25:29 AM

From: Richard Windsor/DC/USEPA/US  
To: Seth Oster/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA  
Cc: Robert Goulding/DC/USEPA/US@EPA, Heidi Ellis/DC/USEPA/US@EPA  
Date: 11/09/2009 11:25 AM  
Subject: Fw: Following up

---

Hi,

Can you each take a look at the attached memo and let Rob know by NOON if you have any comments/concerns. Tx, Lisa

----- Forwarded by Richard Windsor/DC/USEPA/US on 11/09/2009 11:23 AM -----

From: "Browner, Carol M." <[REDACTED] (b) (6) Privacy>  
To: Richard Windsor/DC/USEPA/US@EPA  
Date: 11/09/2009 09:44 AM  
Subject: FW: Following up

---

Just in case you still don't have attachment

**From:** Munoz, Cecilia  
**Sent:** Sunday, November 08, 2009 3:31 PM  
**To:** Browner, Carol M.; Sutley, Nancy H.  
**Cc:** McGrath, Shaun L.  
**Subject:** Following up

Hi all: First of all, I'm afraid I don't have Lisa's email address; could someone loop her in, please? Attached you'll find my attempt at summarizing the results of our discussion into a scheduling memo for the President. The pieces I'm not entirely sure about are highlighted in red – please review carefully and let me know if you think it does the job. We can further refine the Governors list and the choreography

as we go – I figure our first task is to get it on the schedule. I'll get this to Valerie once you all have taken a look, but preferably by Wednesday, as she is traveling with the President. (b)(5) Deliberative

[Redacted]

Thanks!

(b)(5) Deliberative

Cecilia energy\_govs\_Potus meeting DRAFT schedule proposal.doc

01268-EPA-4990

**Richard Windsor/DC/USEPA/US**  
11/09/2009 12:07 PM

To carol\_m.\_browner, "Munoz, Cecilia", "Sutley, Nancy H."  
cc "McGrath, Shaun L."  
bcc  
Subject Fw: Following up

Thx Cecilia. Looks good.

I believe we discussed [REDACTED] (b)(5) Deliberative

Lisa

----- Forwarded by Richard Windsor/DC/USEPA/US on 11/09/2009 11:41 AM -----

From: "Browner, Carol M." <[REDACTED] (b) (6) Privacy>  
To: Richard Windsor/DC/USEPA/US@EPA  
Date: 11/09/2009 09:44 AM  
Subject: FW: Following up

Just in case you still don't have attachment

**From:** Munoz, Cecilia  
**Sent:** Sunday, November 08, 2009 3:31 PM  
**To:** Browner, Carol M.; Sutley, Nancy H.  
**Cc:** McGrath, Shaun L.  
**Subject:** Following up

Hi all: First of all, I'm afraid I don't have Lisa's email address; could someone loop her in, please? Attached you'll find my attempt at summarizing the results of our discussion into a scheduling memo for the President. The pieces I'm not entirely sure about are highlighted in red – please review carefully and let me know if you think it does the job. We can further refine the Governors list and the choreography as we go – I figure our first task is to get it on the schedule. I'll get this to Valerie once you all have taken a look, but preferably by Wednesday, as she is traveling with the President. (b)(5) Deliberative

[REDACTED]

Thanks!

(b)(5) Deliberative

Cecilia energy\_govs\_Potus meeting DRAFT schedule proposal.doc

01268-EPA-4991

"Munoz, Cecilia" <(b) (6) Privacy>  
 To: Richard Windsor, "Browner, Carol M.", "Sutley, Nancy H."  
 cc: "McGrath, Shaun L."  
 bcc:  
 11/09/2009 12:08 PM  
 Subject: RE: Following up

You're right - (b)(5) Deliberative [redacted]

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

From: Windsor.Richard@epamail.epa.gov [mailto:Windsor.Richard@epamail.epa.gov]  
 ]  
 Sent: Monday, November 09, 2009 12:07 PM  
 To: Browner, Carol M.; Munoz, Cecilia; Sutley, Nancy H.  
 Cc: McGrath, Shaun L.  
 Subject: Fw: Following up

Thx Cecilia. Looks good.

I believe we discussed (b)(5) Deliberative [redacted]

Lisa

----- Forwarded by Richard Windsor/DC/USEPA/US on 11/09/2009 11:41 AM -----

From: "Browner, Carol M." <(b) (6) Privacy>  
 To: Richard Windsor/DC/USEPA/US@EPA  
 Date: 11/09/2009 09:44 AM  
 Subject: FW: Following up

Just in case you still don't have attachment

From: Munoz, Cecilia  
 Sent: Sunday, November 08, 2009 3:31 PM  
 To: Browner, Carol M.; Sutley, Nancy H.  
 Cc: McGrath, Shaun L.  
 Subject: Following up

Hi all: First of all, I'm afraid I don't have Lisa's email address; could someone loop her in, please? Attached you'll find my attempt at summarizing the results of our discussion into a scheduling memo for the President. The pieces I'm not entirely sure about are highlighted in red - please review carefully and let me know if you think it does the job. We can further refine the Governors list and the choreography as we go - I figure our first task is to get it on the schedule. I'll get this to Valerie once you all have taken a look, but preferably by

Wednesday, as she is traveling with the President.

(b)(5) Deliberative

[REDACTED]

Thanks!

Cecilia (See attached file: energy\_govs\_Potus meeting DRAFT schedule proposal.doc)



01268-EPA-4992

Richard Windsor/DC/USEPA/US  
11/09/2009 12:12 PM

To "Munoz, Cecilia"  
cc "Browner, Carol M.", "Sutley, Nancy H.", "McGrath, Shaun L."  
bcc  
Subject RE: Following up

I haven't [redacted] (b)(5) Deliberative [redacted]

"Munoz, Cecilia" You're right - [redacted] (b)(5) Deliberative 11/09/2009 12:08:19 PM

From: "Munoz, Cecilia" <[redacted] (b) (6) Privacy >  
To: Richard Windsor/DC/USEPA/US@EPA, "Browner, Carol M." <[redacted] (b) (6) Privacy >  
"Sutley, Nancy H." <[redacted] (b)(5) Deliberative, (b) (6) Privacy >  
Cc: "McGrath, Shaun L." <[redacted] (b) (6) Privacy >  
Date: 11/09/2009 12:08 PM  
Subject: RE: Following up

You're right - [redacted] (b)(5) Deliberative [redacted]

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

From: Windsor.Richard@epamail.epa.gov [mailto:Windsor.Richard@epamail.epa.gov]  
Sent: Monday, November 09, 2009 12:07 PM  
To: Browner, Carol M.; Munoz, Cecilia; Sutley, Nancy H.  
Cc: McGrath, Shaun L.  
Subject: Fw: Following up

Thx Cecilia. Looks good.

I believe we discussed [redacted] (b)(5) Deliberative [redacted]

Lisa

----- Forwarded by Richard Windsor/DC/USEPA/US on 11/09/2009 11:41 AM -----

From: "Browner, Carol M." <[redacted] (b) (6) Privacy >  
To: Richard Windsor/DC/USEPA/US@EPA  
Date: 11/09/2009 09:44 AM  
Subject: FW: Following up

Just in case you still don't have attachment

From: Munoz, Cecilia  
Sent: Sunday, November 08, 2009 3:31 PM  
To: Browner, Carol M.; Sutley, Nancy H.  
Cc: McGrath, Shaun L.  
Subject: Following up

Hi all: First of all, I'm afraid I don't have Lisa's email address; could someone loop her in, please? Attached you'll find my attempt at summarizing the results of our discussion into a scheduling memo for the President. The pieces I'm not entirely sure about are highlighted in red - please review carefully and let me know if you think it does the job. We can further refine the Governors list and the choreography as we go - I figure our first task is to get it on the schedule. I'll get this to Valerie once you all have taken a look, but preferably by Wednesday, as she is traveling with the President. (b)(5) Deliberative

[REDACTED]

Thanks!

Cecilia(See attached file: energy\_govs\_Potus meeting DRAFT schedule proposal.doc)

01268-EPA-4993

Charles  
Imohiosen/DC/USEPA/US  
11/09/2009 01:42 PM

To "Richard Windsor", "Diane Thompson"  
cc  
bcc

Subject Fw: Home Star Proposal from John Doerr

(b)(5) Deliberative

Charles Imohiosen  
Office of the Administrator  
US Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.

\*\*\*\*\*

Sent via Blackberry  
Davidf Lee

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

**From:** Davidf Lee  
**Sent:** 11/09/2009 01:13 PM EST  
**To:** Charles Imohiosen  
**t:** Home Star Proposal from John Doerr

(b)(5) Deliberative

HOME STAR.doc

01268-EPA-4994

"Sutley, Nancy H."

(b) (6) Privacy

11/09/2009 07:34 PM

To Richard Windsor

cc

bcc

Subject Fw: West Virginia

Fyi

**From:** Carson, Jonathan K.  
**To:** Sutley, Nancy H.  
**Sent:** Mon Nov 09 19:31:08 2009  
**Subject:** Fw: West Virginia

[FYI incase it comes up in the morning:](#) (b)(5) Deliberative

**From:** McGrath, Shaun L.  
**To:** Munoz, Cecilia; Kennedy, Sean D.; Papa, Jim; Zichal, Heather R.; Maher, Jessica A.; Carson, Jonathan K.  
**Cc:** Terrell, Louisa; Heimbach, James T.  
**Sent:** Mon Nov 09 18:06:04 2009  
**Subject:** RE: West Virginia

(b)(5) Deliberative

The event tomorrow is at 2:30.

**From:** Munoz, Cecilia  
**Sent:** Monday, November 09, 2009 12:57 PM  
**To:** Kennedy, Sean D.; Papa, Jim; Zichal, Heather R.; Maher, Jessica A.; Carson, Jonathan K.  
**Cc:** Terrell, Louisa; Heimbach, James T.; McGrath, Shaun L.  
**Subject:** RE: West Virginia

(b)(5) Deliberative

**From:** Kennedy, Sean D.  
**Sent:** Monday, November 09, 2009 12:53 PM  
**To:** Munoz, Cecilia; Papa, Jim; Zichal, Heather R.; Maher, Jessica A.; Carson, Jonathan K.  
**Cc:** Terrell, Louisa; Heimbach, James T.; McGrath, Shaun L.  
**Subject:** RE: West Virginia

(b)(5) Deliberative  
[Redacted]  
Thoughts on proceeding with this?

**From:** Munoz, Cecilia  
**Sent:** Monday, November 09, 2009 10:39 AM  
**To:** Papa, Jim; Zichal, Heather R.; Maher, Jessica A.; Carson, Jonathan K.  
**Cc:** Terrell, Louisa; Kennedy, Sean D.; Heimbach, James T.; McGrath, Shaun L.  
**Subject:** RE: West Virginia

Looping Shaun; (b)(5) Deliberative  
[Redacted]

**From:** Papa, Jim  
**Sent:** Monday, November 09, 2009 10:26 AM  
**To:** Munoz, Cecilia; Zichal, Heather R.; Maher, Jessica A.; Carson, Jonathan K.  
**Cc:** Terrell, Louisa; Kennedy, Sean D.; Heimbach, James T.  
**Subject:** West Virginia

Hey guys –

We had a circle-up in OLA this morning and wanted to touch base about West Virginia. As you know, Gov. Manchin has pulled together a meeting of state and federal elected leaders, coal companies, and unions tomorrow in the state capital. (b)(5) Deliberative

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Let me know what you think.

Jim

P.S. If I've forgotten anyone inadvertently, please feel free to add them to this chain.

*Jim Papa*  
*White House Legislative Affairs*  
*The White House*  
*Phone: (b) (6) Privacy*  
*(b) (6) Privacy*

01268-EPA-4995

**Richard Windsor/DC/USEPA/US**  
11/09/2009 07:47 PM

To "Sutley, Nancy H."  
cc  
bcc  
Subject Re: West Virginia

Tx. Great event.

---

**From:** "Sutley, Nancy H." (b) (6) Privacy  
**Sent:** 11/09/2009 07:34 PM EST  
**To:** Richard Windsor  
**Subject:** Fw: West Virginia

Fyi

---

**From:** Carson, Jonathan K.  
**To:** Sutley, Nancy H.  
**Sent:** Mon Nov 09 19:31:08 2009  
**Subject:** Fw: West Virginia

FYI incase it comes up in the morning: (b)(5) Deliberative

---

**From:** McGrath, Shaun L.  
**To:** Munoz, Cecilia; Kennedy, Sean D.; Papa, Jim; Zichal, Heather R.; Maher, Jessica A.; Carson, Jonathan K.  
**Cc:** Terrell, Louisa; Heimbach, James T.  
**Sent:** Mon Nov 09 18:06:04 2009  
**Subject:** RE: West Virginia

(b)(5) Deliberative

The event tomorrow is at 2:30.

**From:** Munoz, Cecilia  
**Sent:** Monday, November 09, 2009 12:57 PM  
**To:** Kennedy, Sean D.; Papa, Jim; Zichal, Heather R.; Maher, Jessica A.; Carson, Jonathan K.  
**Cc:** Terrell, Louisa; Heimbach, James T.; McGrath, Shaun L.  
**Subject:** RE: West Virginia

(b)(5) Deliberative

(b)(5) Deliberative

**From:** Kennedy, Sean D.  
**Sent:** Monday, November 09, 2009 12:53 PM  
**To:** Munoz, Cecilia; Papa, Jim; Zichal, Heather R.; Maher, Jessica A.; Carson, Jonathan K.  
**Cc:** Terrell, Louisa; Heimbach, James T.; McGrath, Shaun L.  
**Subject:** RE: West Virginia

(b)(5) Deliberative

Thoughts on proceeding with this?

**From:** Munoz, Cecilia  
**Sent:** Monday, November 09, 2009 10:39 AM  
**To:** Papa, Jim; Zichal, Heather R.; Maher, Jessica A.; Carson, Jonathan K.  
**Cc:** Terrell, Louisa; Kennedy, Sean D.; Heimbach, James T.; McGrath, Shaun L.  
**Subject:** RE: West Virginia

Looping Shaun; (b)(5) Deliberative

**From:** Papa, Jim  
**Sent:** Monday, November 09, 2009 10:26 AM  
**To:** Munoz, Cecilia; Zichal, Heather R.; Maher, Jessica A.; Carson, Jonathan K.  
**Cc:** Terrell, Louisa; Kennedy, Sean D.; Heimbach, James T.  
**Subject:** West Virginia

Hey guys –

We had a circle-up in OLA this morning and wanted to touch base about West Virginia. As you know, Gov. Manchin has pulled together a meeting of state and federal elected leaders, coal companies, and unions tomorrow in the state capital. (b)(5) Deliberative

[Redacted]

[Redacted]

[Redacted]



**(b)(5) Deliberative**

[REDACTED]

Let me know what you think.

Jim

P.S. If I've forgotten anyone inadvertently, please feel free to add them to this chain.

*Jim Papa*  
*White House Legislative Affairs*  
*The White House*  
*Phone: (b) (6) Privacy*  
**(b) (6) Privacy**

01268-EPA-4996

"Munoz, Cecilia"

<[REDACTED] (b) (6) Privacy [REDACTED]>

>

11/10/2009 11:20 AM

To Richard Windsor, "Browner, Carol M.", "Sutley, Nancy H."

cc "McGrath, Shaun L."

bcc

Subject Memo for Govs meeting

Hi all:

Have added a few govns to the tentative list: [REDACTED] (b)(5) Deliberative [REDACTED]

[REDACTED] [REDACTED] If it's ok with you, I will forward to Cabinet Affairs to check in with USDA and DOE, take it to Valerie, and try to get it in to scheduling before the trip.

[REDACTED] (b)(5) Deliberative [REDACTED]

Ok with you all? energy\_govns\_Potus meeting DRAFT schedule proposal.doc

01268-EPA-4997

Bob Sussman/DC/USEPA/US

11/10/2009 09:57 PM

To "Lisa P. Jackson", "Seth Oster", "Arvin Ganesan"

cc

bcc

Subject Fw: Quotes

Much food for thought in the enclosed.  
Gregory Peck

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

**From:** Gregory Peck

**Sent:** 11/10/2009 08:38 PM EST

**To:** Bob Sussman; Arvin Ganesan; Shawn Garvin

**Cc:** (b) (6) Privacy

**Subject:** Quotes

## Manchin's big closed-door coal industry summit

by Ken Ward Jr.



I'm trying to figure out if Logan County Friend of Coal Art Kirkendoll got what he wanted from a two-hour, closed-door meeting between West Virginia political leaders and executive coal producers.

We've posted a news story on the event, [West Virginia leaders seek coal answers from](#) the *West Virginia Gazette's* Web site. As the lead says, the outcome of the meeting is some sort of friendly agreement between Joe Manchin and the state's congressional delegation to speak "with one voice" to the federal administration is up to on coal policies.

Everybody seemed to agree with the comments from the two coal executives Manchin in the Capitol during a “media availability” after the meeting — which was moved from a conference room in the Capitol building to the “party tent” Manchin had erected adjacent to his mansion for social events.



Patriot Coal President Paul Vining and CONSOL Energy President Brett Harvey both spoke about changing the rules regarding Clean Water Act permits for strip mines, and the industry's concerns about what those rules are now.

Their remarks (there are quotes from both in [my print story](#)) were a far cry from the hundreds of coal miners at the [now-infamous Corps of Engineers permit hearing/protest](#) who didn't sound much like [state Sen. Majority Leader Truman Chafin, either](#). Vining even contradicted the conclusions of a [previous Coal Tattoo post](#), that is, that there isn't an immediate need for immediate action by EPA:

*We're very concerned about our employees in the long term. It may not be obvious that Vining and his company aren't concerned. He told reporters that Patriot Coal has lost a few employees in West Virginia:*

*I'm not implying that's because of permits. It's because of economic conditions. In the face of uncertainty, it adds that much more risk.*

Also interesting was that Rockefeller said that the White House meeting West Virginians have to be a face-to-face with President Obama — [something Manchin had previously said](#). The press conference struck me as one of these times when everybody was trying to get a word in. Rockefeller put it this way:

*We're tired of the yakking. We're tired of people screaming at each other. A change is needed.*

Manchin did slip up once and start down the road of talking about the federal government

the state. I'm told that during the closed-door meeting, Rep. Shelley Moore Capito said she could do to force EPA to return West Virginia's "sovereignty."

After the meeting, Rep. Nick J. Rahall told me that he continues to believe that EPA's Clean Water Act permit applications pending before the federal Army Corps of Engineers

*What we're into here is the implementation and enforcement of the Clean Water Act. It gives them the right to do.*

Rahall said that previous failure by EPA to enforce the law was part of what led to the bottleneck that bottled up permit issuance by the Corps of Engineers.

Rahall and Capito, the only Republican member of the state's congressional delegation, said they want to get the political component out of the discussion of the future of coal mining.

Rahall said: "We have to get beyond the premise that this is about politics."

Capito said: "It really doesn't matter the politics of it. It's all about these folks and the communities they live in."

But there was one big elephant that wasn't in the room when those comments were made. President Don Blankenship attended the closed-door session, but I didn't see him. I think he certainly didn't go to the podium and speak.

And over at the [West Virginia Red blog](#), here's what one of Blankenship's former press secretaries said today's meeting was supposed to be about:

*The environmental extremists don't get it. Today's meeting is not about saving salamanders. It's about finding some balance between mining coal and saving salamanders. This is about formulating a strategy to combat the Obama administration's assault on the coal industry.*

*Most of the environmental groups that are supportive of the Obama administration have no desire to find a compromise between the coal industry and the environment. Their desire is to completely eliminate coal, coal mining, and mining jobs from our energy mix.*

*It's very simple to understand. You don't invite people who are trying to do business to a meeting where you plan to discuss the course of action required. For example, can you imagine the President inviting Taliban representatives to the White House, currently hosting to formulate our strategy in Afghanistan? The environmental movement wants to see the "big bad" coal operators, their employees, and their shareholders. The environmental movement wants to kill the coal industry.*

*There are also rumors swirling about the political implications from today's meeting. Environmental extremists are speculating that one or more of the conservative Democrats are considering a primary challenge against Congressman Nick Rahall. Other*

*profile Democrat could switch parties and take on Rahall as a Republican. Congressman Nick Rahall deserves a Democrat primary challenge; after a Environmental Protection Agency is just doing its job. Rahall has grown more confident as his seniority in the House has grown. He has lost touch with the Virginians he represents in Congress.*

I don't know what was said during the closed-door meeting ... but I know this isn't the leaders — including Rep. Capito, who is certainly pretty popular with the West Virginians — telling the press after the meeting.

And last, but most certainly not least in all of this: While we don't know where Sen. Rockefeller will come down on all of this exactly (his West Virginia staff director, Anne Barth, declined to attend the conference), Sen. Rockefeller had some mighty interesting things to say about whether a limitation of mountaintop removal is needed:

*It isn't going to be the same as it always has been. We have to make adjustments. I don't think so much about mayflies, but I do think about those people [who] will have to be adjustments.*

---

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

202-564-5778

Bob Sussman      greg -- I remember you earlier preparin...      11/10/2009 08:12:05 PM

From: Bob Sussman/DC/USEPA/US  
To: Gregory Peck/DC/USEPA/US@EPA  
Date: 11/10/2009 08:12 PM  
Subject: Re: First Article About Governor's meeting.

greg -- I remember you earlier preparing [REDACTED] (b)(5) Deliberative [REDACTED]

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

Gregory Peck      November 10, 2009      11/10/2009 07:38:32 PM

From: Gregory Peck/DC/USEPA/US  
To: Peter Silva/DC/USEPA/US@EPA  
Cc: Arvin Ganesan/DC/USEPA/US@EPA, Shawn Garvin/R3/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, [REDACTED] (b) (6) Privacy  
Date: 11/10/2009 07:38 PM

Subject: First Article About Governor's meeting.

---

November 10, 2009

## W.Va. leaders seek coal answers from White House

CHARLESTON, W.Va. -- West Virginia political leaders promised Tuesday to speak "with one voice" to clarify to more strictly regulate mountaintop removal coal mining.

Gov. Joe Manchin, Sen. Jay Rockefeller, and Reps. Nick J. Rahall and Shelley Moore Capito said they would join a House meeting to raise coal industry concerns about tougher permit reviews instituted by the U.S. Environmental Protection Agency.

"It's about the economy of West Virginia," Manchin said at a news conference after a two-hour, closed-door meeting. "We're trying to find that balance right now."

Rockefeller said the White House meeting doesn't have to involve President Obama, but must be with someone who can provide "information" about exactly what new environmental constraints EPA wants to place on mountaintop removal mining.

Rahall said coal executives at Tuesday's meeting expressed frustration with EPA permit reviews, delays in permit reviews about what -- if any -- new standards EPA Administrator Lisa Jackson is imposing on Clean Water Act permit reviews.

"We need to know what the rules of the game are," Rahall said. "We need clarity. We need EPA to get its act together."

Capito, the only Republican member of the state's congressional delegation, said the state would be more successful if both parties are involved.

"I think unified voices are always louder and stronger," said Capito, who complained EPA has canceled two permit reviews. She said she will meet with Jackson to discuss permit review issues.

Representatives of Sen. Robert C. Byrd, D-W.Va., also attended the meeting, but did not speak during the news conference. Mollohan, D-W.Va., did not attend, and apparently no one from his staff came in his place.

Manchin called the high-level meeting at the request of Logan County Commissioner Art Kirkendoll, who complained that permit reviews including the potential veto of the largest mountaintop removal permit in West Virginia history -- are hurting the coal industry.

"All we need to do is find out if it's qualifiable," Kirkendoll said. "If it's the right kind of permit, let us go to work."

Top Manchin staffers, county commissioners from various coalfield counties, and several United Mine Workers officials joined more than a dozen top coal industry executives for the meeting. The event was moved at the last minute from a public square to a private tent structure set up adjacent to the Governor's Mansion for social events. Additional State Police troops were on hand to guard against any anti-mountaintop removal protesters.

Paul Vining, president of Patriot Coal Co., said the industry worries that EPA permit reviews and any new standards will have "far-reaching impacts" not just on mountaintop removal, but also on underground mining and coal-washing.

Vining said large-scale layoffs aren't not imminent, but that industry officials are concerned about long-term impacts if EPA's new standards are going to be.

"We're very concerned about our employees in the long term," Vining said. "It may not be next week or next month."

Brett Harvey, president of CONSOL Energy Inc., agreed.

"There has been a change and we would like to know what the rules are," Harvey said.

EPA officials did not immediately provide comment on the meeting.

---

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

202-564-5778



01268-EPA-4998

**Diane  
Thompson/DC/USEPA/US**  
11/10/2009 10:25 PM

To "Richard Windsor"  
cc  
bcc

Subject Fw: Remarks of President Obama at Fort Hood Memorial Service -- As Prepared for Delivery

Fyi

---

**From:** "Milakofsky, Benjamin E." <(b) (6) Privacy>  
**Sent:** 11/10/2009 02:33 PM EST  
**To:** "Lu, Christopher P." <(b) (6) Privacy> "Smith, Elizabeth S." <(b) (6) Privacy>  
 <(b) (6) Privacy> "Kimball, Astri B." <(b) (6) Privacy> "French, Michael J." <(b) (6) Privacy>  
 "Greenawalt, Andrei M." <(b) (6) Privacy> "Taylor, Adam R." <(b) (6) Privacy>  
 "Milakofsky, Benjamin E." <(b) (6) Privacy>  
**Subject:** Remarks of President Obama at Fort Hood Memorial Service -- As Prepared for Delivery

Dear Chiefs of Staff:

Please see the President's remarks for the Fort Hood memorial service.

--Cabinet Affairs

THE WHITE HOUSE  
Office of the Press Secretary

---

FOR IMMEDIATE RELEASE  
November 10, 2009

**Remarks of President Barack Obama - As Prepared for Delivery  
Memorial Service at Fort Hood  
November 10, 2009**

We come together filled with sorrow for the thirteen Americans that we have lost; with gratitude for the lives that they led; and with a determination to honor them through the work we carry on.

This is a time of war. And yet these Americans did not die on a foreign field of battle. They were killed here, on American soil, in the heart of this great American community. It is this fact that makes the tragedy even more painful and even more incomprehensible.

For those families who have lost a loved one, no words can fill the void that has been

left. We knew these men and women as soldiers and caregivers. You knew them as mothers and fathers; sons and daughters; sisters and brothers.

But here is what you must also know: your loved ones endure through the life of our nation. Their memory will be honored in the places they lived and by the people they touched. Their life's work is our security, and the freedom that we too often take for granted. Every evening that the sun sets on a tranquil town; every dawn that a flag is unfurled; every moment that an American enjoys life, liberty and the pursuit of happiness – that is their legacy.

Neither this country – nor the values that we were founded upon – could exist without men and women like these thirteen Americans. And that is why we must pay tribute to their stories.

Chief Warrant Officer Michael Cahill had served in the National Guard and worked as a physician's assistant for decades. A husband and father of three, he was so committed to his patients that on the day he died, he was back at work just weeks after having a heart attack.

Major Libardo Eduardo Caraveo spoke little English when he came to America as a teenager. But he put himself through college, earned a PhD, and was helping combat units cope with the stress of deployment. He is survived by his wife, sons and step-daughters.

Staff Sergeant Justin DeCrow joined the Army right after high school, married his high school sweetheart, and had served as a light wheeled mechanic and Satellite Communications Operator. He was known as an optimist, a mentor, and a loving husband and father.

After retiring from the Army as a Major, John Gaffaney cared for society's most vulnerable during two decades as a psychiatric nurse. He spent three years trying to return to active duty in this time of war, and he was preparing to deploy to Iraq as a Captain. He leaves behind a wife and son.

Specialist Frederick Greene was a Tennessean who wanted to join the Army for a long time, and did so in 2008 with the support of his family. As a combat engineer he was a natural leader, and he is survived by his wife and two daughters.

Specialist Jason Hunt was also recently married, with three children to care for. He joined the Army after high school. He did a tour in Iraq, and it was there that he re-enlisted for six more years on his 21<sup>st</sup> birthday so that he could continue to serve.

Staff Sergeant Amy Krueger was an athlete in high school, joined the Army shortly after

9/11, and had since returned home to speak to students about her experience. When her mother told her she couldn't take on Osama bin Laden by herself, Amy replied: "Watch me."

Private First Class Aaron Nemelka was an Eagle Scout who just recently signed up to do one of the most dangerous jobs in the service – diffuse bombs – so that he could help save lives. He was proudly carrying on a tradition of military service that runs deep within his family.

Private First Class Michael Pearson loved his family and loved his music, and his goal was to be a music teacher. He excelled at playing the guitar, and could create songs on the spot and show others how to play. He joined the military a year ago, and was preparing for his first deployment.

Captain Russell Seager worked as a nurse for the VA, helping veterans with Post-Traumatic Stress. He had great respect for the military, and signed up to serve so that he could help soldiers cope with the stress of combat and return to civilian life. He leaves behind a wife and son.

Private Francheska Velez, the daughter of a father from Colombia and a Puerto Rican mother, had recently served in Korea and in Iraq, and was pursuing a career in the Army. When she was killed, she was pregnant with her first child, and was excited about becoming a mother.

Lieutenant Colonel Juanita Warman was the daughter and granddaughter of Army veterans. She was a single mother who put herself through college and graduate school, and served as a nurse practitioner while raising her two daughters. She also left behind a loving husband.

Private First Class Kham Xiong came to America from Thailand as a small child. He was a husband and father who followed his brother into the military because his family had a strong history of service. He was preparing for his first deployment to Afghanistan.

These men and women came from all parts of the country. Some had long careers in the military. Some had signed up to serve in the shadow of 9/11. Some had known intense combat in Iraq and Afghanistan, and some cared for those did. Their lives speak to the strength, the dignity and the decency of those who serve, and that is how they will be remembered.

That same spirit is embodied in the community here at Fort Hood, and in the many wounded who are still recovering. In those terrible minutes during the attack, soldiers made makeshift tourniquets out of their clothes. They braved gunfire to reach the

wounded, and ferried them to safety in the backs of cars and a pick-up truck.

One young soldier, Amber Bahr, was so intent on helping others that she did not realize for some time that she, herself, had been shot in the back. Two police officers – Mark Todd and Kim Munley – saved countless lives by risking their own. One medic – Francisco de la Serna – treated both Officer Munley and the gunman who shot her.

It may be hard to comprehend the twisted logic that led to this tragedy. But this much we do know – no faith justifies these murderous and craven acts; no just and loving God looks upon them with favor. And for what he has done, we know that the killer will be met with justice – in this world, and the next.

These are trying times for our country. In Afghanistan and Pakistan, the same extremists who killed nearly 3,000 Americans continue to endanger America, our allies, and innocent Afghans and Pakistanis. In Iraq, we are working to bring a war to a successful end, as there are still those who would deny the Iraqi people the future that Americans and Iraqis have sacrificed so much for.

As we face these challenges, the stories of those at Fort Hood reaffirm the core values that we are fighting for, and the strength that we must draw upon. Theirs are tales of American men and women answering an extraordinary call – the call to serve their comrades, their communities, and their country. In an age of selfishness, they embody responsibility. In an era of division, they call upon us to come together. In a time of cynicism, they remind us of who we are as Americans.

We are a nation that endures because of the courage of those who defend it. We saw that valor in those who braved bullets here at Fort Hood, just as surely as we see it in those who signed up knowing that they would serve in harm's way.

We are a nation of laws whose commitment to justice is so enduring that we would treat a gunman and give him due process, just as surely as we will see that he pays for his crimes.

We are a nation that guarantees the freedom to worship as one chooses. And instead of claiming God for our side, we remember Lincoln's words, and always pray to be on the side of God.

We are a nation that is dedicated to the proposition that all men and women are created equal. We live that truth within our military, and see it in the varied backgrounds of those we lay to rest today. We defend that truth at home and abroad, and we know that Americans will always be found on the side of liberty and equality. That is who we are as a people.

Tomorrow is Veterans Day. It is a chance to pause, and to pay tribute – for students to learn of the struggles that preceded them; for families to honor the service of parents and grandparents; for citizens to reflect upon the sacrifices that have been made in pursuit of a more perfect union.

For history is filled with heroes. You may remember the stories of a grandfather who marched across Europe; an uncle who fought in Vietnam; a sister who served in the Gulf. But as we honor the many generations who have served, I think all of us – every single American – must acknowledge that this generation has more than proved itself the equal of those who have come before.

We need not look to the past for greatness, because it is before our very eyes.

This generation of soldiers, sailors, airmen, Marines and Coast Guardsmen have volunteered in a time of certain danger. They are part of the finest fighting force that the world has ever known. They have served tour after tour of duty in distant, different and difficult places. They have stood watch in blinding deserts and on snowy mountains. They have extended the opportunity of self-government to peoples that have suffered tyranny and war. They are man and woman; white, black, and brown; of all faiths and stations – all Americans, serving together to protect our people, while giving others half a world away the chance to lead a better life.

In today's wars, there is not always a simple ceremony that signals our troops' success – no surrender papers to be signed, or capital to be claimed. But the measure of their impact is no less great – in a world of threats that no know borders, it will be marked in the safety of our cities and towns, and the security and opportunity that is extended abroad. And it will serve as testimony to the character of those who serve, and the example that you set for America and for the world.

Here, at Fort Hood, we pay tribute to thirteen men and women who were not able to escape the horror of war, even in the comfort of home. Later today, at Fort Lewis, one community will gather to remember so many in one Stryker Brigade who have fallen in Afghanistan.

Long after they are laid to rest – when the fighting has finished, and our nation has endured; when today's servicemen and women are veterans, and their children have grown – it will be said of this generation that they believed under the most trying of tests; that they persevered not just when it was easy, but when it was hard; and that they paid the price and bore the burden to secure this nation, and stood up for the values that live in the hearts of all free peoples.

So we say goodbye to those who now belong to eternity. We press ahead in pursuit of the peace that guided their service. May God bless the memory of those we lost. And

may God bless the United States of America.

##

01268-EPA-4999

**Richard Windsor/DC/USEPA/US**  
11/10/2009 11:05 PM

To Bob Sussman, Seth Oster, Arvin Ganesan  
cc  
bcc

Subject Re: Quotes

Agreed. Seth - I'd like to discuss tomorrow (again). Sorry.  
Bob Sussman

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

**From:** Bob Sussman  
**Sent:** 11/10/2009 09:57 PM EST  
**To:** Richard Windsor; Seth Oster; Arvin Ganesan  
**Subject:** Fw: Quotes

Much food for thought in the enclosed.  
Gregory Peck

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

**From:** Gregory Peck  
**Sent:** 11/10/2009 08:38 PM EST  
**To:** Bob Sussman; Arvin Ganesan; Shawn Garvin  
**Cc:** (b) (6) Privacy  
**Subject:** Quotes

## Manchin's big closed-door coal industry summit

by Ken Ward Jr.



I'm trying to figure out if Logan County Friend of Coal Art Kirkendoll got what he v  
two-hour, closed-door meeting between West Virginia political leaders and executiv

coal producers.

We've posted a news story on the event, [West Virginia leaders seek coal answers from](#) Gazette's Web site. As the lead says, the outcome of the meeting is some sort of frie Joe Manchin and the state's congressional delegation to speak "with one voice" to tr administration is up to on coal policies.

Everybody seemed to agree with the comments from the two coal executives Manchin in the Capitol during a "media availability" after the meeting — which was moved a conference room in the Capitol building to the "party tent" Manchin had erected adjacent mansion for social events.



Patriot Coal President Paul Vining and CONSOL Energy President Brett Harvey both changing the rules regarding Clean Water Act permits for strip mines, and the industry what those rules are now.

Their remarks (there are quotes from both in [my print story](#)) were a far cry from the hundreds of coal miners at the [now-infamous Corps of Engineers permit hearing/pro](#) didn't sound much like [state Sen. Majority Leader Truman Chafin, either](#). Vining ev the conclusions of a [previous Coal Tattoo post](#), that is, that there isn't an immediate immediate action by EPA:

*We're very concerned about our employees in the long term. It may not be*  
Not that Vining and his company aren't concerned. He told reporters that Patriot Co fewer employees in West Virginia:

*I'm not implying that's because of permits. It's because of economic conditi  
uncertainty, it adds that much more risk.*

Also interesting was that Rockefeller said that the White House meeting West Virgin have to be a face-to-face with President Obama — [something Manchin had previous](#)



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*We're tired of the yakking. We're tired of people screaming at each other. needed.*

Manchin did slip up once and start down the road of talking about the federal government the state. I'm told that during the closed-door meeting, Rep. Shelley Moore Capito said she could do to force EPA to return West Virginia's "sovereignty."

After the meeting, Rep. Nick J. Rahall told me that he continues to believe that EPA's Clean Water Act permit applications pending before the federal Army Corps of Engineers

*What we're into here is the implementation and enforcement of the Clean Water Act gives them the right to do.*

Rahall said that previous failure by EPA to enforce the law was part of what led to the problem that bottlenecked permit issuance by the Corps of Engineers.

Rahall and Capito, the only Republican member of the state's congressional delegation, said they want to get the political component out of the discussion of the future of coal mining.

Rahall said: "We have to get beyond the premise that this is about politics."

Capito said: "It really doesn't matter the politics of it. It's all about these folks and the communities they live in."

But there was one big elephant that wasn't in the room when those comments were made. President Don Blankenship attended the closed-door session, but I didn't see him. I think he certainly didn't go to the podium and speak.

And over at the [West Virginia Red blog](#), here's what one of Blankenship's former press secretaries said today's meeting was supposed to be about:

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I don't know what was said during the closed-door meeting ... but I know this isn't what the leadership leaders — including Rep. Capito, who is certainly pretty popular with the West Virginians — were telling the press after the meeting.

And last, but most certainly not least in all of this: While we don't know where Sen. Rockefeller will come down on all of this exactly (his West Virginia staff director, Anne Barth, declined to attend the conference), Sen. Rockefeller had some mighty interesting things to say about whether a limitation of mountaintop removal is needed:

*It isn't going to be the same as it always has been. We have to make adjustments. I don't think so much about mayflies, but I do think about those people [who] will have to be adjustments.*

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Gregory E. Peck  
Chief of Staff  
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U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
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202-564-5778

Bob Sussman      greg -- I remember you earlier preparin...      11/10/2009 08:12:05 PM

From: Bob Sussman/DC/USEPA/US  
To: Gregory Peck/DC/USEPA/US@EPA  
Date: 11/10/2009 08:12 PM  
Subject: Re: First Article About Governor's meeting.

greg -- I remember you earlier preparing [REDACTED] (b)(5) Deliberative [REDACTED]

Robert M. Sussman  
Senior Policy Counsel to the Administrator  
Office of the Administrator

US Environmental Protection Agency

Gregory Peck

November 10, 2009

11/10/2009 07:38:32 PM

From: Gregory Peck/DC/USEPA/US  
To: Peter Silva/DC/USEPA/US@EPA  
Cc: Arvin Ganesan/DC/USEPA/US@EPA, Shawn Garvin/R3/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, (b) (6) Privacy  
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November 10, 2009

## W.Va. leaders seek coal answers from White House

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"It's about the economy of West Virginia," Manchin said at a news conference after a two-hour, closed-door meeting. "We're trying to find that balance right now."

Rockefeller said the White House meeting doesn't have to involve President Obama, but must be with someone who can provide "information" about exactly what new environmental constraints EPA wants to place on mountaintop removal coal mining.

Rahall said coal executives at Tuesday's meeting expressed frustration with EPA permit reviews, delays in permit reviews, and about what -- if any -- new standards EPA Administrator Lisa Jackson is imposing on Clean Water Act permit reviews.

"We need to know what the rules of the game are," Rahall said. "We need clarity. We need EPA to get its act together."

Capito, the only Republican member of the state's congressional delegation, said the state would be more successful if "both parties are involved."

"I think unified voices are always louder and stronger," said Capito, who complained EPA has canceled two permit reviews. She said she will meet with Jackson to discuss permit review issues.

Representatives of Sen. Robert C. Byrd, D-W.Va., also attended the meeting, but did not speak during the news conference. Mollohan, D-W.Va., did not attend, and apparently no one from his staff came in his place.

Manchin called the high-level meeting at the request of Logan County Commissioner Art Kirkendoll, who complained that permit reviews, including the potential veto of the largest mountaintop removal permit in West Virginia history -- are hurting the coal industry.

"All we need to do is find out if it's qualifiable," Kirkendoll said. "If it's the right kind of permit, let us go to work."

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Brett Harvey, president of CONSOL Energy Inc., agreed.

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EPA officials did not immediately provide comment on the meeting.

---

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

202-564-5778

01268-EPA-5000

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

11/10/2009 11:42 PM

To Richard Windsor, Bob Sussman, Arvin Ganesan

cc

bcc

Subject Re: Quotes

Of course. I have some further thoughts to share myself.  
Richard Windsor

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

**From:** Richard Windsor

**Sent:** 11/10/2009 11:05 PM EST

**To:** Bob Sussman; Seth Oster; Arvin Ganesan

**Subject:** Re: Quotes

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We've posted a news story on the event, [West Virginia leaders seek coal answers from Governor Manchin](#) on the *West Virginia Gazette's* Web site. As the lead says, the outcome of the meeting is some sort of friendly agreement between Joe Manchin and the state's congressional delegation to speak "with one voice" to the federal administration is up to on coal policies.

Everybody seemed to agree with the comments from the two coal executives Manchin made in the Capitol during a "media availability" after the meeting — which was moved from a conference room in the Capitol building to the "party tent" Manchin had erected adjacent to a mansion for social events.



Patriot Coal President Paul Vining and CONSOL Energy President Brett Harvey both were talking about changing the rules regarding Clean Water Act permits for strip mines, and the industry was talking about what those rules are now.

Their remarks (there are quotes from both in [my print story](#)) were a far cry from the hundreds of coal miners at the [now-infamous Corps of Engineers permit hearing/protest](#) who didn't sound much like [state Sen. Majority Leader Truman Chafin, either](#). Vining even contradicted the conclusions of a [previous Coal Tattoo post](#), that is, that there isn't an immediate need for immediate action by EPA:

*We're very concerned about our employees in the long term. It may not be the best thing for them. Not that Vining and his company aren't concerned. He told reporters that Patriot Coal has lost a few employees in West Virginia:*

*I'm not implying that's because of permits. It's because of economic conditions and market uncertainty, it adds that much more risk.*

Also interesting was that Rockefeller said that the White House meeting West Virginia had to have to be a face-to-face with President Obama — [something Manchin had previously said](#). The press conference struck me as one of these times when everybody was trying to make a point. Rockefeller put it this way:

*We're tired of the yakking. We're tired of people screaming at each other. We need to get things needed.*

Manchin did slip up once and start down the road of talking about the federal government's role in the state. I'm told that during the closed-door meeting, Rep. Shelley Moore Capito asked what she could do to force EPA to return West Virginia's "sovereignty."

After the meeting, Rep. Nick J. Rahall told me that he continues to believe that EPA's delay of Clean Water Act permit applications pending before the federal Army Corps of Engineers is the problem.

*What we're into here is the implementation and enforcement of the Clean Water Act. It gives them the right to do.*

Rahall said that previous failure by EPA to enforce the law was part of what led to the delay that bottled up permit issuance by the Corps of Engineers.

Rahall and Capito, the only Republican member of the state's congressional delegation, said they want to get the political component out of the discussion of the future of coal mining. Rahall said: "We have to get beyond the premise that this is about politics."

Capito said: "It really doesn't matter the politics of it. It's all about these folks and the communities they live in."

But there was one big elephant that wasn't in the room when those comments were made. President Don Blankenship attended the closed-door session, but I didn't see him.

he certainly didn't go to the podium and speak.

And over at the [West Virginia Red blog](#), here's what one of Blankenship's former press secretary said about today's meeting was supposed to be about:

*The environmental extremists don't get it. Today's meeting is not about saving the planet or finding some balance between mining coal and saving salamanders. This is about formulating a strategy to combat the Obama administration's assault on the coal industry.*

*Most of the environmental groups that are supportive of the Obama administration have no desire to find a compromise between the coal industry and the environment. Their goal is to completely eliminate coal, coal mining, and mining jobs from our energy mix.*

*It's very simple to understand. You don't invite people who are trying to do business to a meeting where you plan to discuss the course of action required to shut them down. For example, can you imagine the President inviting Taliban representatives to the White House to currently hosting to formulate our strategy in Afghanistan? The environmental extremists desire to see the "big bad" coal operators, their employees, and their shareholders destroyed. The environmental movement wants to kill the coal industry.*

*There are also rumors swirling about the political implications from today's meeting. Environmental extremists are speculating that one or more of the conservative Democrats are considering a primary challenge against Congressman Nick Rahall. Other high-profile Democrat could switch parties and take on Rahall as a Republican. Congressman Nick Rahall deserves a Democrat primary challenge; after all, the Environmental Protection Agency is just doing its job. Rahall has grown more confident as his seniority in the House has grown. He has lost touch with the West Virginians he represents in Congress.*

I don't know what was said during the closed-door meeting ... but I know this isn't the only meeting leaders — including Rep. Capito, who is certainly pretty popular with the West Virginians — are telling the press after the meeting.

And last, but most certainly not least in all of this: While we don't know where Sen. Rockefeller will come down on all of this exactly (his West Virginia staff director, Anne Barth, declined to attend the conference), Sen. Rockefeller had some mighty interesting things to say about whether a limitation of mountaintop removal is needed:

*It isn't going to be the same as it always has been. We have to make adjustments. I don't think so much about mayflies, but I do think about those people [who] will have to be adjustments.*



---

Gregory E. Peck  
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 1200 Pennsylvania Avenue, N.W.  
 Washington, D.C. 20460

202-564-5778

Bob Sussman      greg -- I remember you earlier preparin...      11/10/2009 08:12:05 PM

From: Bob Sussman/DC/USEPA/US  
 To: Gregory Peck/DC/USEPA/US@EPA  
 Date: 11/10/2009 08:12 PM  
 Subject: Re: First Article About Governor's meeting.

greg -- I remember you earlier preparing [REDACTED] (b)(5) Deliberative [REDACTED]

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

Gregory Peck      November 10, 2009      11/10/2009 07:38:32 PM

From: Gregory Peck/DC/USEPA/US  
 To: Peter Silva/DC/USEPA/US@EPA  
 Cc: Arvin Ganesan/DC/USEPA/US@EPA, Shawn Garvin/R3/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, [REDACTED] (b) (6) Privacy  
 Date: 11/10/2009 07:38 PM  
 Subject: First Article About Governor's meeting.

November 10, 2009

## W.Va. leaders seek coal answers from White House

CHARLESTON, W.Va. -- West Virginia political leaders promised Tuesday to speak "with one voice" to clarify to more strictly regulate mountaintop removal coal mining.

Gov. Joe Manchin, Sen. Jay Rockefeller, and Reps. Nick J. Rahall and Shelley Moore Capito said they would j House meeting to raise coal industry concerns about tougher permit reviews instituted by the U.S. Environm

"It's about the economy of West Virginia," Manchin said at a news conference after a two-hour, closed-door m trying to find that balance right now."

Rockefeller said the White House meeting doesn't have to involve President Obama, but must be with someon information" about exactly what new environmental constraints EPA wants to place on mountaintop removal

Rahall said coal executives at Tuesday's meeting expressed frustration with EPA permit reviews, delays in per about what -- if any -- new standards EPA Administrator Lisa Jackson is imposing on Clean Water Act permit

"We need to know what the rules of the game are," Rahall said. "We need clarity. We need EPA to get its act to

Capito, the only Republican member of the state's congressional delegation, said the state would be more successful if both parties are involved.

"I think unified voices are always louder and stronger," said Capito, who complained EPA has canceled two permit reviews. Jackson to discuss permit review issues.

Representatives of Sen. Robert C. Byrd, D-W.Va., also attended the meeting, but did not speak during the news conference. Mollohan, D-W.Va., did not attend, and apparently no one from his staff came in his place.

Manchin called the high-level meeting at the request of Logan County Commissioner Art Kirkendoll, who complained about the potential veto of the largest mountaintop removal permit in West Virginia history -- are hurting

"All we need to do is find out if it's qualifiable," Kirkendoll said. "If it's the right kind of permit, let us go to work."

Top Manchin staffers, county commissioners from various coalfield counties, and several United Mine Workers leaders, along with more than a dozen top coal industry executives for the meeting. The event was moved at the last minute from a public square to a private tent structure set up adjacent to the Governor's Mansion for social events. Additional State Police troops were on hand to guard against any anti-mountaintop removal protesters.

Paul Vining, president of Patriot Coal Co., said the industry worries that EPA permit reviews and any new standards will have "far-reaching impacts" not just on mountaintop removal, but also on underground mining and coal-washing.

Vining said large-scale layoffs aren't not imminent, but that industry officials are concerned about long-term impacts if EPA's new standards are going to be.

"We're very concerned about our employees in the long term," Vining said. "It may not be next week or next month."

Brett Harvey, president of CONSOL Energy Inc., agreed.

"There has been a change and we would like to know what the rules are," Harvey said.

EPA officials did not immediately provide comment on the meeting.

---

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01268-EPA-5001

Bob Sussman/DC/USEPA/US

To Richard Windsor, Arvin Ganesan

11/12/2009 05:02 PM

cc

bcc

Subject Fw: Mining Press

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

----- Forwarded by Bob Sussman/DC/USEPA/US on 11/12/2009 04:54 PM -----

From: Gregory Peck/DC/USEPA/US  
To: Peter Silva/DC/USEPA/US@EPA  
Cc: Bob Sussman/DC/USEPA/US@EPA, Kevin Minoli, Suzanne Schwartz/DC/USEPA/US@EPA,  
(b) (6) Privacy  
Date: 11/12/2009 10:30 AM  
Subject: Mining Press

## Rockefeller still saying 'Flatten it, and they will come'

by Ken Ward Jr.



***We know that strip mining is tearing up the beauty of our state. mining is not a good economic future for West Virginia and not for our children. And we know that, whatever advantage it has***

***it leave is a permanent damage.***

– Sen. Jay Rockefeller, 1972

The story is probably worn-out now, about how Jay Rockefeller lost that election, and on strip mining. By 1977, Rockefeller was governor, and [was urging Congress to allow mountaintop removal](#) to strip-mining law then being written:

*Mountaintop removal should certainly be encouraged, if not specifically encouraged by legislation.*

Back then, Rockefeller was among the West Virginia leaders who pushed hard for level land mountaintop removal instead of forcing all surface mines to be reclaimed to their “as mined” condition. As I wrote in one of the [Mining the Mountains stories](#) more than a decade ago:

*Some members of West Virginia’s congressional delegation, including Sen. Rep. John Slack, both Democrats, also argued that allowing mine operators to flatten land would be good for economic development.*

*“In the state of West Virginia, we have a need for level land,” Randolph said. “ofttimes surface mining can allow for the location of a school, an airport, or a house. In many homesites.”*

But at the “media availability” after Gov. Joe Manchin’s big closed-door summit with the industry, Rockefeller focused on this issue again:

*I think there are virtually no states in this country except West Virginia that do not have mountaintop removal that we do have. **We need it, we can’t exist without it.** You can’t build a high school, you can’t build a house, you can’t build an industrial plant to put it.*

In [my post last evening](#), I decided to focus on Rockefeller’s comments that some changes in the way mountaintop removal is done and in the way the practice is regulated. But now that Peterson had a better idea when she included Rockefeller’s “flatten it and they will come” in [West Virginia Public Broadcasting](#). (Thanks to [a Coal Tattoo reader](#) for pointing this out.) The problem, of course, is that politicians who resort to this argument leave out the fact that thousands of acres across the Appalachian coalfields have already been flattened, and that’s been done, [there’s very little in the way of economic development on those flattened lands](#). So more than 30 years after Congress allowed mountaintop removal, in exchange for the industry of the sites it flattened, why is the need for level land still used as a justification for removal? It would be interesting to be in the room if that question was on the agenda for a session with the region’s top coal executives.

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202-564-5778

01268-EPA-5002

**Bob Sussman/DC/USEPA/US**

To Richard Windsor

11/12/2009 05:13 PM

cc

bcc

Subject Fw: Massey CEO Blankenship on EPA.

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

----- Forwarded by Bob Sussman/DC/USEPA/US on 11/12/2009 05:13 PM -----

From: Gregory Peck/DC/USEPA/US  
To: Peter Silva/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA  
Cc: (b) (6) Privacy Kevin Minoli  
Date: 11/12/2009 01:03 PM  
Subject: Massey CEO Blankenship on EPA.

---

11/12/2009

## regulation-Cession

MetroNews Talkline  
Statewide

### Massey CEO Don Blankenship: MetroNews Talkline

The CEO of Massey Energy says the Environmental Protection Agency takes its cues from the Obama

"I don't view the EPA as the answer," Don Blankenship said on Thursday's MetroNews Talkline.

"I think the EPA works for the President and his right hand men, so I don't think you can convince the EPA to convince the President to allow them to do something."

Blankenship was part of last week's meeting at the State Capitol that focused on the economic impact of the coal industry, especially surface mining.

The meeting also included Governor Joe Manchin, U.S. Senator Jay Rockefeller, a representative of U.S. Second District Congresswoman Shelley Moore Capito, Third District Congressman Nick Rahall, other community leaders.

The group decided to go to Washington, D.C. en masse to ask the EPA for clarity in the surface mining process. The group want answers on what exactly is required of more than 20 permits delayed for further review here.

"I think they'll probably get an answer," Blankenship says.

"I think the problem with asking for clarity from the EPA is you'll probably get it, but it'll probably be a history of some of the leadership in the EPA and given the President's general position."

He says it's easy for the EPA to set standards and requirements that are cost prohibitive and impossible

Changes to how the EPA operates in regards to coal mining, Blankenship says, will have to come from the coal industry expecting help for the coal industry is unlikely since, he says, President Obama has been clear about the source.

"It's a widespread environmental movement acceleration that is causing, what I refer to as, a regulatory

"We're not in a recession, a typical, cyclical recession. We're losing our jobs to other countries because regulations that change constantly, are very expensive to comply with or that you can't even get a permit

---

Gregory E. Peck  
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01268-EPA-5003

**Diane  
Thompson/DC/USEPA/US**  
11/17/2009 10:50 AM

To Richard Windsor  
cc Aaron Dickerson, Robert Goulding, Allyn Brooks-LaSure,  
Seth Oster, Michelle DePass, Scott Fulton  
bcc  
Subject Fw: Asia Trip Outreach Call by Locke and Chu

Let me know whether you would like to join this call to announce the MOU. It was signed this morning.  
DT

\*\*\*\*\*

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

----- Forwarded by Diane Thompson/DC/USEPA/US on 11/17/2009 10:49 AM -----

From: "Greenawalt, Andrei M." <(b) (6) Privacy>  
To: Diane Thompson/DC/USEPA/US@EPA  
Cc: Christopher Busch/DC/USEPA/US@EPA  
Date: 11/17/2009 10:12 AM  
Subject: Asia Trip Outreach Call

The basic details are that Chu and Locke are doing a call from China with businesses and energy groups. It's tonight at Wed at 7:30pm EST (8:30am Thursday in China). If the Administrator would like to participate (I realize she is traveling so I think she only should do so if it's convenient and she'd like to do it) let me know and I can connect you (or whoever the right person at EPA is) to the folks in OPE organizing it. Otherwise, it might be nice for them to know whether this MOU will be signed before this evening to the extent they are going through new agreements with China. Thanks!

During the week of November 16, EPA intends to sign a Memorandum of Cooperation with China's National Development and Reform Commission (NDRC) to build capacity to address climate change. Initial joint work will focus on greenhouse gas inventories, which offers the prospect of strengthening China's ability to provide credible and accurate greenhouse gas emissions data to the international community. The State Department is working to finalize Chinese and English texts so that Administrator Jackson and her NDRC counterpart, Vice Minister Xie Zhenhua, can sign the Memorandum sequentially before the President departs from China on November 18.

Andrei Greenawalt  
Deputy Director, Cabinet Affairs  
The White House  
(b) (6) Privacy (desk)  
(b) (6) Privacy (mobile)



01268-EPA-5004

**Richard Windsor/DC/USEPA/US**  
11/17/2009 11:09 AM

To Diane Thompson  
cc Aaron Dickerson, Robert Goulding, Allyn Brooks-LaSure, Seth Oster, Michelle DePass, Scott Fulton  
bcc  
Subject Re: Asia Trip Outreach Call by Locke and Chu

Seth

Thoughts?  
Diane Thompson

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

**From:** Diane Thompson  
**Sent:** 11/17/2009 10:50 AM EST  
**To:** Richard Windsor  
**Cc:** Aaron Dickerson; Robert Goulding; Allyn Brooks-LaSure; Seth Oster; Michelle DePass; Scott Fulton  
**Subject:** Fw: Asia Trip Outreach Call by Locke and Chu

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

----- Forwarded by Diane Thompson/DC/USEPA/US on 11/17/2009 10:49 AM -----

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To: Diane Thompson/DC/USEPA/US@EPA  
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Andrei Greenawalt  
Deputy Director, Cabinet Affairs  
The White House

(b) (6) Privacy (desk)  
(b) (6) Privacy (mobile)

01268-EPA-5005

Seth Oster/DC/USEPA/US

11/17/2009 11:46 AM

To Richard Windsor

cc Aaron Dickerson, Allyn Brooks-LaSure, Diane Thompson, Michelle DePass, Robert Goulding, Scott Fulton

bcc

Subject Re: Asia Trip Outreach Call by Locke and Chu

(b)(5) Deliberative

(b)(5) Deliberative

Seth

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

Richard Windsor Seth Thoughts? 11/17/2009 11:09:27 AM

From: Richard Windsor/DC/USEPA/US  
To: Diane Thompson/DC/USEPA/US@EPA  
Cc: Aaron Dickerson/DC/USEPA/US@EPA, Robert Goulding/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Michelle DePass/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA  
Date: 11/17/2009 11:09 AM  
Subject: Re: Asia Trip Outreach Call by Locke and Chu

Seth

Thoughts?

Diane Thompson

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

**From:** Diane Thompson  
**Sent:** 11/17/2009 10:50 AM EST  
**To:** Richard Windsor  
**Cc:** Aaron Dickerson; Robert Goulding; Allyn Brooks-LaSure; Seth Oster; Michelle DePass; Scott Fulton  
**Subject:** Fw: Asia Trip Outreach Call by Locke and Chu

Let me know whether you would like to join this call to announce the MOU. It was signed this morning.  
DT

\*\*\*\*\*

Diane E. Thompson  
Chief of Staff  
U. S. Environmental Protection Agency

202-564-6999

----- Forwarded by Diane Thompson/DC/USEPA/US on 11/17/2009 10:49 AM -----

From: "Greenawalt, Andrei M." <(b) (6) Privacy>  
To: Diane Thompson/DC/USEPA/US@EPA  
Cc: Christopher Busch/DC/USEPA/US@EPA  
Date: 11/17/2009 10:12 AM  
Subject: Asia Trip Outreach Call

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Andrei Greenawalt  
Deputy Director, Cabinet Affairs  
The White House  
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(b) (6) Privacy (mobile)

01268-EPA-5006

Michelle  
DePass/DC/USEPA/US  
11/17/2009 12:19 PM

To Richard Windsor  
cc  
bcc  
Subject Fw: Asia Trip Outreach Call by Locke and Chu

**(b)(5) Deliberative** How is NO?

Michelle DePass  
Assistant Administrator

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

Phone: 202-564-6600  
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Vanessa Fleeton  
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Executive Assistant to Michelle DePass  
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Email: [fleeton.vanessa@epa.gov](mailto:fleeton.vanessa@epa.gov)

----- Forwarded by Michelle DePass/DC/USEPA/US on 11/17/2009 12:13 PM -----

From: Seth Oster/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA  
Cc: Aaron Dickerson/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Michelle DePass/DC/USEPA/US@EPA, Robert Goulding/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA  
Date: 11/17/2009 11:46 AM  
Subject: Re: Asia Trip Outreach Call by Locke and Chu

**(b)(5) Deliberative**

[Redacted]

Seth

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency

(202) 564-1918  
oster.seth@epa.gov

Richard Windsor    Seth Thoughts?    11/17/2009 11:09:27 AM

From: Richard Windsor/DC/USEPA/US  
To: Diane Thompson/DC/USEPA/US@EPA  
Cc: Aaron Dickerson/DC/USEPA/US@EPA, Robert Goulding/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Michelle DePass/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA  
Date: 11/17/2009 11:09 AM  
Subject: Re: Asia Trip Outreach Call by Locke and Chu

Seth

Thoughts?

Diane Thompson

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

**From:** Diane Thompson  
**Sent:** 11/17/2009 10:50 AM EST  
**To:** Richard Windsor  
**Cc:** Aaron Dickerson; Robert Goulding; Allyn Brooks-LaSure; Seth Oster; Michelle DePass; Scott Fulton  
**Subject:** Fw: Asia Trip Outreach Call by Locke and Chu

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

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To: Diane Thompson/DC/USEPA/US@EPA  
Cc: Christopher Busch/DC/USEPA/US@EPA  
Date: 11/17/2009 10:12 AM  
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Andrei Greenawalt  
Deputy Director, Cabinet Affairs  
The White House  
(b) (6) Privacy (desk)  
(b) (6) Privacy (mobile)

01268-EPA-5007

**Richard Windsor/DC/USEPA/US**  
11/17/2009 12:20 PM

To Seth Oster, "Michael Moats"  
cc Aaron Dickerson, Allyn Brooks-LaSure, Diane Thompson, Michelle DePass, Robert Goulding, Scott Fulton  
bcc  
Subject Re: Asia Trip Outreach Call by Locke and Chu

Ok - let's put it on the schedule. (b)(5) Deliberative

remarks. Moats - can u email me a page of opening

Seth Oster

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

**From:** Seth Oster  
**Sent:** 11/17/2009 11:46 AM EST  
**To:** Richard Windsor  
**Cc:** Aaron Dickerson; Allyn Brooks-LaSure; Diane Thompson; Michelle DePass; Robert Goulding; Scott Fulton  
**Subject:** Re: Asia Trip Outreach Call by Locke and Chu

(b)(5) Deliberative

[Redacted]

Seth

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Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency  
(202) 564-1918  
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Richard Windsor Seth Thoughts? 11/17/2009 11:09:27 AM

**From:** Richard Windsor/DC/USEPA/US  
**To:** Diane Thompson/DC/USEPA/US@EPA  
**Cc:** Aaron Dickerson/DC/USEPA/US@EPA, Robert Goulding/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Michelle DePass/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA  
**Date:** 11/17/2009 11:09 AM  
**Subject:** Re: Asia Trip Outreach Call by Locke and Chu

Seth

Thoughts?

Diane Thompson

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

**From:** Diane Thompson



**Sent:** 11/17/2009 10:50 AM EST  
**To:** Richard Windsor  
**Cc:** Aaron Dickerson; Robert Goulding; Allyn Brooks-LaSure; Seth Oster; Michelle DePass; Scott Fulton  
**Subject:** Fw: Asia Trip Outreach Call by Locke and Chu  
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\*\*\*\*\*

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

----- Forwarded by Diane Thompson/DC/USEPA/US on 11/17/2009 10:49 AM -----

From: "Greenawalt, Andrei M." <[REDACTED] (b) (6) Privacy>  
 To: Diane Thompson/DC/USEPA/US@EPA  
 Cc: Christopher Busch/DC/USEPA/US@EPA  
 Date: 11/17/2009 10:12 AM  
 Subject: Asia Trip Outreach Call

The basic details are that Chu and Locke are doing a call from China with businesses and energy groups. It's tonight at Wed at 7:30pm EST (8:30am Thursday in China). If the Administrator would like to participate (I realize she is traveling so I think she only should do so if it's convenient and she'd like to do it) let me know and I can connect you (or whoever the right person at EPA is) to the folks in OPE organizing it. Otherwise, it might be nice for them to know whether this MOU will be signed before this evening to the extent they are going through new agreements with China. Thanks!

During the week of November 16, EPA intends to sign a Memorandum of Cooperation with China's National Development and Reform Commission (NDRC) to build capacity to address climate change. Initial joint work will focus on greenhouse gas inventories, which offers the prospect of strengthening China's ability to provide credible and accurate greenhouse gas emissions data to the international community. The State Department is working to finalize Chinese and English texts so that Administrator Jackson and her NDRC counterpart, Vice Minister Xie Zhenhua, can sign the Memorandum sequentially before the President departs from China on November 18.

Andrei Greenawalt  
 Deputy Director, Cabinet Affairs  
 The White House  
 (b) (6) Privacy (desk)  
 (b) (6) Privacy (mobile)

01268-EPA-5008

**Richard Windsor/DC/USEPA/US**  
11/17/2009 12:23 PM

To Michelle DePass  
cc  
bcc

Subject Re: Asia Trip Outreach Call by Locke and Chu

So far so good. EJ mtg next! Then heli tour.  
Michelle DePass

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

**From:** Michelle DePass  
**Sent:** 11/17/2009 12:19 PM EST  
**To:** Richard Windsor  
**Subject:** Fw: Asia Trip Outreach Call by Locke and Chu  
(b)(5) Deliberative . How is NO?

---

Michelle DePass  
Assistant Administrator

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

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

Vanessa Fleeton  
Administrative Specialist  
Executive Assistant to Michelle DePass  
Phone: 202-564-4762  
Fax: 202-565-2407  
Email: [fleeton.vanessa@epa.gov](mailto:fleeton.vanessa@epa.gov)

----- Forwarded by Michelle DePass/DC/USEPA/US on 11/17/2009 12:13 PM -----

**From:** Seth Oster/DC/USEPA/US  
**To:** Richard Windsor/DC/USEPA/US@EPA  
**Cc:** Aaron Dickerson/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Michelle DePass/DC/USEPA/US@EPA, Robert Goulding/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA  
**Date:** 11/17/2009 11:46 AM  
**Subject:** Re: Asia Trip Outreach Call by Locke and Chu

(b)(5) Deliberative

[Redacted]

Seth

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

Richard Windsor	Seth Thoughts?	11/17/2009 11:09:27 AM
-----------------	----------------	------------------------

From: Richard Windsor/DC/USEPA/US  
To: Diane Thompson/DC/USEPA/US@EPA  
Cc: Aaron Dickerson/DC/USEPA/US@EPA, Robert Goulding/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Michelle DePass/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA  
Date: 11/17/2009 11:09 AM  
Subject: Re: Asia Trip Outreach Call by Locke and Chu

Seth

Thoughts?

Diane Thompson

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

**From:** Diane Thompson  
**Sent:** 11/17/2009 10:50 AM EST  
**To:** Richard Windsor  
**Cc:** Aaron Dickerson; Robert Goulding; Allyn Brooks-LaSure; Seth Oster; Michelle DePass; Scott Fulton  
**Subject:** Fw: Asia Trip Outreach Call by Locke and Chu

Let me know whether you would like to join this call to announce the MOU. It was signed this morning.  
DT

\*\*\*\*\*

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

----- Forwarded by Diane Thompson/DC/USEPA/US on 11/17/2009 10:49 AM -----

From: "Greenawalt, Andrei M." <(b) (6) Privacy>  
To: Diane Thompson/DC/USEPA/US@EPA  
Cc: Christopher Busch/DC/USEPA/US@EPA  
Date: 11/17/2009 10:12 AM  
Subject: Asia Trip Outreach Call

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Andrei Greenawalt  
Deputy Director, Cabinet Affairs  
The White House

(b) (6) Privacy (desk)  
(b) (6) Privacy (mobile)

01268-EPA-5009

Michael Moats/DC/USEPA/US  
11/17/2009 12:23 PM

To Richard Windsor  
cc Aaron Dickerson, Allyn Brooks-LaSure, Diane Thompson, Michelle DePass, "Michael Moats", Robert Goulding, Scott Fulton, Seth Oster  
bcc

Subject Re: Asia Trip Outreach Call by Locke and Chu

Will do.

-----  
Michael Moats  
Speechwriter  
US EPA | Office of the Administrator  
Office: 202-564-1687  
Mobile: 202-527-4436

Richard Windsor    Ok - let's put it on the schedule. (b)(5) Deliberative    11/17/2009 12:20:15 PM

From: Richard Windsor/DC/USEPA/US  
To: Seth Oster/DC/USEPA/US@EPA, "Michael Moats" <moats.michael@epa.gov>  
Cc: Aaron Dickerson/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Michelle DePass/DC/USEPA/US@EPA, Robert Goulding/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA  
Date: 11/17/2009 12:20 PM  
Subject: Re: Asia Trip Outreach Call by Locke and Chu

Ok - let's put it on the schedule. (b)(5) Deliberative  
Moats - can u email me a page of opening remarks.

Seth Oster

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

From: Seth Oster  
Sent: 11/17/2009 11:46 AM EST  
To: Richard Windsor  
Cc: Aaron Dickerson; Allyn Brooks-LaSure; Diane Thompson; Michelle DePass; Robert Goulding; Scott Fulton  
Subject: Re: Asia Trip Outreach Call by Locke and Chu

(b)(5) Deliberative

Seth

Seth Oster  
Associate Administrator  
Office of Public Affairs  
Environmental Protection Agency

(202) 564-1918  
oster.seth@epa.gov

Richard Windsor

Seth Thoughts?

11/17/2009 11:09:27 AM

From: Richard Windsor/DC/USEPA/US  
To: Diane Thompson/DC/USEPA/US@EPA  
Cc: Aaron Dickerson/DC/USEPA/US@EPA, Robert Goulding/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA, Michelle DePass/DC/USEPA/US@EPA, Scott Fulton/DC/USEPA/US@EPA  
Date: 11/17/2009 11:09 AM  
Subject: Re: Asia Trip Outreach Call by Locke and Chu

Seth

Thoughts?

Diane Thompson

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

**From:** Diane Thompson  
**Sent:** 11/17/2009 10:50 AM EST  
**To:** Richard Windsor  
**Cc:** Aaron Dickerson; Robert Goulding; Allyn Brooks-LaSure; Seth Oster; Michelle DePass; Scott Fulton  
**Subject:** Fw: Asia Trip Outreach Call by Locke and Chu

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

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Andrei Greenawalt  
Deputy Director, Cabinet Affairs  
The White House  
(b) (6) Privacy (desk)  
(b) (6) Privacy (mobile)

01268-EPA-5010

Arvin Ganesan/DC/USEPA/US

To Richard Windsor

11/19/2009 07:27 PM

cc Bob Sussman, Diane Thompson, Bob Perciasepe

bcc

Subject Fw: West Virginia - heads up

FYI - WV passed a resolution today urging it's delegation to oppose efforts that hurt WV Coal. Specifically, one of the clauses says

"Whereas, Recent events at the federal level, most notably the debate over "cap and trade" legislation in Congress and obscure regulatory actions by the Environmental Protection Agency, are casting a shadow of doubt and uncertainty over the future of the coal industry in West Virginia; and"

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

----- Forwarded by Arvin Ganesan/DC/USEPA/US on 11/19/2009 07:26 PM -----

From: "Maher, Jessica A." <[REDACTED] (b) (6) Privacy>  
To: Arvin Ganesan/DC/USEPA/US@EPA  
Date: 11/19/2009 07:17 PM  
Subject: FW: West Virginia - heads up

---

Today, resolutions passed the West Virginia House and Senate that condemned both cap-and-trade and "obscure regulatory actions by the Environmental Protection Agency" with respect to coal. Language highlighted below.

Thanks.

Jess

## HOUSE RESOLUTION NO. 402

(By Mr. Speaker, Mr. Thompson, and Delegate Armstead)

[By Request of the Executive]

[Introduced November 19, 2009]

Expressing the will of the House of Delegates to continue its support of the West Virginia coal industry and requesting that West Virginia's congressional delegation resist and oppose efforts to undermine the future of West Virginia coal.



Whereas, The coal industry provides salaries and benefits to thousands of West Virginians; and  
Whereas, The coal industry is responsible for millions of dollars of tax revenues that are used to fund important government services and programs; and

Whereas, The coal industry is vitally important to the economic welfare of this State and its citizens; and

Whereas, The Legislature, with the leadership and support of the Governor, has worked to enact legislation to ensure the future of West Virginia coal, including the adoption of sweeping coal mine safety reforms, planning requirements for post-mining land use, an alternative and renewable energy portfolio featuring clean coal technology, and a regulatory framework for carbon capture and sequestration projects; and

Whereas, Recent events at the federal level, most notably the debate over "cap and trade" legislation in Congress and obscure regulatory actions by the Environmental Protection Agency, are casting a shadow of doubt and uncertainty over the future of the coal industry in West Virginia; and

Whereas, For the sake of those individuals who depend upon coal to support themselves and their families, the House of Delegates, the Senate, the Governor and West Virginia's congressional delegation must work together to secure the future of the coal industry, and with it the future of the State; therefore, be it

*Resolved by the House of Delegates:*

That the West Virginia House of Delegates will continue to support the West Virginia coal industry by encouraging measures that protect miners and their families, provide incentives for the development of advanced coal technologies, enhance the energy independence of the State and the nation, protect the environment from which coal is mined, and supply consumers with cleaner and more affordable energy produced from coal; and, be it

*Further Resolved* , That the West Virginia House of Delegates requests that West Virginia's congressional delegation resist and oppose efforts at the federal level to undermine the future of West Virginia's coal industry; and, be it

*Further Resolved*, That the Clerk of the House of Delegates forward a certified copy of this resolution to United States Senators Robert C. Byrd and John D. Rockefeller IV and Representatives Nick J. Rahall, Alan B. Mollohan and Shelley M. Capito.

### **SENATE RESOLUTION NO. 407**

(By Senators Tomblin (Mr. President), Bowman, Browning, Chafin, Edgell, D. Facemire, Fanning, Foster, Green, Helmick, Jenkins, Kessler, Laird, McCabe, Minard, Oliverio, Palumbo, Plymale, Prezioso, Snyder, Stollings, Unger, Wells, White, Williams, Yost, Barnes, Boley, Caruth, Deem, K. Facemyer, Guills, Hall and Sypolt)

Expressing the will of the Senate to continue its support of the West Virginia coal industry and requesting that West Virginia's congressional delegation resist and oppose efforts to undermine the future of West Virginia coal.

Whereas, The coal industry provides salaries and benefits to thousands of West Virginians; and

Whereas, The coal industry is responsible for millions of dollars of tax revenues that are used to fund important government services and programs; and

Whereas, The coal industry is vitally important to the economic welfare of this state and its citizens; and

Whereas, The Legislature, with the leadership and support of the Governor, has worked to enact legislation to ensure the future of West Virginia coal, including the adoption of sweeping coal mine safety reforms, planning requirements for post-mining land use, an alternative and renewable energy portfolio featuring advanced coal technology and a regulatory framework for carbon capture and sequestration projects; and

Whereas, Recent events at the federal level, most notably the debate over "cap and trade" legislation in Congress and obscure regulatory actions by the Environmental Protection Agency, are casting a shadow of doubt and uncertainty over the future of the coal industry in West Virginia; and

Whereas, For the sake of those individuals who depend upon coal to support themselves and their families, the House of Delegates, the Senate, the Governor and West Virginia's congressional delegation must work together to secure the future of the coal industry and with it the future of the state; therefore, be it

*Resolved by the Senate:*

That the Senate hereby expresses its will to continue its support of the West Virginia coal industry and requests that West Virginia's congressional delegation resist and oppose efforts to undermine the future of West Virginia coal; and, be it

*Further Resolved,* That the Senate will continue to support the West Virginia coal industry by encouraging measures that protect miners and their families, provide incentives for the development of advanced coal technologies, enhance the energy independence of the state and the nation, protect the environment from which coal is mined and supply consumers with cleaner and more affordable energy produced from coal; and, be it

*Further Resolved* , That the Senate requests that West Virginia's congressional delegation resist and oppose efforts at the federal level to undermine the future of West Virginia's coal industry; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to United States Senators Robert C. Byrd and John D. Rockefeller IV and Representatives Nick J. Rahall, Alan B. Mollohan and Shelley M. Capito.

**Jessica Maher**

Legislative Affairs  
White House Council on Environmental Quality  
730 Jackson Place, NW  
Washington, DC 20503  
Main Line: (b) (6) Privacy  
Direct: (202)-456-9726  
Cell: (b) (6) Privacy  
(b) (6) Privacy

01268-EPA-5011

Arvin Ganesan/DC/USEPA/US

To Richard Windsor

11/20/2009 01:57 PM

cc Bob Sussman, Peter Silva, Seth Oster, Diane Thompson

bcc

Subject Fw: WV Chamber: Withhold Vote On Health Care Until 'War on Coal/Energy' Ceases

FYI - from the WV Chamber.

-----  
ARVIN R. GANESAN  
Deputy Associate Administrator  
Congressional Affairs  
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(p) 202.564.5200  
(f) 202.501.1519  
----- Forwarded by Arvin Ganesan/DC/USEPA/US on 11/20/2009 01:57 PM -----

From: "Maher, Jessica A." <[REDACTED] (b) (6) Privacy>  
To: Arvin Ganesan/DC/USEPA/US@EPA  
Date: 11/20/2009 01:45 PM  
Subject: FW: WV Chamber: Withhold Vote On Health Care Until 'War on Coal/Energy' Ceases

---

FYI.

**From:** [WV Chamber](#)**Sent:** Friday, November 20, 2009 11:17 AM**Subject:** WV Chamber: Withhold Vote On Health Care Until 'War on Coal/Energy' Ceases

The following statement went out today to the state's congressional delegation and the media.

## **West Virginia Chamber Calls On State's Congressional Delegation To Withhold Health Care Vote Until 'War On Coal/Energy' Ceases**

November 20, 2009

The West Virginia Chamber of Commerce calls on members of the state's congressional delegation, particularly Senators Byrd and Rockefeller, to withhold voting to advance national health care reform until the Obama Administration and Congress ceases its "war on coal/energy." Since the start of the Obama Administration and the new Congress there has been a growing campaign against the mining and use of coal, stated Steve Roberts, President of the West Virginia Chamber. "This war against coal and domestic energy threatens our state and its citizens with increased poverty, lost tax revenues and economic disruption. This needs to end before irreparable damage sets in."

Roberts noted that job losses and poverty are major factors that contribute to poor health. "No other

factor affects a person's -- and a family's health -- than being impoverished," he added. "West Virginia has made good strides over the past five years to improve the health and well-being of its citizens, and a strong, productive state energy industry is central to this."

"It seems counterintuitive to ask taxpayers in this country to pour money and take on a trillion dollars in future debt to expand health care coverage and benefits while at the same time the Obama administration and Congress are working to destroy jobs, eliminate good health care benefits and hurt people's well-being."

Moreover, this new campaign against coal and domestic energy production will only put added pressure on the nation's growing energy needs and costs, and, thereby cause additional jobs to be lost in manufacturing, services, technology and a host of other industries. "Coal, which is an affordable, domestic energy resource used to generate 50 percent of the nation's electricity, should not be cast aside based on the radical viewpoints of the some fringe elements. Nor should new attacks be allowed to start against the domestic natural gas industry."

Roberts called on the state's congressional delegation to withhold voting to advance national health care reform until the Obama Administration, particularly the U.S. Environmental Protection Agency, backs down on its campaign against coal. "Votes to advance national health care reform are at razor-thin margins in both houses of Congress, and West Virginia's congressional delegation needs to use this time -- and their clout and seniority -- to get this anti-coal situation stopped."

## Overview: The "War On Coal/Energy"

### **Carbon Reduction/Cap-And-Trade**

The Obama Administration and Democratic congressional leaders are advancing climate change legislation that will impose new regulations and lead to substantial hikes in energy prices, particularly for electricity generated from coal-fired power plants. Legislation such as H.R. 2454 -- the American Clean Energy and Security Act of 2009 (ACES Act) and U.S. Senate's Clean Energy Jobs and American Power Act -- aim to reduce emissions of "global warming pollution," establish a cap-and-trade system, and encourage carbon capture technologies. However, the bills will cause energy prices to increase on all consumers (businesses, individuals, governments, etc.) and will cost thousands and thousands of jobs.

A recent study by the National Association of Manufacturers estimates HR 2454 would cost 1.7 million to 2.4 million jobs nationally by 2030. And, preliminary estimates by WVU's Bureau of Economic Research shows that West Virginia stands to lose 35,000+ jobs and tens of millions in annual tax revenues.

### **EPA Considering Regulating Carbon Dioxide As A Pollutant**

The U.S. Environmental Protection Agency has taken the first formal step in listing carbon dioxide and methane as pollutants and eventually developing regulations and controls. The EPA issued its proposed finding on April 1, 2009 and stated "greenhouse gases contribute to air pollution that may endanger public health or welfare." The EPA's announcement initiated a public comment period on six greenhouse gases that "pose a potential threat." Among these are carbon dioxide and methane. For more information, go to <http://epa.gov/climatechange/endangerment.html>.

### **EPA 'Reviewing' Coal Mining Permit**

The United States Environmental Protection Agency announced March 24, 2009 ([click to read](#)) that the agency would begin reviews of federal mining permits because of "serious concerns about the need to reduce the potential harmful impacts on water quality caused by certain types of coal mining practices, such as mountaintop mining." The agency said it was taking this step because it has "considerable

concern regarding the environmental impact these projects would have on fragile habitats and streams.” Since this announcement, the EPA continues to hold up 79 permit applications, of which 23 are in West Virginia.

### **EPA To Require Greenhouse Gas Emission Permits**

In late September 2009 the U.S. EPA launched a new regulatory initiative designed to “address greenhouse gas (GHG) emissions under the Clean Air Act.” The EPA’s latest proposal will require large industrial facilities, which emit at least 25,000 tons of GHGs, a year to obtain construction and operating permits covering these emissions. “These permits must demonstrate the use of best available control technologies and energy efficiency measures to minimize GHG emissions when facilities are constructed or significantly modified.” According to the EPA’s proposed rule, these large facilities would include power plants, refineries, and factories. Small businesses such as farms, restaurants and many other types of small facilities would not be included in these requirements. Click to see the proposed rules or for more information: <http://www.epa.gov/nsr>

### **EPA To Tighten SO2 Standards From Coal**

For the first time in nearly 40 years, the U.S. EPA is proposing to tighten the nation’s sulfur dioxide (SO2) air quality standard to “protect public health.” This change, announced in November 2009, will affect coal-fired power plants and other industrial facilities. Click to read more: <http://www.epa.gov/air/sulfurdioxide/actions.html#nov09>

### **EPA To Regulate Coal Combustion Byproducts As Hazardous Waste**

The U.S. Environmental Protection Agency is expected to issue a proposed rule regulating coal combustion byproducts (CCBs) as hazardous waste by the end of 2009. The rule is currently being reviewed by the Office of Information and Regulatory Affairs and the Small Business Administration. Regulating CCBs as hazardous waste will have potentially devastating economic impacts on the economy. Regulating CCBs as hazardous waste will increase the price of electricity for both businesses and consumers as power generators face higher compliance, transportation, storage, handling, and disposal costs.

### **U.S. Department of Interior Plans To Increase Coal Mining Oversight, New Stream Rules**

The U.S. Department of the Interior announced November 18 that it is taking immediate actions to strengthen oversight of state surface coal mining programs and to promulgate Federal regulations to better protect streams affected by surface coal mining operations. Interior’s Office of Surface Mining Reclamation and Enforcement (OSM) is publishing an advance notice of proposed rulemaking regarding the protection of streams from the adverse impacts of surface coal mining operations. The notice requests comments on alternatives for revising the current regulations, which include the stream buffer zone rule issued by the Bush Administration in December 2008. For more information, go to: [http://www.doi.gov/news/09\\_News\\_Releases/111809.html](http://www.doi.gov/news/09_News_Releases/111809.html).

## **Hold the Votes**

MetroNews Talkline, November 20, 2009

Those with the West Virginia Chamber of Commerce say it's time for U.S. Senator Robert Byrd and U.S. Senator Jay Rockefeller and the other members of West Virginia's Congressional delegate to throw around some weight on Capitol Hill.

"This is about 25% of West Virginia's economy. It's about thousands of jobs for West Virginia mining families," Chamber President Steve Roberts said on Friday's MetroNews Talkline.

"This is a situation that is going to have an impact on everybody in West Virginia, young and old,

students, working people."

That's why Roberts says, when it comes time for a vote on the health care reform bill in the U.S. Senate, Senators Byrd and Rockefeller should withhold their votes until the Obama Administration and Congress "ceases its war on coal/energy."

"We need our members of Congress, who all have significant seniority and clout, to really stand up to President Obama and to the EPA," Roberts says. He says they need to stand up on issues including climate change, mountaintop removal mining and energy policy.

Roberts claims there's been a "growing campaign against mining and use of coal" since the start of the Obama Administration and the new Congress.

He says his request of those representing the state in Washington is reasonable.

"This is an issue that is so important to so many people in West Virginia," Roberts says. "It's about good politics. It's about good policy. It's about using the clout and strength that our delegation has."

01268-EPA-5012

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

To Richard Windsor

cc

11/20/2009 04:27 PM

bcc

Subject Fw: U.S.-China Clean Energy Announcements & U.S.-China  
Joint Statement

-----

M. Allyn Brooks-LaSure | Deputy Associate Administrator for Public Affairs

U.S. Environmental Protection Agency | Office of the Administrator

Phone: 202-564-8368 | Email: brooks-lasure.allyn@epa.gov

----- Forwarded by Allyn Brooks-LaSure/DC/USEPA/US on 11/20/2009 04:27 PM -----

From: "Blake, Michael A." [REDACTED] (b) (6) Privacy  
To: undisclosed-recipients;;  
Date: 11/20/2009 04:21 PM  
Subject: U.S.-China Clean Energy Announcements & U.S.-China Joint Statement

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THE WHITE HOUSE  
Office of the Press Secretary

---

FOR IMMEDIATE RELEASE  
November 17, 2009

**U.S.-China Joint Statement**  
November 17, 2009  
Beijing, China

At the invitation of President Hu Jintao of the People's Republic of China, President Barack Obama of the United States of America is paying a state visit to China from November 15-18, 2009. The Presidents held in-depth, productive and candid discussions on U.S.-China relations and other issues of mutual interest. They highlighted the substantial progress in U.S.-China relations over the past 30 years since the establishment of diplomatic ties, and they reached agreement to advance U.S.-China relations in the new era. President Obama will have separate meetings with Wu Bangguo, Chairman of the Standing Committee of the National People's Congress and Premier Wen Jiabao. President Obama also spoke with and answered questions from Chinese youth.

**I. The U.S.-China Relationship**

The United States and China agreed that regular exchanges between leaders of the two countries are essential to the long-term, sound, and steady growth of U.S.-China relations. The two sides are of the view that the three meetings between the two presidents and other important bilateral exchanges this year have strengthened relations. President Obama invited President Hu to make a visit to the United States next year, and President Hu accepted the invitation with pleasure. Leaders of the two countries will continue to maintain close

communication through mutual visits, meetings, telephone conversations and correspondence.

The United States and China spoke highly of the important role of the U.S.-China Strategic and Economic Dialogue and recognized that the Dialogue offers a unique forum to promote understanding, expand common ground, reduce differences, and develop solutions to common problems. Both sides believed that the first round of the Dialogue held in Washington, D.C., in July this year was a fruitful one and agreed to honor in good faith the commitments made and hold the second round in Beijing in the summer of 2010. The two sides agreed that they will continue to use the direct communication links among senior leaders to maintain timely communication on major and sensitive issues, institutionalize the annual exchange of visits by the two foreign ministers and encourage senior officials of other departments of the two countries to exchange visits on a regular basis.

The United States and China commended the outcomes of the visit to the United States by General Xu Caihou, Vice Chairman of the Chinese Central Military Commission, in October this year, and stated that they will take concrete steps to advance sustained and reliable military-to-military relations in the future. The two sides will prepare for the visit to the United States by General Chen Bingde, Chief of the General Staff of China's People's Liberation Army, and the visits to China by Robert Gates, the U.S. Secretary of Defense, and Admiral Michael Mullen, Chairman of the U.S. Joint Chiefs of Staff. The two sides will actively implement various exchange and cooperation programs agreed between the two militaries, including by increasing the level and frequency of exchanges. The goal of these efforts is to improve their capabilities for practical cooperation and foster greater understanding of each other's intentions and of the international security environment.

The United States and China agreed to deepen counter-terrorism consultation and cooperation on an equal and mutually beneficial basis and to strengthen law-enforcement cooperation. They agreed to exchange evidence and intelligence on law enforcement issues in a timely and reciprocal manner. The two countries will undertake joint investigations and provide investigative assistance on cases of mutual interest. The United States and China will strengthen cooperation on criminal investigations and deepen collaboration in combating embezzlement as well as in counter-narcotics and pre-cursor chemical control and in combating unlawful migration. They also will boost joint efforts to combat transnational crime and criminal organizations as well as money laundering and the financing of terrorism including counterfeiting and recovery of illicit funds. They will work to combat smuggling and human trafficking.

The United States reaffirmed its support for Expo 2010 Shanghai.

The United States and China applauded the rich achievements in scientific and technological cooperation and exchanges between the two countries over the past 30 years since the signing of the *U.S.-China Agreement on Cooperation in Science and Technology* and agreed to further upgrade the level of exchanges and cooperation in scientific and technological innovation through the U.S.-China Joint Commission on Science and Technology Cooperation.

The United States and China look forward to expanding discussions on space science cooperation and starting a dialogue on human space flight and space exploration, based on the principles of transparency, reciprocity and mutual benefit. Both sides welcome reciprocal visits



of the NASA Administrator and the appropriate Chinese counterpart in 2010.

The United States and China agreed to strengthen their cooperation on civil aviation, and confirmed their intent to expand the *Memorandum of Agreement for Technical Cooperation in the field of Civil Aviation between the Federal Aviation Administration of the United States of America and the Civil Aviation Administration of China (CAAC)*. The two sides welcomed cooperation by public and private bodies on the development of high speed railway infrastructure.

The United States and China undertook to implement the newly signed *Memorandum of Understanding Between the Department of Agriculture of the United States of America and the Ministry of Agriculture of the People's Republic of China on Cooperation in Agriculture and Related Fields* .

The two countries agreed to collaborate further in joint research in the health sector including on stem cells. They will deepen cooperation on global public health issues, including Influenza A (H1N1) prevention, surveillance, reporting and control, and on avian influenza, HIV/AIDS, tuberculosis, and malaria. They will also enhance cooperation on food and product safety and quality.

The United States and China underlined that each country and its people have the right to choose their own path, and all countries should respect each other's choice of a development model. Both sides recognized that the United States and China have differences on the issue of human rights. Addressing these differences in the spirit of equality and mutual respect, as well as promoting and protecting human rights consistent with international human rights instruments, the two sides agreed to hold the next round of the official human rights dialogue in Washington D.C. by the end of February 2010. The United States and China agreed that promoting cooperation in the field of law and exchanges on the rule of law serves the interests and needs of the citizens and governments of both countries. The United States and China decided to convene the U.S.-China Legal Experts Dialogue at an early date.

The two countries noted the importance of people-to-people and cultural exchanges in fostering closer U.S.-China bilateral relations and therefore agreed in principle to establish a new bilateral mechanism to facilitate these exchanges. The two sides are pleased to note the continued increase in the number of students studying in each other's country in recent years. Nearly 100,000 Chinese are now studying in the United States, and the U.S. side will receive more Chinese students and facilitate visa issuance for them. The United States has approximately 20,000 students in China. The United States seeks to encourage more Americans to study in China by launching a new initiative to send 100,000 students to China over the coming four years. China welcomed this decision by the United States. The two sides agreed to expedite negotiations to renew in 2010 the *Implementing Accord for Cultural Exchange for the Period Through 2010-2012 under the Cultural Agreement Between the Government of the United States of America and the Government of the People's Republic of China*. The United States and China agreed to jointly hold the Second U.S.-China Cultural Forum in the United States at an appropriate time.

## **II. Building and Deepening Bilateral Strategic Trust**

The United States and China are of the view that in the 21st century, global challenges are growing, countries are more interdependent, and the need for peace, development, and cooperation is increasing. The United States and China have an increasingly broad base of

cooperation and share increasingly important common responsibilities on many major issues concerning global stability and prosperity. The two countries should further strengthen coordination and cooperation, work together to tackle challenges, and promote world peace, security and prosperity.

The two countries believe that to nurture and deepen bilateral strategic trust is essential to U.S.-China relations in the new era. During their discussions, the Chinese side said that it resolutely follows the path of peaceful development and a win-win strategy of opening-up, and is committed to promoting the building of a harmonious world of enduring peace and common prosperity. The United States reiterated that it welcomes a strong, prosperous and successful China that plays a greater role in world affairs. The United States stated that it is committed to working with other countries in addressing the most difficult international problems they face. China welcomes the United States as an Asia-Pacific nation that contributes to peace, stability and prosperity in the region. The two sides reiterated that they are committed to building a positive, cooperative and comprehensive U.S.-China relationship for the 21st century, and will take concrete actions to steadily build a partnership to address common challenges.

The United States and China underscored the importance of the Taiwan issue in U.S.-China relations. China emphasized that the Taiwan issue concerns China's sovereignty and territorial integrity, and expressed the hope that the United States will honor its relevant commitments and appreciate and support the Chinese side's position on this issue. The United States stated that it follows its one China policy and abides by the principles of the three U.S.-China joint communiqués. The United States welcomes the peaceful development of relations across the Taiwan Strait and looks forward to efforts by both sides to increase dialogues and interactions in economic, political, and other fields, and develop more positive and stable cross-Strait relations.

The two countries reiterated that the fundamental principle of respect for each other's sovereignty and territorial integrity is at the core of the three U.S.-China joint communiqués which guide U.S.-China relations. Neither side supports any attempts by any force to undermine this principle. The two sides agreed that respecting each other's core interests is extremely important to ensure steady progress in U.S.-China relations.

The United States and China believe that bilateral cooperation on common global challenges will contribute to a more prosperous and secure world. They reaffirmed their commitment made on 27 June 1998 not to target at each other the strategic nuclear weapons under their respective control. The two sides believed that the two countries have common interests in promoting the peaceful use of outer space and agree to take steps to enhance security in outer space. The two sides agreed to discuss issues of strategic importance through such channels as the U.S.-China Strategic and Economic Dialogue and military-to-military exchanges.

The United States and China agreed to handle through existing channels of consultations and dialogue military security and maritime issues in keeping with norms of international law and on the basis of respecting each other's jurisdiction and interests.

### **III. Economic Cooperation and Global Recovery**

The two sides are determined to work together to achieve more sustainable and balanced

global economic growth. To that end, the two sides noted that their forceful and timely policy responses helped stem the decline in global output and stabilized financial markets. The two sides agreed to sustain measures to ensure a strong and durable global economic recovery and financial system. The two sides reiterated that they will continue to strengthen dialogue and cooperation on macro-economic policies. The two sides pledge to honor all commitments made at the inaugural meeting of the Strategic and Economic Dialogue, the G-20 summits, and APEC in Singapore.

The two sides commended the important role of the three G-20 summits in tackling the global financial crisis, and committed to work with other members of the G-20 to enhance the G-20's effectiveness as the premier forum for international economic cooperation. The two sides agreed to work together, including through a cooperative process on mutual assessment to make the G-20 Framework for Strong, Sustainable and Balanced Growth a success. The two sides welcomed recent agreements by the G-20 to ensure that the International Financial Institutions (IFIs) have sufficient resources and to reform their governance structures in order to improve IFIs credibility, legitimacy and effectiveness. The two sides stressed the need to follow through on the quantified targets for the reform of quota and voting shares of IFIs as soon as possible, increasing the voice and representation of emerging markets and developing countries in these institutions consistent with the Pittsburgh Summit Leaders Statement. They also agreed to work together to strengthen the capacity of these institutions to prevent and respond to future crises.

The two sides will further enhance communication and the exchange of information regarding macro-economic policy, and work together to pursue policies of adjusting domestic demand and relative prices to lead to more sustainable and balanced trade and growth. China will continue to implement the policies to adjust economic structure, raise household incomes, expand domestic demand to increase contribution of consumption to GDP growth and reform its social security system. The United States will take measures to increase national saving as a share of GDP and promote sustainable non-inflationary growth. To achieve this, the United States is committed to returning the federal budget deficit to a sustainable path and pursuing measures to encourage private saving. Both sides will also pursue forward-looking monetary policies with due regard for the ramifications of those policies for the international economy.

The two sides recognize the importance of open trade and investment to their domestic economies and to the global economy, and are committed to jointly fight protectionism in all its manifestations. The two sides agreed to work proactively to resolve bilateral trade and investment disputes in a constructive, cooperative, and mutually beneficial manner. Both sides will expedite negotiation on a bilateral investment treaty. The two sides are committed to seeking a positive, ambitious, and balanced conclusion to the Doha Development Agenda in 2010.

The two sides spoke highly of the outcomes of the 20th Meeting of the U.S.-China Joint Commission on Commerce and Trade. The two sides reaffirmed the commitment at this JCCT meeting and look forward to their full implementation.

#### **IV. Regional and Global Challenges**

The two sides noted that, at a time when the international environment is undergoing complex

and profound changes, the United States and China share a responsibility to cooperatively address regional and global security challenges. The two sides stressed that they share broad common interests in the Asia-Pacific region and support the development and improvement of an open and inclusive regional cooperation framework that is beneficial to all. The two sides will work to encourage APEC to play a more effective role in promoting regional trade and investment liberalization and economic and technical cooperation and for the ASEAN Regional Forum to play a more effective role in strengthening regional security cooperation.

The two sides agreed that respect for the Treaty on the Non-proliferation of Nuclear Weapons, IAEA mandates, and implementation of all relevant UN Security Council resolutions are essential for the success of our joint efforts to stem the spread of nuclear weapons. The two presidents recalled their participation at the September 24, 2009, UN Security Council Summit on nuclear nonproliferation and nuclear disarmament. They welcomed the outcome of the Summit and expressed their strong support for UN Security Resolution 1887.

The two sides reaffirmed the importance of continuing the Six-Party Talks process and implementing the September 19, 2005, Joint Statement, including denuclearization of the Korean Peninsula, normalization of relations and establishment of a permanent peace regime in Northeast Asia. The two sides stated that they will work together with other parties concerned to comprehensively achieve the purpose and overall goal of the Six-Party Talks through consultations and dialogues. The Chinese side welcomed the start of high-level contacts between the United States and the DPRK. The two sides expressed the hope that the multilateral mechanism of the Six Party Talks would convene at an early date.

The two sides noted with concern the latest developments with regard to the Iranian nuclear issue. The two sides agreed that Iran has the right to peaceful uses of nuclear energy under the NPT and it should fulfill its due international obligations under that treaty. They welcomed the talks in Geneva on October 1st between the P5+1 and Iran as a promising start towards addressing international concerns about Iran's nuclear program, and expressed their readiness to continue that engagement as soon as possible. The two sides emphasized that all efforts should be made to take confidence building steps and called on Iran to respond positively to the proposal of the IAEA Director General. The two sides reaffirmed their strong support for a comprehensive and long-term solution to the Iranian nuclear issue through negotiations, and called on Iran to engage constructively with the P5+1 and to cooperate fully with the IAEA to facilitate a satisfactory outcome.

The two sides welcomed all efforts conducive to peace, stability and development in South Asia. They support the efforts of Afghanistan and Pakistan to fight terrorism, maintain domestic stability and achieve sustainable economic and social development, and support the improvement and growth of relations between India and Pakistan. The two sides are ready to strengthen communication, dialogue and cooperation on issues related to South Asia and work together to promote peace, stability and development in that region.

The two sides underlined their commitment to the eventual realization of a world free of nuclear weapons. They reiterated their opposition to the proliferation of weapons of mass destruction and will jointly uphold the international nuclear non-proliferation regime. They agreed to enhance non-proliferation cooperation on the basis of mutual respect and equality. They will work together to achieve a successful Review Conference of Parties to the *Treaty on the*

*Non-Proliferation of Nuclear Weapons* in 2010. They committed to pursue ratification of the *Comprehensive Nuclear-Test-Ban Treaty* as soon as possible, and will work together for the early entry into force of the CTBT. They support the launching of negotiations on the Fissile Material Cut-off Treaty at an early date in the Conference on Disarmament, and stand ready to strengthen communication and cooperation in nuclear safety and security and in combating nuclear terrorism. China attaches importance to the U.S. initiative to hold a nuclear security summit in April 2010 and will actively participate in the preparations for the summit.

The two sides also discussed the importance of UN peacekeeping operations in promoting international peace and security.

The two sides agreed to enhance dialogue on development issues to explore areas of cooperation and coordination and to ensure that both countries' efforts are conducive to achieving sustainable outcomes.

## **V. Climate Change, Energy and Environment**

The two sides held a constructive and productive dialogue on the issue of climate change. They underscored that climate change is one of the greatest challenges of our time. The two sides maintain that a vigorous response is necessary and that international cooperation is indispensable in responding to this challenge. They are convinced of the need to address climate change in a manner that respects the priority of economic and social development in developing countries and are equally convinced that transitioning to a low-carbon economy is an opportunity to promote continued economic growth and sustainable development in all countries.

Regarding the upcoming Copenhagen Conference, both sides agree on the importance of actively furthering the full, effective and sustained implementation of the United Nations Framework Convention on Climate Change in accordance with the Bali Action Plan. The United States and China, consistent with their national circumstances, resolve to take significant mitigation actions and recognize the important role that their countries play in promoting a sustainable outcome that will strengthen the world's ability to combat climate change. The two sides resolve to stand behind these commitments.

In this context both sides believe that, while striving for final legal agreement, an agreed outcome at Copenhagen should, based on the principle of common but differentiated responsibilities and respective capabilities, include emission reduction targets of developed countries and nationally appropriate mitigation actions of developing countries. The outcome should also substantially scale up financial assistance to developing countries, promote technology development, dissemination and transfer, pay particular attention to the needs of the poorest and most vulnerable to adapt to climate change, promote steps to preserve and enhance forests, and provide for full transparency with respect to the implementation of mitigation measures and provision of financial, technology and capacity building support.

The two sides are committed to working together and with other countries in the weeks ahead for a successful outcome at Copenhagen.

The two sides agreed that the transition to a green and low-carbon economy is essential and

that the clean energy industry will provide vast opportunities for citizens of both countries in the years ahead and welcomed significant steps forward to advance policy dialogue and practical cooperation on climate change, energy and the environment, building on the U.S.-China Memorandum of Understanding to Enhance Cooperation on Climate Change, Energy and Environment announced at the first round of U.S.-China Strategic and Economic Dialogue this July and formally signed during the Presidential visit.

The two sides recognized the importance of *the Ten Year Framework on Energy and Environment Cooperation (TYF)* and commit to strengthen cooperation in promoting clean air, water, transportation, electricity, and resource conservation. Through a new *U.S.-China Energy Efficiency Action Plan* under the TYF, the United States and China will work together to achieve cost-effective energy efficiency improvements in industry, buildings and consumer products through technical cooperation, demonstration and policy exchanges. Noting both countries significant investments in energy efficiency, the two Presidents underscored the enormous opportunities to create jobs and enhance economic growth through energy savings.

The two sides welcomed the signing of the *Protocol Between the Department of Energy of the United States of America and the Ministry of Science and Technology and the National Energy Administration of the People's Republic of China on a Clean Energy Research Center*. The Center will facilitate joint research and development on clean energy by teams of scientists and engineers from both countries, as well as serve as clearing house to help researchers in each country, with public and private funding of at least \$150 million over five years split evenly between the two countries. The Center will have one headquarters in each country. Priority topics to be addressed will include energy efficiency in buildings, clean coal (including carbon capture and sequestration), and clean vehicles.

The two sides welcomed the launch of a *U.S.-China Electric Vehicles Initiative* designed to put millions of electric vehicles on the roads of both countries in the years ahead. Building on significant investments in electric vehicles in both the United States and China, the two governments announced a program of joint demonstration projects in more than a dozen cities, along with work to develop common technical standards to facilitate rapid scale-up of the industry. The two sides agreed that their countries share a strong common interest in the rapid deployment of clean vehicles.

The two sides strongly welcomed work in both countries to promote 21<sup>st</sup> century coal technologies. They agreed to promote cooperation on large-scale carbon capture and sequestration (CCS) demonstration projects and to begin work immediately on the development, deployment, diffusion, and transfer of CCS technology. The two sides welcomed recent agreements between Chinese and U.S. companies, universities, and research institutions to cooperate on CCS and more efficient coal technologies.

The two sides welcomed the signing of *the Memorandum of Cooperation between the Environmental Protection Agency of the United States and the National Development and Reform Commission of China and to Build Capacity to Address Climate Change*.

The two sides welcomed the launch of *The U.S.-China Renewable Energy Partnership*. Through this Partnership, the two countries will chart a pathway to wide-scale deployment of wind, solar, advanced bio-fuels, and a modern electric power grid in both countries and cooperate in

designing and implementing the policy and technical tools necessary to make that vision possible. Given the combined market size of the two countries, accelerated deployment of renewable energy in The United States and China can significantly reduce the cost of these technologies globally.

The two sides welcomed the establishment of *The U.S.-China Energy Cooperation Program (ECP)* , a partnership between government and industry to enhance energy security and combat climate change. The ECP will leverage private sector resources and expertise to accelerate the deployment of clean energy technology.

The two sides commended the results of the recently-held *Fourth U.S.-China Energy Policy Dialogue* and *Ninth U.S.-China Oil and Gas Industry Forum* and welcomed the launch of a *U.S.-China Shale Gas Resource Initiative* to accelerate the development of unconventional natural gas resources in China. Drawing on recent experience in the United States, this initiative aims to improve energy security in both countries and help China transition to a low-carbon economy.

The two sides agreed to work together to advance global efforts to promote the peaceful use of nuclear energy. They welcomed the recently-concluded *Third Executive Committee Meeting of the Global Nuclear Energy Partnership*, and the commitment of the partnership to explore ways to enhance the international framework for civil nuclear energy cooperation. They agreed to consult with one another in order to explore such approaches -- including assurance of fuel supply and cradle-to-grave nuclear fuel management so that countries can access peaceful nuclear power while minimizing the risks of proliferation.

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FOR IMMEDIATE RELEASE  
November 17, 2009

### **U.S.-China Clean Energy Announcements**

Today, President Barack Obama and President Hu Jintao announced a far-reaching package of measures to strengthen cooperation between the United States and China on clean energy. Attached are six fact sheets on the U.S-China clean energy announcements.

1. U.S.-China Clean Energy Research Center. The two Presidents announced the establishment of the U.S.-China Clean Energy Research Center. The Center will facilitate joint research and development of clean energy technologies by teams of scientists and engineers from the United States and China, as well as serve as a clearinghouse to help researchers in each country. The Center will be supported by public and private funding of at least \$150 million over five years, split evenly between

the two countries. Initial research priorities will be building energy efficiency, clean coal including carbon capture and storage, and clean vehicles. The Protocol formally establishing the Center was signed in Beijing by U.S. Energy Secretary Steven Chu, Chinese Minister of Science and Technology Wan Gang, and Chinese National Energy Agency Acting Administrator Zhang Guobao.

2. U.S.-China Electric Vehicles Initiative. The two Presidents announced the launch of the U.S.-China Electric Vehicles Initiative. Building on the first-ever US-China Electric Vehicle Forum in September 2009, the initiative will include joint standards development, demonstration projects in more than a dozen cities, technical roadmapping and public education projects. The two leaders emphasized their countries' strong shared interest in accelerating the deployment of electric vehicles in order to reduce oil dependence, cut greenhouse gas emissions and promote economic growth.

3. U.S. China Energy Efficiency Action Plan. The two Presidents announced the launch of a new U.S.-China Energy Efficiency Action Plan. Under the new plan, the two countries will work together to improve the energy efficiency of buildings, industrial facilities, and consumer appliances. U.S. and Chinese officials will work together and with the private sector to develop energy efficient building codes and rating systems, benchmark industrial energy efficiency, train building inspectors and energy efficiency auditors for industrial facilities, harmonize test procedures and performance metrics for energy efficient consumer products, exchange best practices in energy efficient labeling systems, and convene a new U.S.-China Energy Efficiency Forum to be held annually, rotating between the two countries.

4. U.S. China Renewable Energy Partnership. The two Presidents announced the launch of a new U.S.-China Renewable Energy Partnership. Under the Partnership, the two countries will develop roadmaps for wide-spread renewable energy deployment in both countries. The Partnership will also provide technical and analytical resources to states and regions in both countries to support renewable energy deployment and will facilitate state-to-state and region-to-region partnerships to share experience and best practices. A new Advanced Grid Working Group will bring together U.S. and Chinese policymakers, regulators, industry leaders, and civil society to develop strategies for grid modernization in both countries. A new U.S.-China Renewable Energy Forum will be held annually, rotating between the two countries.

5. 21<sup>st</sup> Century Coal. The two Presidents pledged to promote cooperation on cleaner uses of coal, including large-scale carbon capture and storage (CCS) demonstration projects. Through the new U.S.-China Clean Energy Research Center, the two countries are launching a program of technical cooperation to bring teams of U.S. and Chinese scientists and engineers together in developing clean coal and CCS technologies. The two governments are also actively engaging industry, academia, and civil society in



advancing clean coal and CCS solutions. The Presidents welcomed: (i) a grant from the U.S. Trade and Development Agency to the China Power Engineering and Consulting Group Corporation to support a feasibility study for an integrated gasification combined cycle (IGCC) power plant in China using American technology, (ii) an agreement by Missouri-based Peabody Energy to invest participate in GreenGen, a project of several major Chinese energy companies to develop a near-zero emissions coal-fired power plant, (iii) an agreement between GE and Shenhua Corporation to collaborate on the development and deployment of IGCC and other clean coal technologies; and (iv) an agreement between AES and Songzao Coal and Electric Company to use methane captured from a coal mine in Chongqing, China, to generate electricity and reduce greenhouse gas emissions.

6. Shale Gas Initiative. The two Presidents announced the launch of a new U.S.-China Shale Gas Resource Initiative. Under the Initiative, the U.S. and China will use experience gained in the United States to assess China's shale gas potential, promote environmentally-sustainable development of shale gas resources, conduct joint technical studies to accelerate development of shale gas resources in China, and promote shale gas investment in China through the U.S.-China Oil and Gas Industry Forum, study tours, and workshops.

7. U.S. China Energy Cooperation Program. The two Presidents announced the establishment of the U.S.-China Energy Cooperation Program. The program will leverage private sector resources for project development work in China across a broad array of clean energy projects, to the benefit of both nations. More than 22 companies are founding members of the program. The ECP will include collaborative projects on renewable energy, smart grid, clean transportation, green building, clean coal, combined heat and power, and energy efficiency.

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US-China Fact Sheet on Coal.pdf



US-China Fact Sheet on Efficiency Action Plan.pdf



US-China Fact Sheet on Electric Vehicles.pdf



US-China Fact Sheet on Renewable Energy.pdf



U.S.-China Fact Sheet on CERC.pdf



US-China Fact Sheet on Shale Gas.pdf

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November 17, 2009

**FACT SHEET: U.S.-China Clean Energy Research Center**

President Barack Obama and President Hu Jintao today announced the establishment of the U.S.-China Clean Energy Research Center. The Protocol formally establishing the Center was signed at ceremonies in Beijing by U.S. Energy Secretary Steven Chu, Chinese Minister of Science and Technology Wan Gang, and Chinese National Energy Agency Administrator Zhang Guobao

The U.S.-China Clean Energy Research Center will facilitate joint research and development of clean energy technologies by teams of scientists and engineers from the United States and China, as well as serve as a clearinghouse to help researchers in each country. Initial research priorities of the Center will be:

- building energy efficiency,
- clean coal including carbon capture and storage, and
- clean vehicles.

The Center will be supported by public and private funding of at least \$150 million over five years, split evenly between the two countries.

As part of this announcement, the U.S. Department of Energy (DOE) today released a Request For Information soliciting public input on the structure and design of U.S. portions of the U.S.-China Clean Energy Research Center (available at <http://pi.energy.gov>). DOE intends to issue a Funding Opportunity Announcement for the Center in January 2010, once public input is received and reviewed.

The United States and China are the world's largest energy producers, energy consumers and greenhouse gas emitters. The clean energy sectors in both countries are growing rapidly. The initial priorities of the U.S.-China Clean Energy Research Center reflect important areas of opportunity for both countries. In the United States, for example, more than three-quarters of electricity generated is used to operate buildings. In China, if present trends continue, floor space equal to the entire U.S. building stock will be built in the next 20 years. Both countries have large domestic coal reserves and use coal to generate the majority of their electricity (roughly 50% in the US and 80% in China). The two countries are also the world's largest automobile markets and oil consumers, both importing more than half the oil they consume. Development and deployment of clean energy technologies will play a central role in helping both countries meet energy and climate challenges in the years ahead.

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November 17, 2009

**FACT SHEET: U.S.-China Renewable Energy Partnership**

Today, President Barack Obama and President Hu Jintao announced the launch of a new U.S.-China Renewable Energy Partnership.. Both Presidents embraced a vision of wide-scale deployment of renewable energy including wind, solar and advanced bio-fuels, with a modern electric grid, and agreed to work together to make that vision possible. The two Presidents recognized that, given the combined market size of the U.S. and China, accelerated deployment of renewable energy in the two countries can significantly reduce the cost of these technologies globally.

Activities under the U.S.-China Renewable Energy Partnership will include:

- **Renewable energy roadmapping:** The U.S. and China will develop a roadmap for wide-spread renewable energy deployment in both countries and identify the policy and financial tools, grid infrastructure and technology solutions required to achieve that goal.
- **Regional deployment solutions:** As large and geographically diverse countries, renewable energy deployment requires region-specific solutions in both the U.S. and China. The Partnership will provide technical and analytical resources to states and regions in both countries to support wide-spread renewable energy deployment and facilitate state-to-state and region-to-region partnerships to share experience and best practices.
- **Grid modernization:** Scaling up renewable energy production in both the U.S. and China will require modernizing the electrical grid with new transmission lines and smart grid technology. The Partnership will include an Advanced Grid Working Group bringing together policymakers, regulators, industry leaders and civil society from the U.S. and China to develop strategies for grid modernization in both countries.
- **Advanced renewable energy technology:** The U.S. and China will collaborate in the research and development of advanced biofuels, solar, wind, and grid technologies and work together to demonstrate pre-commercial renewable energy solutions.

- **Public-private engagement:** The Partnership will engage the private sector in promoting renewable energy and expanding bilateral trade and investment through a new U.S.-China Renewable Energy Forum that will be held annually, rotating between the two countries. The work of the Partnership will also be supported by the U.S.-China Energy Cooperation Program, a newly-formed public-private partnership with leading U.S. clean energy companies.

The U.S. and China are implementing a range of policies to advance the deployment of renewable energy. The American Recovery and Reinvestment Act includes more than \$25 billion in renewable energy and grid modernization investments and extends tax credits for renewable energy production through 2012. China has set a goal of sourcing 15 percent of all its energy needs from non-fossil fuel sources by 2020 and has implemented a feed-in tariff for wind power to help meet this goal. The Renewable Energy Partnership will leverage and extend both countries' domestic renewable energy efforts to accelerate the transition to a clean energy economy.

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**FACT SHEET: U.S.-China Electric Vehicles Initiative**

Today, President Barack Obama and President Hu Jintao announced the launch of a U.S.-China Electric Vehicles Initiative. The two leaders emphasized their countries' strong shared interest in accelerating the deployment of electric vehicles in order to reduce oil dependence, cut greenhouse gas emissions and promote economic growth. Activities under the initiative will include:

- **Joint standards development.** The two countries will explore development of joint product and testing standards for electric vehicles. This will include common design standards for plugs to be used in electric vehicles, as well as common test protocols for batteries and other devices. Each country currently has extensive literature and data on its own standards. Making this information mutually available and working towards common standards can help facilitate rapid deployment of electric vehicles in both countries.
- **Joint demonstrations.** The Initiative will link more than a dozen cities with electric vehicle demonstration programs in both countries. Paired cities will collect and share data on charging patterns, driving experiences, grid integration, consumer preferences and other topics. The demonstrations will help facilitate large-scale introduction of this technology.
- **Joint technical roadmap.** A U.S.-China task force will create a multi-year roadmap to identify R&D needs as well as issues related to the manufacture, introduction and use of electric vehicles. The roadmap will be made widely available to assist not just U.S. and Chinese developers, but also the global automotive industry. It will be updated regularly to reflect advances in technology and the evolution of the marketplace.
- **Public awareness and engagement.** The United States and China will develop and disseminate materials to improve public understanding of electric vehicle technologies. Building on the success of the first-even U.S.-China Electric Vehicles Forum in September 2009, the United States and China will sponsor the event annually, alternating between the two countries. The Forum will bring together key stakeholders in both countries to share information on best practices and identify new areas for collaboration.

The United States and China are the world's two largest automobile markets. In the past year, both countries have made unprecedented investments in electric vehicles. In the United States, the American Recovery and Reinvestment Act expanded a \$7,500 consumer tax credit for electric vehicles and included \$2.4 billion to support battery manufacturing. The U.S. government has also provided

more than \$8.5 billion to help automakers retool their factories to produce electric vehicles. China has also provided significant investments for battery research, and its economic recovery package includes significant funding for electric vehicle demonstrations and charging infrastructure.

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**FACT SHEET: U.S.-China Energy Efficiency Action Plan**

Today, President Barack Obama and President Hu Jintao announced the launch of a new U.S.-China Energy Efficiency Action Plan to strengthen the economy, improve energy security and combat climate change by reducing energy waste in both countries. The United States and China consume over 40 percent of global energy resources, costing businesses and households in the two countries roughly \$1.5 trillion per year. Working together to improve energy efficiency in buildings, industry and consumer products, the United States and China can reduce spending on imported and highly polluting sources of energy and reinvest in new sources of economic growth and job creation. The U.S.-China Energy Efficiency Action Plan will help achieve this through:

- **Green buildings and communities:** The Action Plan will promote greener buildings through energy efficient building codes and labels, training building inspectors and developing advanced energy rating systems. The two countries will establish a Mayors Sustainable Cities Program where local officials from the two countries visit each other's cities to share experiences and best practices in sustainable urban development and planning.
- **Industrial energy efficiency:** The Action Plan will reduce energy waste in industry through energy efficiency benchmarking, on-site energy audits and development of the tools and training programs to support these activities. Industry accounts for roughly half of the two countries' combined energy consumption and the Action Plan will help ensure both countries meet their domestic energy efficiency goals.
- **Consumer product standards:** The Action Plan will promote energy efficient consumer products through harmonization of test procedures and performance metrics. The two countries will exchange best practices in energy efficient labeling systems and promote awareness of the benefits of energy efficient products.
- **Advanced energy efficiency technology:** The U.S. and China will work together to demonstrate energy efficient technologies and design practices, building on

the research and development work of the new U.S.-China Clean Energy Research Center.

- **Public-private engagement:** The Action Plan will engage the private sector in promoting energy efficiency and expanding bilateral trade and investment through a new U.S.-China Energy Efficiency Forum that will be held annually, rotating between the two countries. The work of the Action Plan will also be supported by the U.S.-China Energy Cooperation Program, a newly-formed public-private partnership with leading U.S. clean energy companies.

The U.S. and China are making unprecedented investments in energy efficiency. The American Recovery and Reinvestment Act includes more than \$17 billion in energy efficiency investments, including \$5 billion for home weatherization and \$4.5 billion to green federal buildings. China has set a goal of reducing the energy-intensity of economic activity by 20% in five years and has established a "Top 1000 Enterprise" program to ensure that the country's largest industrial enterprises help meet the national efficiency target.



THE WHITE HOUSE  
Office of the Press Secretary

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FOR IMMEDIATE RELEASE

November 17, 2009

**FACT SHEET: U.S.-China Cooperation on 21<sup>st</sup> Century Coal**

Today, President Barack Obama and President Hu Jintao pledged to promote cooperation on cleaner uses of coal, including large-scale carbon capture and storage (CCS) demonstration projects. Through the new U.S.-China Clean Energy Research Center, the two countries are launching a program to bring teams of U.S. and Chinese scientists and engineers together in developing clean coal and CCS technologies. The two countries are also actively engaging industry, academia and civil society in advancing clean coal and CCS solutions. The Presidents welcomed the following agreements and initiatives:

- U.S. Trade and Development Agency announced it will support a feasibility study for an integrated gasification combined cycle (IGCC) power plant in China, utilizing American technology developed in cooperation with the China Power Engineering and Consulting Group Corporation.
- Missouri-based Peabody Energy finalized its participation in GreenGen, a project partnership between several major Chinese energy companies to develop a near-zero emissions coal-fired power plant.
- GE Energy and China's Shenhua Group are pursuing a joint venture that will advance coal gasification projects in China, and further develop related technology and business models
- AES, through its subsidiary Climate Solutions Asia, will enter into a joint-venture agreement with Shenzhen Dongjiang Environmental Recycled Power Company and Songzao Coal and Electricity Company to use methane recovered from a coal mine in Chongqing to generate electricity and reduce greenhouse gas emissions.
- U.S. National Energy Technology Laboratory and West Virginia University agreed to conduct a feasibility study with Shenhua Group of China on capturing and sequestering CO<sub>2</sub> from Shenhua's coal-based facility in China's Inner Mongolia Province
- U.S. National Energy Technology Laboratory and the Wyoming State Geological Survey agreed to conduct a feasibility study with the Shaanxi Institute of Energy Resources and Chemical Engineering on capturing and sequestering CO<sub>2</sub> from coal-based facilities in China's Shaanxi Province.

The United States and China together account for more than half of global coal consumption. These projects, together with the newly-established U.S. China Clean Energy Research Center, reflect the growing cooperation between the two countries on clean coal and CCS and lay the foundation for large-scale joint demonstration projects in the years ahead. They also complement clean coal and CCS

initiatives underway in the United States today. The American Recovery and Reinvestment Act includes \$3.4 billion in CCS investments, including \$1.1 billion for the FutureGen project. Collaborating in the development of clean coal and CCS solutions in China will open new markets for U.S. businesses and workers and, through the insights gained in the process, help accelerate CCS deployment in the United States.

THE WHITE HOUSE  
Office of the Press Secretary

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FOR IMMEDIATE RELEASE

November 17, 2009

**FACT SHEET: U.S.-China Shale Gas Resource Initiative**

Today, President Barack Obama and President Hu Jintao announced the launch of a new U.S.-China Shale Gas Resource Initiative. This Initiative will help reduce greenhouse gas emissions, promote energy security and create commercial opportunities for U.S. companies through:

- **Shale gas resource assessment:** The Initiative will use experience gained in the United States to assess China's shale gas potential and promote environmentally sustainable development of shale gas resources.
- **Technical cooperation:** Through the Initiative, the United States and China will conduct joint technical studies to support accelerated development of shale gas resources in China.
- **Investment promotion:** The Initiative will promote shale gas investment in China through the U.S.-China Oil and Gas Industry Forum, study tours and workshops focused on shale gas development.

The potential for natural gas production in the U.S. from hydrocarbon-rich shale formations, known as "shale gas," has grown dramatically in recent years due to technological advances. The development of shale gas is expected to significantly increase U.S. energy security and help reduce greenhouse gas pollution. The United States is not alone in having significant shale gas resources. China also has sizable shale gas potential but, like in many countries, this potential is not yet well understood.

The United States is a leader in shale gas technology and developing shale gas resources in a way that mitigates environmental risks. Bringing this expertise to China will provide economic opportunities for both the U.S. and China, while improving energy security for both countries and combating climate change.

01268-EPA-5013

**Diane  
Thompson/DC/USEPA/US**  
11/24/2009 05:11 PM

To Richard Windsor  
cc Aaron Dickerson, Robert Goulding  
bcc

Subject FOR TONITE: Fact Sheets: U.S. - Indian Cooperation

FYI-- have a great time. I will look for you in the Style section tmw!  
DT

\*\*\*\*\*

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

----- Forwarded by Diane Thompson/DC/USEPA/US on 11/24/2009 05:10 PM -----

From: "Milakofsky, Benjamin E." <(b) (6) Privacy>  
To: "Lu, Christopher P." <(b) (6) Privacy>, "Smith, Elizabeth S." <(b) (6) Privacy>  
<(b) (6) Privacy>, "Kimball, Astri B." <(b) (6) Privacy>  
"French, Michael J." <(b) (6) Privacy>, "Greenawalt, Andrei M." <(b) (6) Privacy>  
<(b) (6) Privacy>, "Taylor, Adam R." <(b) (6) Privacy>  
"Milakofsky, Benjamin E." <(b) (6) Privacy>  
Date: 11/24/2009 12:47 PM  
Subject: Fact Sheets: U.S. - Indian Cooperation

Dear Chiefs of Staff:

Please see the below release and attached documents highlighting U.S.-Indian cooperation.

--Cabinet Affairs

THE WHITE HOUSE  
Office of the Press Secretary

FOR IMMEDIATE RELEASE  
November 24, 2009

**Fact Sheets on U.S. – Indian Cooperation**

Attached are a series of factsheets highlighting some of the key outcomes of this visit. In total 6 Memoranda-of-understandings were signed, 2 memoranda-of-interest as well as several other initiatives and agreements. Below are some of the highlights from the four papers covering global security and counter-terrorism, education and development, health cooperation, economic trade and agriculture, and green partnerships.

## Advancing Global Security and Countering Terrorism

- **Expansion of the U.S.-India Counterterrorism Cooperation Initiative**, Prime Minister Singh and President Obama committed to redouble their collective efforts to deal effectively with terrorism, while protecting their countries' common ideals and shared values, and committed themselves to strengthening global consensus and legal regimes against terrorism.
- **Support for an early start of negotiations on a multilateral, non-discriminatory and internationally verifiable Fissile Material Cutoff Treaty.** The two leaders also look forward to the April 2010 Nuclear Security Summit and agreed to consult each other regularly. They affirmed their commitment to work together to prevent the spread of Weapons of Mass Destruction- and missile-related technology and to realize their shared vision of a world free of nuclear weapons.

## Green Partnerships

- **Launch of a "Green Partnership"** to strengthen U.S./India cooperation on clean energy, climate change, and food security. This reflects our two countries' commitment to taking vigorous action to combat climate change, ensuring mutual energy security, working towards global food security, and building a clean energy economy that will drive investment, job creation, and economic growth throughout the 21st century.
- **Launch of an Indo-U.S. Clean Energy Research and Deployment Initiative**, supported by U.S. and Indian government funding and private sector contributions. This new Initiative will include a Joint Research Center operating in both the United States and India to foster innovation and joint efforts to accelerate deployment of clean energy technologies. The Initiative will facilitate joint research, scientific exchanges, and sharing of proven innovation and deployment policies.
- **Support for an Indian EPA** that will focus on creating a more effective system of environmental governance, regulation and enforcement. Working with the India's Ministry of Environment and Forests, the U.S. Environmental Protection Agency will provide technical support to help establish an Indian National Environmental Protection Authority.

## Economic Trade and Agriculture

- **Meeting of the United States – India CEO Forum** brought together leaders of the U.S. and Indian business communities — approximately ten from each side across various industry sectors — with senior government officials on November 23. Forum members conveyed their interest in working on recommendations on how the public and private sectors can work together to strengthen economic and commercial ties between the two countries, stimulate innovation, spur job creation, and promote sustainable inclusive growth.
- **Launch of a new Agriculture Dialogue** and agreed on a Memorandum of

Understanding on Agricultural Cooperation and Food Security that will set a pathway to robust cooperation between the governments in crop forecasting, management and market information; regional and global food security through the L'Aquila Food Security Initiative; science, technology, and education; nutrition; and expanding private sector investment in agriculture. The United States and India expect cooperation under the agreement to expand access to knowledge to improve productivity, safety, and nutritional quality of food crops; to strengthen market institutions and foster growth of agribusiness investment and improve food security and access to adequate quantities and quality of food, particularly for women and young children.

- **Renewed bilateral cooperation in the field of intellectual property** through a Memorandum of Understanding between the Department of Commerce's United States Patent and Trademark Office and Indian Ministry of Commerce and Industry. The memorandum and action plan will focus on human resource development, capacity building and public awareness programs in intellectual property protection and enforcement.

### **Enhancing U.S.-India Cooperation on Education and Development**

- **Expansion of the bi-national Fulbright-Nehru Scholarship Program** through a 45% increase in funding by each government to support increased exchanges of students and scholars in priority fields, bringing total support for these scholarships to \$6.7 million this year.
- **Launched the Obama-Singh 21st Century Knowledge Initiative** which will provide \$10 million in combined funding to increase university linkages and support junior faculty development between U.S. and Indian universities.
- **Formation of the Women's Empowerment Dialogue (WED)** to further the full participation of women in all aspects of society in order for the global community to address the complex challenges we face in this new century. During the initial meeting of the Women's Empowerment Dialogue in New Delhi, both sides agreed to explore the creation of a "Women's Empowerment Fund," that would be able to support WED initiatives such as women's social and economic empowerment, female literacy, political participation of women, and healthcare.

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- **Creation of a seventh Regional Global Disease Detection Center** in India as a part of the Global Disease Detection (GDD) network. This GDD collaboration will include a range of activities, such as emerging disease detection and response, pandemic influenza preparedness and response, laboratory systems and biosafety, field epidemiology training, health communications, and zoonotic disease investigation and control. Other Regional Centers include Kenya, Thailand, Guatemala, Egypt, China, and Kazakhstan.
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### Health Fact Sheet.pdf



Economics Trade and Agriculture Fact Sheet.pdf



Education and Development Fact Sheet.pdf



Strategic Security Dialogue Fact Sheet.pdf



Green Partnership Fact Sheet.pdf

See attachments to 01268-EPA-5012

01268-EPA-5014

**Richard Windsor/DC/USEPA/US**  
11/24/2009 05:12 PM

To Diane Thompson  
cc  
bcc

Subject Re: FOR TONITE: Fact Sheets: U.S. - Indian Cooperation

Did we get info on the Indian EPA agreement from Michelle? Tx.  
Diane Thompson

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

**From:** Diane Thompson  
**Sent:** 11/24/2009 05:11 PM EST  
**To:** Richard Windsor  
**Cc:** Aaron Dickerson; Robert Goulding  
**Subject:** FOR TONITE: Fact Sheets: U.S. - Indian Cooperation

FYI-- have a great time. I will look for you in the Style section tmw!  
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Diane E. Thompson  
Chief of Staff  
U. S. Environmental Protection Agency  
202-564-6999

----- Forwarded by Diane Thompson/DC/USEPA/US on 11/24/2009 05:10 PM -----

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<(b) (6) Privacy>, "Kimball, Astri B." <(b) (6) Privacy>  
"French, Michael J." <(b) (6) Privacy>, "Greenawalt, Andrei M." <(b) (6) Privacy>  
<(b) (6) Privacy>, "Taylor, Adam R." <(b) (6) Privacy>  
"Milakofsky, Benjamin E." <(b) (6) Privacy>  
Date: 11/24/2009 12:47 PM  
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Office of the Press Secretary

FOR IMMEDIATE RELEASE  
November 24, 2009

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[attachment "Health Fact Sheet.pdf" deleted by Richard Windsor/DC/USEPA/US]

[attachment "Economics Trade and Agriculture Fact Sheet.pdf" deleted by Richard Windsor/DC/USEPA/US]

[attachment "Education and Development Fact Sheet.pdf" deleted by Richard Windsor/DC/USEPA/US]

[attachment "Strategic Security Dialogue Fact Sheet.pdf" deleted by Richard Windsor/DC/USEPA/US]

[attachment "Green Partnership Fact Sheet.pdf" deleted by Richard Windsor/DC/USEPA/US]

01268-EPA-5015

**Richard Windsor/DC/USEPA/US**  
11/24/2009 05:53 PM

To "Nancy Sutley"  
cc  
bcc

Subject Fw: District Court holds Corps mining permits invalid for insufficient public notice

Bob Sussman

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

**From:** Bob Sussman  
**Sent:** 11/24/2009 05:47 PM EST  
**To:** Richard Windsor; Scott Fulton; Bob Perciasepe; Arvin Ganesan; Seth Oster; Peter Silva; Shawn Garvin  
**Subject:** Fw: District Court holds Corps mining permits invalid for insufficient public notice

(b) (5) Deliberative, (b) (5) Attorney Client  
[Redacted]

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

----- Forwarded by Bob Sussman/DC/USEPA/US on 11/24/2009 05:44 PM -----

From: Karyn Wendelowski/DC/USEPA/US  
To: Bob Sussman/DC/USEPA/US@EPA, Avi Garbow/DC/USEPA/US@EPA, Gregory Peck/DC/USEPA/US@EPA, neugeboren.steven@epamail.epa.gov, Suzanne Schwartz/DC/USEPA/US@EPA, David Evans/DC/USEPA/US@EPA, Brian Frazer/DC/USEPA/US@EPA, Timothy Landers/DC/USEPA/US@EPA, Kevin Minoli/DC/USEPA/US@EPA  
Date: 11/24/2009 04:03 PM  
Subject: Fw: District Court holds Corps mining permits invalid for insufficient public notice

(b) (5) Deliberative, (b) (5) Attorney Client  
[Redacted]

[Redacted]

[Redacted]

----- Forwarded by Karyn Wendelowski/DC/USEPA/US on 11/24/2009 03:40 PM -----

From: "Morris, Cynthia (ENRD)" <CMorris@ENRD.USDOJ.GOV>  
To: Karyn Wendelowski/DC/USEPA/US@EPA

Date: 11/24/2009 03:34 PM  
Subject: FW: summary of the 55 page decision below

---

Karyn - this opinion just in from Judge Chambers holds that the Loadout and Fola permits are invalid under CWA and NEPA because the public notice provided by the Corps was insufficient to allow for meaningful public comment, since the notices did not contain description of the mitigation plans. The Court stayed the order for 60 days.

(b) (5) Deliberative, (b) (5) Attorney Client

You may share this with others at EPA who may be interested.  
cj

**From:** Morris, Cynthia (ENRD)  
**Sent:** Tuesday, November 24, 2009 3:27 PM  
**To:** Young, Russell (ENRD)  
**Subject:** summary of the 55 page decision below

The attached Memorandum Opinion and Order was issued by Judge Chambers on Tuesday, Nov. 24, 2009, denying in part and granting in part the cross-motions for summary judgment filed by the coal companies and plaintiffs with respect to the Loadout and Fola permits.

The Court granted the coal company motions for summary judgment in part, to the extent the issues raised by Plaintiffs are governed by the Fourth Circuit decision in *OVEC v. Aracoma*, 556 F.3d 177 (2009).

The Court held in abeyance the portion of the motion for summary judgment regarding the selenium discharges in the Fola permit, as the matter had not been fully briefed.

The Court granted Plaintiffs motions for summary judgment, and denied the coal companies' motions for summary judgment, with respect to the issue of public notice, holding that the notice provided by the Corps was inadequate under both the CWA and NEPA because the public notice failed to provide sufficient information regarding the mitigation that would be required under the permit.

As to the notice required under the CWA, the Court found that the Corps' decision as to when the application was "complete", which triggers the 15 day period in which public notice of the application must be provided, was not entitled to substantial deference, and the Corps' determination that the application was "complete" before the proposed mitigation plan had been submitted was unreasonable because the mitigation plan is a significant part of the permit process.

As to NEPA, the Court held that while the Corps is not required to publish the entire mitigation plan for comment, it must provide sufficient information to allow for meaningful public comment, and that includes, at minimum, a description of the mitigation plan.

Finally, the Court took the Corps to task for its failure to issue supplemental public notice, in view of the fact that the mitigation plans were available to the Corps approximately 9 months and nearly 18 months before the permits were issued. The Court did not hold that supplemental notice was required because

(b)(5) Deliberative

[Redacted]



ENV\_DEFENSE-#449606-v1-Loadout\_Fola\_-\_ORDER\_on\_notice.PDF

**IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**HUNTINGTON DIVISION**

OHIO VALLEY ENVIRONMENTAL  
COALITION, et al.,

Plaintiffs,

v.

CIVIL ACTION NO. 3:08-0979

UNITED STATES ARMY CORPS  
OF ENGINEERS, et al.,

Defendants.

**MEMORANDUM OPINION AND ORDER**

Pending before the Court are several motions by the parties for full or partial summary judgment: Plaintiffs' Motion for Partial Summary Judgment Against the Loadout Nellis Surface Mine (Doc. 112); Intervenor-Defendant, Loadout, LLC's, Motion for Summary Judgment (Doc. 115); Intervenor-Defendant, Fola Coal Company, LLC's, Motion for Partial Summary Judgment (Doc. 135); Plaintiffs' Cross-Motion for Partial Summary Judgment (Doc. 139); and Intervenor-Defendant, Fola Coal Company, LLC's, Motion for Summary Judgment (Doc. 150). For the reasons explained below, the Court **GRANTS in part and DENIES in part** Parties' motions.

More specifically, the Court **RULES** as follows:

1. The Court **FINDS** the Corps violated the Clean Water Act and the National Environmental Policy Act by failing to provide adequate public notice and comment regarding Loadout's § 404 permit. Therefore, Plaintiffs' Motion for Partial Summary Judgment Against the Loadout Nellis Surface Mine on Count 5 of their Third Amended Complaint [Plaintiffs' claim that the Corps violated its obligations under the CWA and NEPA to provide adequate notice and comment and to involve the public in its environmental impact analysis when it issued a § 404 permit for

Loadout's Nellis Surface Mine (Doc. 112)]<sup>1</sup> is **GRANTED**.

2. Intervenor-Defendant Loadout's motion for summary judgment on Counts 5, 6 and 7 of Third Amended Complaint [Plaintiffs' claims that: the Corps violated the CWA and NEPA because (1) they failed to provide adequate public notice and comment on Loadout's § 404 permit and adequate pre-decisional public involvement in its preparation of the relevant Environmental Assessment (Count 5); (2) the Corp's determination that Loadout's Nellis Surface Mine will not cause significant degradation of water of the U.S. is illegal, arbitrary and capricious (Count 6); and (3) the Corps' Finding of No Significant Impact on the Nellis Surface Mine violates NEPA and is arbitrary and capricious because the Corps failed to take a hard look at the environmental impacts of the project (Count 7) (Doc. 115)] is **GRANTED in part and DENIED in part**. The motion is **GRANTED** insofar as it is controlled by the Fourth Circuit's decision in *Ohio Valley Environmental Coalition v. Aracoma Coal Co.*, 556 F.3d 177 (2009) (Counts 6 & 7). However, it is **DENIED** with regard to Count 5, Plaintiffs' claim that the Corps failed to provide adequate public notice and comment.
3. The Court **FINDS** the Corps violated the CWA and NEPA by failing to provide adequate public notice and comment regarding Fola's § 404 permits. Therefore, Intervenor-Defendant Fola's motion for partial summary judgment on Count 1 of Plaintiffs' Fourth Amended Complaint [Plaintiffs' claim that the Corps violated the CWA and NEPA by failing to provide adequate notice and comment on, and pre-decisional public involvement in, the § 404 permit for Fola's Ike Fork No. 1 and Ike Fork No. 2 Surface Mines (Doc. 135)] is **DENIED** and Plaintiffs' cross-motion for partial summary judgment on the same claim (Doc. 139) is **GRANTED**.
4. Intervenor-Defendant Fola's motion for summary judgment as to each count against it in Plaintiffs' Fourth Amended Complaint (Counts 1-4) [(1) Plaintiffs' claim regarding notice and comment (Count 1); (2) Plaintiffs' claim that the Corp's determination that Fola's mines will not cause significant degradation of waters of the U.S. is illegal, arbitrary and capricious (Count 2); (3) the claim that the Corps' Finding of No Significant Impact on the Ike Fork permits violates NEPA and is arbitrary and capricious (Count 3); and (4) Plaintiffs' claim that the Corps does not have jurisdiction to issue a § 404 permit for discharges from the toes of valley fills

---

<sup>1</sup>In their motion papers, Plaintiffs state they are moving for summary judgment on "Count One of their Third Amended Complaint ... that the Corps violated its obligations under [the CWA] and [NEPA] to provide adequate notice and comment and to involve the public in its environmental impact analysis when it issued an individual permit under § 404 of the CWA for Loadout, LLC's Nellis Surface Mine." See Doc. 112. This claim, however, appears as Count 5 in Plaintiffs' Third Amended Complaint. The Court therefore addresses summary judgment with respect to Count 5.



and, thus, the attempt to permit these discharges violates the CWA (Count 4) (Doc. 150)] is **GRANTED in part, DENIED in part, and partially HELD IN ABEYANCE**. The motion is **GRANTED** insofar as it is controlled by the Fourth Circuit's decision in *Ohio Valley Environmental Coalition v. Aracoma Coal Co.* (Counts 2 & 4, and all of Count 3 except ¶ 76 g.); it is **DENIED** with regard to Count 1, Plaintiffs' claim that the Corps failed to provide adequate public notice and comment; and the motion is **HELD IN ABEYANCE** with regard to Plaintiffs' claim that the Corps had no reasoned basis or substantial evidence to conclude that the selenium discharges from Fola's Ike Fork mines would be individually or cumulatively insignificant (Count 3, ¶ 76 g.).

## I. Background

### A. Procedural History and Relevant Case Law

In a complaint filed on August 7, 2008, Plaintiffs sought declaratory and injunctive relief on claims that the U.S. Army Corps of Engineers ("the Corps") failed to comply with § 404 of the Clean Water Act ("CWA"), 33 U.S.C. § 1344, and the National Environmental Policy Act ("NEPA"), 42 U.S.C. § 4321 *et seq.*, when issuing a permit for a large surface mine – the Hobet Surface Mine No. 22 – in Lincoln County, West Virginia. Since that time, Plaintiffs' claims regarding Hobet Mining's § 404 permit have been resolved. *See Pl.'s Mot. for Leave to File a Third Am. Compl.* (Doc. 85) (dismissing claims against the Corps related to Hobet Surface Mine No. 22). However, in the year that followed the original complaint, Plaintiffs amended their suit to add several claims against the Corps regarding surface mines operated by three additional companies: Fola Coal Company, LLC ("Fola"), Loadout, LLC ("Loadout"), and Appalachian Fuels, LLC ("AppFuels"). *See Pl.'s Second Am. Compl.* (Doc. 58) (adding claims related to Fola's Ike Fork No. 1 and Ike Fork No. 2 Surface Mines); *Pl.'s Third Am. Compl.* (Doc. 120) (adding claims related to Loadout's Nellis Surface Mine); *Pl.'s Fourth Am. and Supplemental Compl.* (Doc. 121) (adding claims related to AppFuels' Fourmile North Surface Mine). These claims took two primary forms:

(1) substantive, and (2) procedural. With regard to their substantive claims, Plaintiffs argued that the permits violated the CWA § 404(b)(1) Guidelines (“CWA Guidelines”) and that the Corps’ Findings of No Significant Impact (“FONSI”) and related Environmental Assessments (“EA”) violated NEPA. With regard to their procedural claims, Plaintiffs contend that the Corps failed to comply with its duties under the CWA and NEPA to provide adequate public notice, public comment, and other public involvement in its review process for the mines’ § 404 permits.

For the most part, Plaintiffs’ substantive claims are controlled by the Fourth Circuit’s decision in *Ohio Valley Environmental Coalition v. Aracoma Coal Company*, 556 F.3d 177 (2009). In *Aracoma*, the Fourth Circuit reversed two orders by this Court regarding the legality of the Corps’ conduct in issuing four § 404 permits. The facts surrounding the permits at issue in *Aracoma* are similar to the facts in the instant case. There, the Corps issued each of the contested permits after an EA and a FONSI. Plaintiffs then challenged the permits, arguing their issuance violated both substantive and procedural provisions of the CWA and NEPA. Specifically, Plaintiffs claimed: (1) that the individual and cumulative adverse impacts of the permits were significant and, thus, the Corps was required under NEPA to complete an Environmental Impact Statement (“EIS”); and (2) that the permits were invalid because the Corps failed to properly determine the adverse individual and cumulative impacts as required by the CWA and the CWA Guidelines. This Court agreed with Plaintiffs, granting summary judgment in their favor and finding that: the probable impacts of the permitted valley fills would be significant and adverse under the CWA and NEPA; the mitigation plans for the permits were not sufficient to compensate for these impacts; the Corps improperly limited its scope of NEPA review to jurisdictional waters, rather than the impact of an entire valley fill project; and the Corps did not adequately evaluate cumulative impacts. *See id.* at 188.

However, the Fourth Circuit disagreed and reversed this Court, holding: (1) the Corps' decision regarding the scope of its NEPA analysis was entitled to deference and the Corps was reasonable in limiting the scope of its analysis to the impact of filling jurisdictional waters; (2) the Corps adequately supported its mitigated FONSI's under NEPA and its findings of no significant degradation under the CWA<sup>2</sup>; and (3) the Corps did not exceed its § 404 authority in permitting "unitary waste systems" consisting of sediment ponds together with the stream segments that connect them. *Id.* at 197, 200-01, 206-07, 209, 216. For each of its holdings, the Fourth Circuit relied heavily on a theory of agency deference. Specifically, the Circuit Court relied on *Auer* or *Seminole Rock* deference, a "highly deferential" kind of review that is appropriate when a court reviews an agency's interpretation of its own regulations, *see, e.g., id.* at 193 (citing *Auer v. Robbins*, 519 U.S. 452 (1997) and *Bowles v. Seminole Rock & Sand Co.*, 325 U.S. 410 (1945)), as well as on *Baltimore Gas & Electric Company v. Natural Resources Defense Council*, 462 U.S. 87 (1983), which holds that a court must be at its "most deferential" when reviewing agency decisions involving complex predictions based on specialized, technical expertise. *Aracoma*, 556 F.3d at 201, 205.

The Fourth Circuit's mandate in *Aracoma* controls the majority of Plaintiffs' substantive claims. Specifically, the deference accorded to the Corps under *Aracoma* requires this Court to **FIND**: (1) the Corps' determinations that Loadout and Fola's surface mines will not cause significant degradation to the waters of the U.S. are reasonable and, thus, in accordance with

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<sup>2</sup>This includes the Corps' findings regarding: the impact of the permitted fills on the structure and function of affected streams; the sufficiency of the proposed mitigation measures for purposes of CWA and NEPA; and the Corps' NEPA and CWA assessments of cumulative impacts. *Id.* at 197.

existing law; (2) the Corps' FONSI's are reasonable and therefore also in accordance with existing law; and (3) Plaintiffs' claim that the Corps does not have jurisdiction to issue a § 404 permit for discharges from the toes of valley fills is unpersuasive. Thus, the Court **GRANTS** summary judgment to Intervenor-Defendants on these counts.

In light of *Aracoma*, the only issues remaining in the instant matter are: (1) whether the Corps complied with its duties under the CWA and NEPA to provide adequate public notice and comment and predecisional public involvement in issuing the mines' § 404 permits, and (2) whether the Corps had a reasoned basis to conclude that the selenium discharges from Fola's surface mines would be individually or cumulatively insignificant. Because it has not been fully briefed, the Court refrains from deciding the selenium issue herein. With regard to the public notice issue, however, the Court **GRANTS** summary judgment in favor of Plaintiffs. Accordingly, the public notice and comment requirements established by the CWA and NEPA are discussed below.

## **B. Regulatory Framework**

"A complex statutory framework undergirds the regulation of [mountaintop mining operations.]" *Aracoma*, 556 F.3d at 189. At the federal level, this framework is composed of four statutes: the CWA, NEPA, the Surface Mine Control and Reclamation Act ("SMCRA") and the Administrative Procedure Act ("APA"). It is the Corps' responsibilities under the CWA and NEPA that are at issue in the instant matter.

### **1. THE CLEAN WATER ACT**

Congress passed the CWA with the express intent to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." 33 U.S.C. § 1251. This goal is achieved,

in large part, by a general prohibition on the discharge of pollutants into navigable waters of the United States. *Id.* at § 1311. The Act contains two major exceptions to this prohibition, however. First, § 402 permits the discharge of pollutants through a national pollution discharge elimination system, *id.* at § 1342, and, second, § 404 permits the discharge of dredged or fill material into the navigable waters at specified disposal sites. *Id.* at § 1344. Pursuant to § 404, permits for the discharge of dredged or fill material may be issued by the Secretary of the U.S. Army Corps of Engineers (“Secretary”), after notice and an opportunity for public hearing. *Id.*; 33 C.F.R. § 320.2(f). Such authority must be exercised in accordance with the guidelines developed by the Administrator of the U.S. Environmental Protection Agency (“EPA”) and published in 40 C.F.R. Part 230 (hereinafter “CWA Guidelines” or “404(b)(1) Guidelines”), as well as in accordance with the Corps’ own regulations. 33 C.F.R. § 320.2(f).

The overall purpose of the § 404 permit evaluation process and the attendant public notice is to determine whether a proposed project will result in significant, unacceptable adverse effects to the waters of the United States. *See* 40 C.F.R. §§ 230.1, 230.10, 230.12; 33 C.F.R. §§ 320.2(f), 320.4. This is consistent with the CWA’s purpose of restoring and maintaining the waters of the United States, *see* 33 U.S.C. § 1251, and is achieved through a process known as the public interest review. According to the Corps’ regulation at 33 C.F.R. § 320.4(a)(1), the decision whether to issue a § 404 permit must be “based on an evaluation of the probable impacts ... of the proposed activity and its intended use on the public interest.”<sup>3</sup> 33 C.F.R. § 320.4(a)(1). There is a presumption that “a permit will be granted unless the district engineer determines that it would be contrary to the

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<sup>3</sup>According to this review, the decision to issue a permit “should reflect the national concern for both protection and utilization of important resources.” 33 C.F.R. § 320.4(a)(1).

public interest,” *id.*, which is defined in terms of environmental degradation. A permit is contrary to the public interest if the “discharge of dredged or fill material ... will cause or contribute to significant degradation of the waters of the United States.” 40 C.F.R. § 230.10(c). If a project is determined not to have significant adverse environmental effects, the Corps will issue a finding of no significant degradation and the proposed permit will be found in compliance with the CWA and CWA Guidelines. *See* 40 C.F.R. § 230.12. Such a permit may be issued without conditions and without further environmental review. *Id.* If a proposed project is found to cause or contribute to significant degradation, however, the permit may not be issued unless appropriate and practicable conditions to minimize and compensate for this degradation are included in the permit. *See* 40 C.F.R. §§ 230.10, 230.12.

The Corps protects the public interest, fulfilling its statutory and regulatory obligations under § 404, by engaging in the permit evaluation process outlined by the CWA and CWA Guidelines. To initiate this process, an interested party files a § 404 permit application with the Corps. Such an application “must include a complete description of the proposed activity including necessary drawings, sketches, or plans sufficient for public notice.” 33 C.F.R. 325.1(d)(1) (2007)<sup>4</sup>; *see also*

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<sup>4</sup>The Corps CWA regulations were amended in 2009. Thus, this opinion cites to the 2007 version of the Corps’ CWA regulations – the operative regulations at the time of the Nellis and Ike Fork mines’ permit evaluations and issuance. The 2009 version of the CWA regulations contains a requirement that “[f]or activities involving discharges of dredged or fill material into waters of the United States, the application must include a statement describing how impacts to waters of the United States are to be avoided and minimized. The application must also include either a statement describing how impacts to the waters of the United States are to be compensated for or a statement explaining why compensatory mitigation should not be required for the proposed impacts.” 33 C.F.R. 325.1(d)(9) (2009). The Corps and Intervenor-Defendants cite this revision as evidence that no statement on mitigation was necessary to render a public notice sufficient under the 2007 CWA regulations. The Court finds this argument unpersuasive, however. The decision to amend the CWA regulations in 2009 to specifically state that information on mitigation is necessary to complete a § 404 application is not convincing

*id.* (“Detailed engineering plans and specifications are not required,” however, the application must describe “the location, purpose and need for the proposed activity; scheduling of activity; the names and addresses of adjoining property owners; the location and dimensions of adjacent structures; and a list of authorizations required by other federal, interstate, state, or local agencies ... including all approvals received or denials already made.”). “[W]ithin 15 days of receipt of an application the district engineer will either determine that the application is complete ... or that it is incomplete and notify the applicant of the information necessary for a complete application.” 33 C.F.R. 325.2(a)(2). Once the application is deemed complete, public notice must be issued within 15 days. 33 U.S.C. § 1344(a) (“Not later than the fifteenth day after the date an applicant submits all the information required to complete an application for a permit under this subsection, the Secretary shall publish notice required by this subsection.”); 33 C.F.R. 325.2(d)(1) (“The public notice will be issued within 15 days of receipt of all information required to be submitted by the applicant in accord with paragraph 325.1(d) of this Part.”).

“[T]o the maximum extent practicable, a decision with respect to an application for a permit ... will be made not later than the ninetieth day after the date the notice for such application is published[.]” 33 U.S.C. § 1344(q); 33 C.F.R. 325.2(d)(3) (“District engineers will decide on all applications not later than 60 days after receipt of a complete application.”).<sup>5</sup> To this end, the CWA

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evidence that such information was not required under the 2007 version of the regulations, for, as readily as the change in regulations can be attributed to a previous lack of the necessity to include information on mitigation, the revision can be seen as clarifying and explicitly stating a previously implied requirement. This is especially true in light of the fact that standard established in 33 C.F.R. 325.2(a)(2), which establishes the standard for the sufficiency of public notice, did not change in 2009.

<sup>5</sup>According to 33 C.F.R. § 325.1(d)(3), this should be done “unless” one of a set of specific circumstances exists, including: “[i]nformation needed by the district engineer for a

instructs the Secretary to enter into agreements with the appropriate federal agencies “to minimize, to the maximum extent practicable, duplication, needless paperwork, and delays in the issuance of permits[.]” *Id.*

## 2. THE NATIONAL ENVIRONMENTAL POLICY ACT

NEPA was enacted with lofty goals. The Congressional declaration of purpose provides,

The purposes of this chapter are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.

42 U.S.C. § 4321. NEPA is an “action-forcing” statute, which “promotes its purpose in two ways. First, NEPA ensures that a federal agency will carefully consider the effects of its actions on the environment by specifying formal procedures the agency must follow before taking action. Second, NEPA requires an agency to disseminate widely its findings on the environmental impacts of its actions. *Nat’l Audubon Society v. Dep’t of Navy*, 422 F.3d. 174, 184 (4th Cir. 2005) (internal citations and quotations omitted); *see also Robertson v. Methow Valley Citizens Council*, 490 U.S.

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decision on the application cannot reasonably be obtained within the 60-day period.” 33 C.F.R. § 325.2(d)(3)(vi). Said differently, the regulations create a presumption that once an application is deemed complete a decision should be made on that application within 60 days. Further, in the case where it is unreasonable that all the information required to make the decision be obtained within 60 days, the regulations provide that “[o]nce the cause for preventing the decision from being made within the normal 60-day period has been satisfied or eliminated, the 60-day clock will start running again from where it was suspended,” *id.*; meaning that even if the decision cannot be made 60 days after the initial determination of completion, the clock is reset and the Corps is still required to abide by the 60-day time limit as soon as all the necessary information is available.



332, 350 (1989) (“The sweeping policy goals announced in § 101 of NEPA are [] realized through a set of ‘action-forcing’ procedures that require that agencies take a ‘hard look’ at environmental consequences and that provide for broad dissemination of relevant environmental information.”) (citations omitted). In other words, NEPA is a purely procedural statute, focused on ensuring informed decision-making, rather than compelling particular results or imposing substantive obligations. *Methow Valley*, 490 U.S. at 350 (“Although [NEPA] procedures are almost certain to affect the agency’s substantive decision, it is now well settled that NEPA itself does not mandate particular results, but simply prescribes the necessary process.”); *Nat’l Audubon*, 422 F.3d at 184 (“NEPA merely prohibits uniformed – rather than unwise – agency action.”) (citing *Methow Valley*, 490 U.S. at 351) (internal quotations omitted); *Hodges v. Abraham*, 300 F.3d 432, 445-46 (4th Cir. 2002).

An agency discharges its NEPA responsibility to take a “hard look” at environmental consequences by completing an environmental review prior to undertaking a proposed action. *Hodges*, 300 F.3d at 446. Generally, this environmental review takes one of two forms: an EIS or an EA. *See, e.g., Id.*; 42 U.S.C. § 4332. An EIS is a detailed statement required for “major Federal Actions significantly affecting the quality of the human environment.” 42 U.S.C. § 4332(2)(c). Significance is determined by evaluating the context of the proposed action and the intensity of its potential environmental impacts. *See, e.g., Aracoma*, 556 F.3d at 191 (citing 40 C.F.R. § 1508.27). An EA, on the other hand, is prepared when the significance of the adverse environmental impacts of a proposed action are either unknown or unclear. 40 C.F.R. § 1501.4(b). The EA is “a concise public document,” which follows an abbreviated environmental review. *See, e.g., Aracoma*, 556 F.3d at 191. The purpose of the EA is to determine whether (1) the proposed action can proceed

without further environmental review, or (2) an EIS will be required. 40 C.F.R. § 1501.4(b). If, after an EA, the lead agency determines that a project may continue without further environmental review, it will issue a finding of no significant impact, or FONSI. *See Aracoma*, 556 F.3d at 191 (“An EA ... serves to ... [b]riefly provide sufficient evidence and analysis for determining whether to prepare an [EIS] or [FONSI].”) (citations omitted).

A § 404 permit requires environmental review pursuant to NEPA. Additionally, the § 404 permitting process implicates an intermediate form of environmental review known as the “mitigated EA.” The “so-called mitigated EA” is used when an agency determines that, although they will be significant, the adverse environmental impacts associated with a proposed project can be reduced below significance using mitigation. *Id.* at 191-92 (“Even where an EA determines that a proposed action will have a significant environmental impact, an agency may avoid issuing an EIS where it finds that mitigating measures can be taken to reduce the environmental impact of the project below the level of significance. In these situations, the agency can issue a ‘so-called mitigated FONSI.’”) (internal citations and quotations omitted). The mitigated EA and mitigated FONSI are relevant here because they are commonly used in the mountaintop coal-mining context. *See Id.* at 187 (“For each of the four permits, the Corps prepared Environmental Assessments that concluded that the permitted activity would not result in significant environmental impacts given planned mitigation measures. On that basis, the Corps issued a “Finding of No Significant Impact” for all four permits.”).

Whether used in the context of an EIS, EA or mitigated EA, public involvement is critical to NEPA’s function. *See, e.g., California v. Block*, 690 F.2d 753, 770 (9th Cir. 1982) (“NEPA’s public comment procedures are at the heart of the NEPA review process.”). “NEPA ensures that

[an] agency will not act on incomplete information,” *Marsh v. Oregon Natural Res. Council*, 490 U.S. 360, 371 (1989), at least in part, by “ensur[ing] that the public will be able to analyze and comment on [an] action’s environmental implications.” *Nat’l Audubon*, 422 F.3d at 184 (citing *Hodges*, 300 F.3d at 438). The critical role public involvement plays in realizing NEPA’s goal of achieving informed decision-making is reflected in the CEQ Guidelines. *See Block*, 690 F.2d at 771 (“We agree with the CEQ Guidelines’ interpretation of NEPA’s procedural requirements. NEPA’s public comment procedures are at the heart of the NEPA review process.”); *Nat’l Audubon*, 422 F.3d at 184 (“To supplement the statute, the Council on Environmental Quality (CEQ) has set forth regulations that agencies are required to follow[.]”) (citing *Dep’t of Transp. v. Pub. Citizen*, 541 U.S. 752, 757 (2004)).

First, 40 C.F.R. § 1500.1, the section entitled “Purpose,” provides, in relevant part:

NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken. The information must be of high quality. Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA. Most important, NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail. 40 C.F.R. § 1500.1(b).

Additionally, the CEQ Guidelines mandate that the lead agency on an EA “shall involve environmental agencies, applicants, and the public, to the extent practicable, in preparing assessments,” 40 C.F.R. § 1501.4(b); a duty which includes “[m]ak[ing] diligent efforts to involve the public in preparing and implementing their NEPA procedures,” 40 C.F.R. § 1506.6(a), and “[s]olicit[ing] appropriate information from the public.” 40 C.F.R. § 1506.6(d).

### **C. Factual Background**

Plaintiffs claim that the public notices issued for the § 404 permit applications for Loadout’s

Nellis Surface Mine and Fola's Ike Fork mines were deficient under the CWA and NEPA. Therefore, an evaluation of this claim requires an understanding of the facts surrounding the issuance of each permit.

1. PERMIT APPROVAL FOR THE LOADOUT NELLIS SURFACE MINE

Loadout filed its application for a CWA § 404 permit for its Nellis Surface Mine on April 10, 2005. The Corps deemed the application complete on May 25, 2006, and issued public notice of the application on June 2, 2006. Public comment on the notice was open for 30 days, until July 2, 2006.<sup>6</sup> The notice document for the Nellis Surface Mine is three and a half pages long. Loadout Notice (Doc. 86-1). It includes several standard sections, including but not limited to descriptions of: the purpose of the notice, the relevant regulatory program, the requirements of § 404, the § 401 water quality certification requirement, the public interest review, and the § 404 comment procedures. *Id.* Additionally, the notice contains some project-specific information, including the location of the proposed project and a description of the proposed work. *Id.* The location of the project is described with longitude and latitude measurements and by tributary names. *Id.* The section entitled "Description of Proposed Work" consists of two paragraphs, where the Corps: (1) specifies the purpose of the proposed project; (2) describes the type of structures proposed (four valley fills, two permanent sediment ponds, and one temporary sediment pond); and (3) provides the linear footage of the expected permanent and temporary impacts to waters of the United States, including whether the impacts would be to an intermittent or ephemeral stream. *Id.* Finally, a summary of the proposed impacts is provided in table form and several maps and drawings,

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<sup>6</sup>Pursuant to 33 C.F.R. §325.2(d)(2) the comment period on a § 404 permit application may not be less than 15 days nor more than 30.

including cross sections of the proposed valley fills, are included in the notice.<sup>7</sup> *Id.*

The notice, however, contains little to no detail regarding the nature of the expected environmental impacts or the character of the lands and waters to be affected by the project. Further, the section entitled "Mitigation Plan" states, in total, "The applicant has not submitted a Compensatory Mitigation Plan (CMP) to compensate for permanent and temporary impacts to waters of the U.S. that are regulated by USACE." *Id.* The notice therefore contains no information on proposed mitigation, or on how this mitigation is expected to account for the project's adverse environmental effects. *Id.*

The Corps received ten comments in response to the Loadout Notice, including a twenty-nine page comment letter submitted on behalf of Plaintiffs by Margaret Janes of the Appalachian Center for the Economy and the Environment ("Appalachian Center"). *See* Appalachian Center's Loadout Comments (Doc. 86-11). Plaintiffs' comments cover a wide range of topics, including but not limited to: criticism of the Corps' analysis of practicable alternatives; criticism of the scope of the overall analysis; and the suggestion that the permit may not sufficiently protect water quality standards. *Id.* Additionally, Plaintiffs' comment letter scrutinizes the expected use of mitigation to offset the project's adverse environmental impacts. *Id.* Attached to their comments, Plaintiffs provide expert reports produced by Drs. Bruce Wallace and Margaret Palmer as well as published articles on stream restoration. However, neither through their comments nor at any time later in the permitting process did Plaintiffs request a public hearing on the application.

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<sup>7</sup>A total of ten maps and drawings are attached to the notice. As a whole, the drawings are skeletal in nature, providing basic information regarding the structure, size, and location of the proposed valley fills.

Shortly after the close of public comment on its application, on July 7, 2006, Loadout submitted an Environmental Information Document for the Nellis Surface Mine (“Loadout EID”). The EID contains a detailed analysis of practicable alternatives; a comprehensive description of how mining would proceed under the proposed plan; a lengthy explanation of actions the company will take to mitigate adverse impacts; and a detailed proposal regarding post-mining land use.<sup>8</sup> Loadout EID (Doc. 86-5). Next, in July 2007, approximately one year after the comment period closed, Loadout submitted an initial Compensatory Mitigation Plan (“Loadout CMP”) to the Corps. That same month, the Corps circulated the Loadout CMP to the U.S. Fish and Wildlife Service (“USFW”), the U.S. Office of Surface Mining (“OSM”), the West Virginia DEP (“WVDEP”), the West Virginia Division of Natural Resources (“WVDNR”), and the West Virginia Division of Culture and History (“WVDCH”) for review and comment. Then, in December 2007 and March 2009, respectively, Loadout sent the Corps two letters with information to supplement the CMP.

The Loadout CMP was not made available for public comment. Additionally, none of the federal or state agencies to which the CMP was circulated made comments on it. Together, the CMP and its supplements provide a detailed analysis of the potential adverse environmental impacts of the Nellis Surface Mine’s §404 permit, including the expected severity of these impacts and the mitigation measures proposed to counter them.<sup>9</sup> *See* Loadout EID (Doc. 86-5); Loadout CMP (Doc. 86-2). In its CMP, Loadout proposes to mitigate adverse impacts by using

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<sup>8</sup>The Loadout EID is 63 pages long, with 245 pages of attached appendices, for total length of 308 pages. *See, e.g., Id.*; Attached Appendices F & H (Docs. 86-7 & 86-9).

<sup>9</sup>The combined length of the Loadout CMP and its supplements is 397 pages.

stream creation and stream restoration. Specifically, Loadout proposes to mitigate the permanent impacts its project will have to 11,162 feet of intermittent and ephemeral streams by creating approximately 13,564 feet of ephemeral and intermittent stream channels within seven sediment and perimeter ditches at the site (on-site stream creation) and by conducting stream enhancement activities on 8,900 feet of Fork Creek, a site located approximately two miles downstream of the impact site and within the affected Fork Creek Watershed (off-site stream restoration). *See* Loadout CDD (Doc. 86-3), 18-21. In the CMP, the company also predicts that the proposed mitigation – which includes a monitoring plan to assure success – will alleviate adverse environmental impacts, and provides that, in the case that the proposed mitigation does not perform as expected, the company will undertake remedial measures and/or additional mitigation in order to avoid significant environmental degradation. *See* Loadout CMP (Doc. 86-2). In short, the Loadout CMP provides how – as a result of the mitigation measures proposed – the Nellis Surface Mine will avoid significant environmental degradation and comply with CWA and NEPA standards. *Id.*

The Corps issued the § 404 permit for Loadout’s Nellis Surface Mine on April 21, 2008, approximately nine months after Loadout submitted its initial CMP. Loadout Permit (Doc. 86-6). Attached to the permit, the Corps provided an 88-page Combined Decision Document (“Loadout CDD”) in which it published a FONSI for the Nellis Surface Mine. The Loadout CMP plays a prominent role in the Loadout CDD. The Loadout CDD incorporates the entire CMP by reference and, in a section entitled “Applicant’s Proposed Mitigation,” the CDD contains a twenty-page discussion of the CMP. Loadout CDD (Docs. 86-3 & 86-4). Additionally, the CMP is referenced throughout the Corps’ discussions of the significance (or lack thereof) of the

individual and cumulative impacts of the §404 permit and the Corps refers to the mitigation plan in response to a large portion of Plaintiffs' comments.<sup>10</sup> *Id.* Finally, the Loadout FONSI, which is issued in the last section of the Loadout CDD, directly refers to the CMP as "quantitatively assess[ing] impacts to aquatic resources and present[ing] a mitigation design to compensate for the stream function loss associated with the proposed project." *Id.* at 87. The Loadout CDD therefore acknowledges that the Loadout FONSI is based, in large part, on the mitigation measures provided for in the CMP.

## 2. PERMIT APPROVAL FOR FOLA'S IKE FORK MINES NOS. 1 AND 2

The permit evaluation process for Fola's Ike Fork mines was similar to that of Loadout's Nellis Surface Mine. Fola filed its initial application on October 19, 2004, and the Corps determined the application was complete and issued notice for public comment on April 13, 2005. Fola Notice (Doc. 36-1). The comment period on the Fola Notice was then open for 30 days, until May 14, 2005. *Id.* The Fola Notice is four pages long and it contains many of the standard sections present in the Loadout Notice.<sup>11</sup> *Id.* Additionally, similar to the Loadout Notice, the Fola Notice contains project-specific information in just two sections: the sections entitled "Location" and "Description of the Proposed Work." *Id.* These sections mirror the relevant sections in the Loadout Notice: providing project-specific information on the purpose of the

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<sup>10</sup>In addition to responding to their comments in the CDD, the Corps sent Plaintiffs a forty-page document which replies to each of their comments on the Loadout Notice. Corps' Response to Loadout Comments (Doc. 138-1). Again, the majority of these responses expressly refer Plaintiffs to the Loadout CMP (or the Loadout EID) for answers to their concerns. *Id.*

<sup>11</sup>For example, the Fola Notice contains standard language on subjects such as: the purpose of the Notice, the relevant regulatory program, § 404 of the CWA, the § 401 water quality certification requirement, the public interest review, and the process for public comment.



proposed § 404 permit; the longitude and latitude location of the project; and the number of stream feet and acreage to be adversely affected, both permanently and temporarily.<sup>12</sup> *Id.* Also, similar to the Loadout Notice, the Fola Notice contains little to no project-specific information on the nature of the expected environmental impacts and no information on the mitigation measures proposed to counter such impacts.<sup>13</sup> *Id.*

Pursuant to the Fola Notice, the Appalachian Center submitted comments on behalf of Plaintiffs. These comments were nearly identical in form and substance to the comments submitted in response to the Loadout Notice. There were five additional public comments received in response to the Fola Notice.

Similarities notwithstanding, the process by which the Corps evaluated Fola's § 404 permit differed from the Loadout permit evaluation in a few significant ways. First, on November 2, 2004, prior to issuing public notice, the Corps wrote Fola and requested additional information on the project. In its letter, the Corps informed Fola that its application did not provide "sufficient information regarding the extent of jurisdictional waters of the U.S. that have been or would be impacted by the [Ike Fork permit activity]" and that additional information "[was] required in order to advertise [Fola's] proposal via a public notice." Corps' Letter to Fola, Nov. 2, 2004 (Doc 73-16). Following this statement, the Corps provided Fola with a list of items

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<sup>12</sup>The Fola Notice does not contain any maps or drawings, however. Instead, there are two tables attached to the notice: a table depicting the acreage of the affected drainage areas by valley fill and a table portraying, in linear feet, the permanent and temporary impacts to intermittent and ephemeral streams. *See* Fola Notice (Doc. 36-2), Attached Tables.

<sup>13</sup>The only information the Fola Notice contains relating to mitigation is found in the section entitled "Mitigation Plan," which states, in total, "To date, the applicant has not submitted a compensatory mitigation plan to this office." Fola Notice (Doc. 36-2).

imperative to, and thus required before, the issuance of public notice. Although not included in this specific, pre-notice list, the letter requests that Fola provide the agency with an EID and a CMP. This request is explained as follows:

In order to issue a Section 404 [individual permit], the Corps must conclude the project is consistent with the Section 404(b)(1) Guidelines [] and the project is not contrary to public interest. The information contained below and enclosed is intended to assist you in determining what information, beyond that already required in SMCRA and other state permits, must be submitted with an IP request. The information required by SMCRA and other state permits may be sufficient to address some of the requirements. The required information provides the factual basis for the Corps to make the aforementioned conclusions to facilitate final IP decisions. The following information is required in order to process an IP request:

- 1) an alternatives analysis pursuant to the Guidelines and the NEPA,
- 2) *a compensatory mitigation plan developed in accordance with the Corps' Regulatory Guidance Letter dated December 24, 2002 (attached),*
- 3) a description of the affected environment is necessary to help understand the environmental impacts of proposed projects and no action alternatives, and
- 4) information concerning other land disturbance activities and watershed improvement projects within the same watersheds as the proposed activity on water quality and aquatic habitat. *Id.* (emphasis supplied)

This letter distinguishes the Fola permit process, at least in part, from the Loadout process because – through the letter – the Corps indicates that the Fola application was not complete upon submission and identifies what type of information and/or documents are necessary before a determination of completion can be made. Further, the letter specifically informs the company what information is necessary in order for the Corps to determine that the proposed § 404 permit will comply with CWA and NEPA standards. This list of information and documents explicitly includes a compensatory mitigation plan.

Public notice for the Fola application issued on April 13, 2005, and the comment period

on the notice ended on May 14, 2005. Fola submitted an initial CMP for the Ike Fork mines (“Fola CMP”) in October 2006, nearly a year and a half after public comment on the application closed. *Fola’s Mem. In Supp. Of Mot. For Partial Summ. J.* (Doc. 136), 2. Further, Fola submitted a final EID for the Ike Fork mines (“Fola EID”) in January 2007 and a supplement to the CMP in December 2007. Fola’s EID and CMP are similar in scope and content to those submitted by Loadout. They contain detailed explanations of the mining plan; the environmental quality of the land and water to be affected; the linear feet of stream to be affected (32,731); and the mitigation techniques proposed to offset such environmental degradation.<sup>14</sup> *See* Fola EID; Fola CMP (Doc. 56-1, Doc.56-2 & Doc. 56-3). Specifically, as the permit indicates, the CMP provides that Fola will “compensate for unavoidable adverse impacts to waters of the United States [by ensuring] the following mitigation measures ... [o]ff-site creation of 18,834.7 linear feet of intermittent stream channels and 17,608.8 linear feet of ephemeral stream channels; [] [o]n-site restoration/enhancement of 100 linear feet of ephemeral stream channel and 4,785 linear feet of intermittent streams; and [] establishment of 47.4 acres of riparian habitat.” Fola Permit (Doc. 36-8), Special Cond. No. 9. Further, as indicated in the Fola Decision Document (“Fola DD”), the CMP describes the stream creation sites evaluated and selected. Such descriptions include whether the site was subject to previous mining activities, the elevation and topography of the site, and the site’s expected function. *See* Fola DD (Doc. 36-4), 32-33. Finally, as was the case with the Loadout documents, the Fola EID and Fola CMP were submitted to multiple federal and state agencies for review and comment, but were not released for public comment.

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<sup>14</sup>According to Plaintiffs, the Fola CMP, its supplements, and the Fola EID together total 487 pages. *Pl’s Mem. In Opp. To Fola’s Mot. For Partial Summ.. J.* (Doc. 140), 3.

The Corps issued the permit for Fola's Ike Fork No. 1 and Ike Fork No. 2 mines on March 5, 2008, nearly three years after the public notice issued and approximately a year and a half after Fola submitted an initial CMP for the project. The permit was accompanied by a 144-page decision document, which contained eleven appendices totaling several hundred pages. Fola DD (Doc. 36-3 through Doc. 36-7). Similar to the Loadout CMP, Fola's CMP plays a central role in the Fola DD. First, the Fola DD contains a twenty-page evaluation of Fola's CMP. Additionally, the DD's discussion of expected individual and cumulative impacts centers, in large part, upon specific mitigation measures provided for in the CMP. *Id.* Finally, in its discussion of the FONSI issued for the Ike Fork mines ("Fola FONSI"), the Corps explains that the reduction of impacts below significance results, in large part, from the proposed mitigation measures. *Id.* (Doc. 36-4). Specifically, following the 20-page discussion of mitigation found on pages 22-41 of the DD, the Corps concludes that:

[i]n consideration of the all [sic.] of the information noted above with reference to the information documented below under Section XI(E) related to the structure and function of the aquatic ecosystem, it has been determined that the applicant's proposed compensatory mitigation measures are commensurate with the impacts to waters of the United States and aquatic resources benefits would occur as a result of implementing the applicant's mitigation work plan. *Id.* (Doc. 36-4), 41.

## **II. Standards of Review**

### **A. Summary Judgment**

Rule 56(c) of the Federal Rules of Civil Procedure provides that summary judgment is proper if "the pleadings, the discovery and disclosure of materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c). When considering a motion for summary judgment,

the Court considers the facts in the light most favorable to the nonmoving party. *Adickes v. S.H. Kress, and Co.*, 398 U.S. 144, 159 (1970). The Court will not “weigh the evidence and determine the truth of the matter[.]” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 249 (1986). However, it will draw any permissible inference from the underlying facts in a manner that supports the nonmovant. *Matsushita Elec. Indus. Co., Ltd. v. Zenith Radio Corp.*, 475 U.S. 574, 587-88 (1986).

Still, the party opposing summary judgment “must do more than simply show that there is some metaphysical doubt as to material facts.” *Id.* at 586. It must offer some “concrete evidence from which a reasonable juror could return a verdict in his favor[.]” *Anderson*, 477 U.S. at 256. Summary judgment is therefore appropriate when the nonmovant has the burden of proof on an essential element of his case and fails – after adequate time for discovery – to make an evidentiary showing sufficient to establish that element. *Celotex Corp. v. Catrett*, 477 U.S. 317, 322-23 (1986).

## **B. The Administrative Procedure Act**

“Claims challenging federal agency action under the CWA and NEPA are subject to judicial review under the APA.” *Aracoma*, 556 F.3d at 192 (citations omitted). When issuing § 404 permits, the Corps is engaged in informal rule-making pursuant to Section 4 of the APA, 5 U.S.C. § 553. *Id.* (citations omitted). Such informal rule-making is reviewed under Section 10 of the APA, 5 U.S.C. § 706(2), “which establishes that, as a general rule, ‘agency action, findings, and conclusions’ will be set aside only when they are ‘found to be ... arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.’” *Id.* (citing *Citizens to Preserve*

*Overton Park, Inc. v. Volpe*, 401 U.S. 402, 413-14 (1971)). “Review under this standard is highly deferential, with a presumption of finding agency action valid.” *Id.* (citing *Natural Res. Def. Council, Inc. v. EPA*, 16 F.3d 1395, 1400 (4th Cir. 1993)).

### **III. Analysis**

#### **A. Plaintiffs’ Notice Claims Are Not Moot**

Intervenor-Defendant Loadout argues that, due to the deference the Fourth Circuit accorded the Corps in *Aracoma*, Plaintiffs’ notice claims are substantively moot. *Loadout’s Mem. in Opp. to Pl.’s Mot. for Partial Summ. J.* (Doc. 127), 11. Specifically, Loadout contends that the question of whether the Loadout Notice was sufficient is moot because, at the time of issuance, the Corps possessed sufficient information to evaluate Loadout’s § 404 permit and duly considered Plaintiffs’ existing substantive challenges. Thus, Loadout argues that approval would not be affected by a more robust public notice.

Although it is correct that judgment in favor of Plaintiffs may not alter the Corps’ decision to issue the Loadout permit or move the Corps to require changes to the permit as issued, the company’s argument for mootness is unpersuasive. Plaintiffs’ procedural claim is that they were denied an opportunity for meaningful notice and comment under the CWA and NEPA. Therefore, Plaintiffs assert a *procedural*, not a substantive right.

The U.S. Supreme Court’s holding in *Massachusetts v. EPA* is instructive. “When a litigant is vested with a procedural right, that litigant has standing if there is some possibility that the requested relief will prompt an injury-causing party to reconsider the decision that allegedly harmed the litigant.” *Massachusetts v. EPA*, 549 U.S. 497, 518 (2007) (citing *Sugar Cane*

*Growers Coop. of Florida v. Veneman*, 289 F.3d 89, 94-95 (D.C. Cir. 2002) (“A [litigant] who alleges a deprivation of a procedural protection to which he is entitled never has to prove that if he received the procedure the substantive result would have been altered. All that is necessary is to show that the procedural step was connected to the substantive result.”)). Therefore, a plaintiff seeking to vindicate a procedural right need not demonstrate that the exercise of such right will change an agency’s ultimate decision. Instead, the plaintiff need only show (1) that a procedural error occurred, and (2) that some procedural remedy exists. *See also South Carolina Wildlife Fed’n v. H.B. Limehouse*, 549 F.3d 324, 330 (4th Cir. 2008) (“The party seeking an injunction need not show that injunction of the state defendant would lead directly to redress of the asserted injury, but only that relief will preserve the federal procedural remedy.”) (citing *Massachusetts v. EPA*).

Here, Plaintiffs argue that public notice for the Nellis Surface Mine and the Ike Fork Surface mines were deficient. Further, Plaintiffs request that the Corps re-notice the permit applications with more complete information on mitigation, contending that such re-notice will (1) provide the public with a meaningful opportunity to comment on the applications, and (2) force the Corps to reconsider these permits, possibly with new information. In contrast to Loadout’s argument, Plaintiffs do not assert that re-notice and reconsideration of the permits is likely to change the Corps’ decisions regarding approval. Such a finding is not necessary to withstand mootness, however, because under *Massachusetts v. EPA* the existence of a specific, achievable procedural remedy is sufficient grounds to find in Plaintiffs’ favor. *Massachusetts*, 549 U.S. at 518 (“Congress has accorded a procedural right to protect [] concrete interests.”).

### **B. The Corps Failed to Comply with the Notice Requirements of the CWA**

The issue presented with respect to the CWA is whether – in light of the central role compensatory mitigation plays in determining whether a § 404 permit for a mountaintop coal mine will cause or contribute to significant environmental degradation – the Loadout and Fola Notices, which contained no substantive information on proposed mitigation, were sufficient under the APA, the CWA, and the Corps’ regulations.

To determine whether the public notices for the Loadout and Fola mines were sufficient, the Court must consider whether the Corps’ conclusion that the mining companies’ permit applications were complete at the time of issuance complies with law. Completion and public notice are inextricably linked. A complete application is defined in terms of the sufficiency of the submitted materials to provide a meaningful opportunity for public comment, 33 C.F.R. § 325.1(d)(9) (“An application will be determined to be complete when sufficient information is received to issue a public notice (See 33 CFR 325.1(d) and 325.3(a).)”), and the 15-day deadline for the issuance of public notice is triggered by the completeness of a permit application. 33 C.F.R. § 325.2(d)(1) (“The public notice will be issued within 15 days of receipt of all information required to be submitted by the applicant in accordance with paragraph 325.1(d) of this Part.”); 33 C.F.R. § 325.2(a)(2) (“Within 15 days of receipt of an application the district engineer will either determine that the application is complete (see 33 CFR 325.1(d)(9) and issue public notice as described in § 325.3 of this Part ... or that it is incomplete and notify the applicant of the information necessary for a complete application.”). The regulations instruct that “[t]he issuance of a public notice will not be delayed to obtain information necessary to evaluate an application.” 33 C.F.R. § 325.1(d)(9). However, because completion is defined by the



sufficiency of the submitted materials to warrant public notice, *id.*, it is controlled by 33 C.F.R. § 325.3(a), which governs the content of a public notice. 33 C.F.R. § 325.3(a) provides a non-exhaustive list of materials that must be included in a § 404 notice. Pertinent here, it mandates that “[t]he notice must ... include sufficient information to give a clear understanding of the nature and magnitude of the activity to generate meaningful comment.” 33 C.F.R. § 325.3(a).

As outlined above, the CWA and CWA Guidelines create a tension between the content and timing of a § 404 notice. First, there is the Congressional mandate that public notice be issued no later than 15 days after a § 404 permit application is complete, 33 U.S.C. § 1334(a); 33 C.F.R. § 325.3(d)(3), which allows the public to participate early in the application process.<sup>15</sup> Then, there is the Corps’ regulatory duty to issue notice that contains sufficient information to allow for meaningful comment. *See, e.g.*, 33 C.F.R. § 325.(a)(1) (“The notice must [] include sufficient information to give a clear understanding of the nature and magnitude of the activity to generate meaningful comment.”); *Connecticut Light & Power Co. v. Nuclear Regulatory Comm’n*, 673 F.2d 525, 530 (D.C. Cir. 1982) (holding that notice that “fails to provide an accurate picture of the reasoning that has led the agency to the proposed rule” deprives the public of an opportunity to comment meaningfully).<sup>16</sup> The latter requirement presents a potential conflict with the 15-day deadline for notice because, if it is to occur early, notice must occur

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<sup>15</sup>According to the Corps’ argument on August 20, 2009, “[t]he clear purpose of [the 15-day] statutory requirement is to put the notice out early in the process so that people can have input, rather than very late in the process when all of the data and information has been gathered and the process is nearly complete.” *Tr. for Mot. Hr’g on August 20, 2009* (Doc. 161), 24.

<sup>16</sup>*See also* 33 U.S.C. § 1344(q) (requiring that, “to the maximum extent practicable,” a permit decision be made within 90 days of the issuance of public notice); 33 C.F.R. § 325.1(d)(3) (requiring that the Corps decide on a § 404 permit application “not later than 60 days after receipt of a complete application”).

when substantive information on a proposed project is likely to be limited. And – armed only with limited information – it is less likely that members of the public will be able to comment intelligently.

Here, the timing-content tension created by the issuance of notice required the Corps to exercise its discretion in balancing these potentially conflicting requirements. Specifically, the Corps exercised such discretion when determining whether the Loadout and Fola applications were sufficiently complete to warrant public notice and when deciding what information to include in the attendant notices. The pertinent question is therefore whether the Corps' determinations of completeness should be afforded substantial deference.

The Court is sensitive to the high degree of deference accorded to the Corps in *Aracoma* and afforded any agency under 5 U.S.C. § 706(2). *See Aracoma*, 566 F.3d at 192. Nonetheless, for the reasons stated below, the Court finds such deference is not appropriate in this action.

Generally, decisions made pursuant to an agency's discretionary authority are afforded substantial deference, especially if those decisions rely upon an agency's scientific or technical expertise, *Aracoma*, 566 F.3d at 201 (citing *Baltimore Gas & Elec. Co. v. Natural Res. Def. Council*, 462 U.S. 87, 103 (1983), and/or are based upon an agency's interpretation of its own regulations. *Id.* at 192-93 (citing *Auer v. Robbins*, 519 U.S. 452, 461 (1997) and *Bowles v. Seminole Rock & Sand Co.*, 325 U.S. 410, 413-14 (1945)). Agency deference is applicable here; however, when the Corps' decisions are viewed in the context of the entire § 404 regulatory framework, the Court is convinced that substantial deference is not warranted and a lesser form of deference is appropriate. *See* 33 C.F.R. §§ 325.2(d)(3), 325.1(d)(9), 325.3(a). First, a determination of completion is not a "complex prediction[] based on specialized expertise"

afforded the high degree of deference prescribed in *Baltimore Gas*. See *Aracoma*, 556 F.3d at 201. Second, although a determination of completion requires the Corps interpret its own regulations, the Corps' determinations that the Loadout and Fola applications were complete are not afforded a high degree of deference because these determinations were inconsistent with other CWA Guidelines. See *Aracoma*, 556 F.3d at 193 ("This kind of review is highly deferential, with the agency's interpretation controlling unless plainly erroneous or inconsistent with the regulation." (citing *Auer*, 519 U.S. at 461) (internal quotations omitted). Specifically, the Court finds these determinations of completeness conflicted with the definitions and standards established in 33 C.F.R. § 325.3(a) and § 325.1(d)(9).<sup>17</sup> The Court finds the Corps unreasonably found the applications were complete and issued public notices that plainly did not contain sufficient information to allow for meaningful public comment. Consequently, neither the 15-day deadline established in 33 U.S.C. § 1334(a) and 33 C.F.R. § 325.3(d)(3), nor the prohibition against delay established in 33 C.F.R. § 325.1(d)(9), was triggered in the instance case because neither attaches unless and until an permit application is complete.

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<sup>17</sup>As discussed earlier, 33 C.F.R § 325.1(d)(9) provides that "[a]n application will be deemed complete when sufficient information is received to issue a public notice (see 33 C.F.R. 325.1(d) and 324.3(a).)" 33 C.F.R § 325.1(d)(9). 33 C.F.R. § 325.1(d) describes the "Content of [a § 404] application" and, for the most part, such content is not at issue here. In fact, the only section of 33 C.F.R § 325.1(d), besides 33 C.F.R § 325.1(d)(9), which refers directly to public notice is 33 C.F.R § 325.1(d)(1), where the regulation provides that an "application must include a complete description of the proposed activity including necessary drawings, sketches, or plans sufficient for public notice (detailed engineering plans and specifications are not required) ... See § 325.3 for information required to be in public notices." 33 C.F.R § 325.1(d)(1). Thus, in both instances where a portion of 33 C.F.R. § 325.1(d) mentions public notice the regulation specifically refers to 33 C.F.R. § 325.3 as providing the standard for the sufficiency of a notice. 33 C.F.R. § 325.3 therefore provides the standard that controls this decision and is the only standard discussed at length herein. Further, for the reasons stated above, by virtue of being inconsistent with 33 C.F.R. § 325.3 the Corps' determinations of completion are also in conflict with 33 C.F.R. § 325.1(d), specifically 33 C.F.R. §325.1(d)(9).

To explain the inconsistency between the language of the CWA and CWA Guidelines and the Corps' determinations of completion regarding the Loadout and Fola applications, the Court turns to the portions of the statute and guidelines that cabin the Corps' permit-based discretion. Specifically, the Court looks to the standard for evaluating the sufficiency of a public notice established in 33 C.F.R. § 325.3(a), which ultimately defines when an application is complete. *See* 33 C.F.R. § 325.1(d)(9). "Public notice is the primary method of advising all interested parties of the proposed activity for which a permit is sought and of soliciting comments and information necessary to evaluate the probable impacts on the public interest." 33 C.F.R. § 325.3(a). According to the Corps' regulations, "notice must therefore give a clear understanding of the nature and magnitude of the activity to generate meaningful comment." *Id.* When assessing the reasonableness of the Corps' actions, the Court considers the application of this standard in the context of existing § 404 case law, as well as other administrative law cases, which address the sufficiency of notice and therefore help define what it means for comment to be "meaningful."

Pursuant to *Aracoma*, the issuance of a § 404 permit constitutes informal rule-making under the APA. 556 F.3d at 192. Thus, several federal appellate cases addressing informal rule-making provide guidance, including cases from the Fourth Circuit and the D.C. Circuit, which is afforded particular weight in the area of administrative law. First, in *Home Box Office, Inc. v. Federal Communications Commission*, the D.C. Circuit instructs that "an agency proposing informal rule-making has an obligation to make its views known to the public in a concrete and focused form so as to make criticism or formulation of alternatives possible." 567 F.2d 9, 36 (D.C. Cir. 1977). "Consequently, the notice required by the APA, or information subsequently

supplied to the public, must disclose in detail the thinking that has animated the form of a proposed rule and the data upon which that rule is based.” *Id.* at 35. Such disclosure is necessary because it is this detail and data that allow the public to generate meaningful criticism, which serves as the basis for meaningful comment. This fact is reiterated in *Connecticut Light & Power v. Nuclear Regulatory Commission*, where the D.C. Circuit finds that “[t]he purpose of the comment period is to allow interested members of the public to communicate information, concerns, and criticism” and that “[i]n order to allow for useful criticism, it is especially important for the agency to identify and make available technical studies and data that it has employed in reaching the decisions to propose particular rules.” 673 F.2d 525, 530 (D.C. Cir. 1982); *id.* (“If the notice [] fails to provide an accurate picture of the reasoning that has led the agency to the proposed rule, interested parties will not be able to comment meaningfully upon the agency’s proposal. As a result, the agency may operate with a one-sided or mistaken picture of the issues at stake in a rule-making.”).

The standards articulated in *Home Box Office* and *Connecticut Light & Power* are discussed in *National Asphalt Pavement Association v. Train*, where the D.C. Circuit concludes that “in order to have a meaningful opportunity to comment, one must be aware of the information the agency finally decides to rely on in taking agency action,” 539 F.2d 775, 779 n. 2 (D.C. Cir. 1976). Further, these standards are elaborated upon in *Appalachian Power Co. v. EPA*, where the Fourth Circuit, citing *National Asphalt*, held that notice must “appris[e] the public of the nature and basis of the regulation or rule sufficiently to enable them to understand and identify the material issues relating to the justification for the regulation or rule so that they can comment thereon intelligently.” 579 F.2d 846,852-53(4th Cir. 1978) (reviewing a challenge

to a regulation promulgated by the EPA to implement federal air quality standards).

In the instant case, Plaintiffs challenge the sufficiency of the Loadout and Fola Notices on account that these notices contained no substantive information on mitigation. The standard established in 33 C.F.R. § 325.3(a), viewed in light of the aforementioned circuit court cases, supports this argument. Compensatory mitigation is critical to the Corps' determination that a § 404 permit for a mountaintop coal mine will not cause or contribute to significant environmental degradation and, thus, is not contrary to the public interest. *See, e.g., Aracoma*, 556 F.3d at 187 ("For each of the four permits, the Corps prepared Environmental Assessments that concluded that the permitted activity would not result in significant environmental impacts *given* planned mitigation measures.") (emphasis supplied). Further, here, it is clear from the Corps' correspondence to Fola and from the relevant decision documents that the compensatory mitigation measures included in the Loadout and Fola permits were central to the Corps' determinations of no significant degradation in both cases.<sup>18</sup> The Corps essentially admitted this

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<sup>18</sup>*See* Corps' November 2, 2004, Letter to Fola, § I(C)(2) *supra* (stating a compensatory mitigation plan is required to process the Ike Fork permit application and to "conclude the project is consistent with Section 404(b)(1) Guidelines"); Fola DD (Doc. 36-5), 45 ("In order to compensate for construction-related impacts, the applicant has proposed on-site mitigation."); *Id.* at 56 ("Impacts to aquatic ecosystems would be mitigated via the applicant's CMP."); Loadout CDD (Doc. 86-3), 18 ("As required by the Section 404 (b)(1) Guidelines, a permit to discharge fill material into waters of the United States would not be granted if it is determined the proposal would cause or contribute to significant degradation of waters of the United States. ... If impacts cannot be avoided, impacts must be minimized to the maximum extent practicable. Following minimization of impacts, all unavoidable impacts must be compensated for through mitigation activities[.]"); *Id.* at 37 ("[I]f the stream creation and restoration activities are implemented in accordance with the proposed compensatory mitigation plan, it is expected the created streams would maintain most of their functionality of the impacted streams upon maturity. There would be a temporal loss of function during the mining activities at the site, but these losses would not be permanent."); *Id.* at 50 ("It is not expected the proposal would result in long-term significant impacts to aquatic, terrestrial and avian wildlife values as ... [t]he applicant has proposed a compensatory mitigation plan that would replace the lost headwaters streams with newly created

fact in argument before this Court, on August 20, 2009, when it replied, "Absolutely," to the Court's suggestion that mitigation measures make § 404 permits for mountaintop mines issuable.

*See Tr. for Mot. Hr'g on August 20, 2009* (Doc. 161), 27.

Taken together, *Aracoma*, the Loadout and Fola decision documents, the Corps' November 2 letter to Fola, and the Corps' argument before the Court confirm that compensatory mitigation is the principle factor considered when conducting a § 404 permit review. The evidence indicates that compensatory mitigation is "the information the agency finally decides to rely on in taking agency action," *Appalachian Power*, 579 F. 2d at 852 n. 12 (citing *Nat'l Asphalt*, 539 F.2d at 779 n. 2). Compensatory mitigation is the single most important "material issue[] related to the justification" of such a permit. *See id.* at 852. Therefore, when it is considered in light of the basic administrative principles established in the aforementioned cases, the pertinent question regarding the sufficiency (or lack thereof) of the Loadout and Fola Notices becomes clear. Did the notices provide sufficient data and detail to provide the public with an understanding of the material justification for the permits? Or, said simply, did the notices provide sufficient information on compensatory mitigation?

Because the notices contained no substantive information on mitigation, the clear answer to this question is no. The notices did not "give [the public] a clear understanding of the nature and magnitude of the activity to generate meaningful comment." *See* 33 C.F.R. § 325.3(a)(1). Without any substantive information on mitigation, the notices failed to provide an accurate picture of the Corps' reasoning and prevented useful criticism on the part of Plaintiffs and on the

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headwater streams at the site ... For these reasons, the Corps anticipates no significant impacts to macrovertebrate values[.]").

part of the public in general. See *Connecticut Light & Power*, 673 F.2d at 530. As a result, the lack of information on mitigation in the notices deprived Plaintiffs of an existing procedural right – the right to comment intelligently.<sup>19</sup>

Several federal district court cases support this conclusion, including: *National Wildlife Federation v. Marsh*, 585 F.Supp. 985 (D.C. D.C. 1983), *Friends of the Earth v. Hall*, 693 F.Supp. 904 (W.D. Wash. 1988), and *Northwest Environmental Defense Center v. Wood*, 947 F.Supp. 1371 (D. Ore. 1996). In each case, plaintiffs brought challenges to the Corps' decision to issue a § 404 permit based on a theory that the Corps failed to provide adequate notice and comment on the application, as required by the APA, the CWA and CWA Guidelines. In short, each of these cases – although not controlling – addresses the identical issue presented in the instant motion. The courts in *Marsh* and *Hall* found the notice deficient and required re-notice, whereas, the court in *Wood* found the notice sufficient. Still, the reasoning provided in each case is instructive.

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<sup>19</sup>Because it is not necessary to the resolution of the instant motion, the Court does not decide what type, or how much, information on compensatory mitigation would be sufficient to meet the standards articulated above. Such a determination is a fact-intensive inquiry and, for the purposes of this motion, it is sufficient to conclude that a public notice that contains *no* substantive information on mitigation denies the public a procedural right to meaningful comment and review. Further, implicit in the Court's finding that the Loadout and Fola Notices were deficient is the finding that the Loadout and Fola applications were not complete. Completeness requires the submission of sufficient information to issue public notice, which triggers the standard for sufficiency established in 33 C.F.R. § 325.3(a). With respect to proposed mitigation, the Loadout Notice states, in total, "The applicant has not submitted a Compensatory Mitigation Plan (CMP) to compensate for permanent and temporary impacts to waters of the U.S. that are regulated by USACE." Loadout Notice (Doc. 86-1). With respect to proposed mitigation, the Fola Notice states, in total, "To date, the applicant has not submitted a compensatory mitigation plan to this office." Fola Notice (Doc. 36-2). Because a complete lack of substantive information on mitigation renders the notices deficient, according to the regulations, such a lack of information also renders the applications incomplete.



To begin with, *Marsh* involved a challenge by environmental groups to a § 404 permit approved by the Corps for construction of an oil refinery in the Chesapeake Bay. 585 F.Supp. at 989. The permit application was approved after federal agencies conducted a full EIS, a process which afforded multiple opportunities for public comment, and following extensive review and comment by the Corps' District Engineer, Division Engineer, and Chief Engineer.<sup>20</sup> Plaintiffs challenged the permit decision based upon the fact that a 100-page staff evaluation ("Staff Evaluation") prepared for the Secretary of the Army, and upon which the Secretary's final decision relied, had not been released for public review and comment. The *Marsh* Court agreed with plaintiffs, finding that – although the permit application had been through several levels of public scrutiny – the regulations' mandate that the public be afforded "meaningful" comment had not been met. Specifically, the *Marsh* Court found that, because the Secretary relied upon the Staff Evaluation in his final decision, and because the analysis and reasoning provided in the Staff Evaluation differed substantially from information previously released for comment, the information ultimately released for comment did not properly apprise the public of the rationale behind the Corps' decision, thus failing to meet the burden placed on the agency by 33 C.F.R. § 325.3(a). *Id.* at 993 ("[I]f the public is not apprised of the rationale behind a proposed decision, or if the public is informed of the rationale only after the close of the comment and hearing period, then the agency cannot be said to have provided a realistic opportunity for public hearings or meaningful comments."). According to *Marsh*, "under section 404 of the CWA, the opportunity to comment and the right to a hearing both necessarily require that the Army present

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<sup>20</sup>This review led to conflicting recommendations on the part of the Engineers, with the Division Engineer and the Chief Engineer recommending approval and the District Engineer recommending denial.

for public scrutiny the rationale and pivotal data underlying its proposed action *before* the close of the comment and hearing period ... [and] ... the inclusion of the Staff Evaluation in the administrative record *after* the close of the comment and hearing period had the effect of shielding essential data and the agency's rationale from public hearing and comment." *Id.* at 994 (emphasis in original).

Applying that reasoning here, this Court finds that – because it is critical to the Corps' ability to issue a finding of no significant degradation – information on proposed mitigation, like the Staff Evaluation in *Marsh*, constitutes the rationale and pivotal data underlying the Corps' decision to issue a § 404 permit for a mountaintop mine. Accordingly, information on proposed mitigation is the rationale and pivotal data that must be entered into the administrative record and released for public review and comment *before* the close of comment on a §404 permit for a mountaintop mine.

*Hall* provides a similar conclusion. In *Hall*, environmental groups challenged the issuance of a § 404 permit to the Navy for construction of an aircraft carrier homeport near Everett, Washington. 693 F.Supp .at 915. The Corps conducted an EIS prior to approving the permit and both the draft and final versions of the EIS were released for public comment. *Id.* A detailed monitoring plan, however, was not required during the EIS process and the Corps instead allowed the Navy the option of developing a comprehensive mitigation strategy post-approval. *Id.* The *Hall* Court found this decision faulty. Specifically, it found that the Corps' decision to approve the Navy's permit without releasing the monitoring plan for public comment violated the notice requirements established by the CWA Guidelines. *Id.* at 948. The court found that the monitoring plan constituted "pivotal data" under *Marsh* and that the Corps' failure to solicit

comments on this plan violated 33 C.F.R. § 325.3(a) because it “[i]n effect, prevented the public from commenting on the single most important feature of the [project.]” *Id.* According to the *Hall* Court, “[w]hile section 33 C.F.R. § 325.3(a) does contain a list, it is by no means exclusive, and the analysis in [*Marsh*] is persuasive: without pivotal data and information, public comment cannot be meaningful.” *Id.*

The *Hall* Court’s conclusion – that the monitoring plan constituted the rationale and pivotal data underlying the Corps’ permit decision – was based upon the prominent role the monitoring plan played in the two EISs conducted on the proposed project, in the Corps’ Record of Decision (“ROD”) published on the project, and in the Corps’ finding of no significant environmental degradation. *Id.* at 948; *id.* at 938 (“Adequacy of an EIS hinges, *inter alia*, on the completeness of the mitigation plan. Here, the Corps’ EIS discusses various mitigation measures. With reference to the CAD proposals, it is clear that the monitoring plan is the centerpiece of the Corps’ mitigation plan. The government repeatedly relies on the monitoring plan[.]”) (internal citations omitted); *id.* at 945 (“[T]he Corps relies on the EISs and the studies cited therein to conclude that the RADCAD project will not cause significant degradation.”). Additionally, the finding that the Corps failed to comply with the public notice requirements of the CWA Guidelines was based on the fact that the Navy did not submit its monitoring plan – which provided the Corps a basis upon which to determine no significant degradation – until after the close of public comment. *Id.* at 948 (“As the court has already explained in the context of NEPA’s requirements, a simple review of the time line in this case demonstrates that the Corps did in fact violate its own regulations, in that the Navy published its final monitoring plan in November of 1987, and the Corps approved it in April of 1988, nearly sixteen months after the

close of the public comment period.”); *id.* at 948 (“The process used by the Corps, in effect, prevented the public from commenting on the single most important feature of the RADCAD project – the monitoring plan.”).

Because the facts in *Hall* are similar to the facts in the instant case, the reasoning and conclusion in *Hall* are applicable here. To begin with, the monitoring plan in *Hall* is the functional equivalent of the mitigation information at issue in this litigation. As discussed, the monitoring plan served as the centerpiece of the aircraft carrier homeport’s mitigation plan, providing the material justification for the Corps’ issuance of a finding of no significant degradation, which allowed the project to proceed without further environmental review and/or conditions. Similarly, here, the CMPs submitted by Loadout and Fola, and information on compensatory mitigation in general, served as the rationale and pivotal data which allowed the Corps to determine that the Loadout and Fola permits would not cause or contribute to significant degradation.<sup>21</sup> The Loadout and Fola CMPs provide detailed accounts of the type, location and amount of proposed mitigation associated each application.<sup>22</sup> This mitigation provided the

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<sup>21</sup>*See, e.g.*, Fola Permit (36-8), Spec. Cond. No. 8 (“The permittee shall implement and abide by the Compensatory Mitigation Plan (CMP) ... Completion of all elements of this CMP is a requirement of the Department of Army permit.”); *id.* at Spec. Cond. No. 9 (“To compensate for unavoidable adverse impacts to waters of the United States, the permittee will ensure the following mitigation measures are successfully implemented and monitored[.]”); Loadout CDD (Doc. 86-3), 18 (“As required by the Section 404(b)(1) Guidelines, a permit to discharge fill ... would not be granted if it is determined the proposal would cause or contribute to significant degradation of water of the United States. As a part of making this determination, the applicant is required to follow the mitigation sequencing process, where consideration is given to avoidance, minimization, and compensation for unavoidable impacts ... all unavoidable impacts must be compensated for through mitigation activities.”).

<sup>22</sup>*See* Section II(C)(1), *supra* (Loadout CMP provides that the adverse impacts of the company’s permit will be mitigated by requiring 13,564 feet of ephemeral and intermittent streams be created on-site and that Loadout enhance 8,900 feet of Fork Creek, a stream two

material justification for the Corps' related determinations of no significant degradation and thus allowed the permits to be issued without further environmental review and/or additional conditions. Accordingly, with respect to the Loadout and Fola applications, information on proposed mitigation constituted the rationale and pivotal data as defined in *Marsh* and *Hall*. Thus, although the Court declines to find that the detailed information on mitigation contained in the CMPs was required to be released for public review and comment, it finds that, under *Marsh* and *Hall*, the Corps was required to release some project-specific information on mitigation for public review and comment prior to issuing its determinations of no significant degradation.

In sum, because information concerning proposed mitigation was not submitted by either permittee, in initial or final form, until after public notice was issued and comment closed on the Loadout and Fola applications,<sup>23</sup> the notices at issue failed to provide the public an adequate opportunity to comment. As in *Hall*, the failure to subject any substantive information on mitigation to public review and comment "had the effect of shielding the essential data and the agency's rationale from public hearing and comment," *see Hall*, 693 F.Supp at 948, which

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miles from the project site); Section II(C)(2), *supra* (Fola CMP provides that the adverse impacts of the company's permit will be mitigated by requiring 36,443.5 feet of ephemeral and intermittent stream creation off-site, 4,885 linear feet of ephemeral and intermittent stream creation on-site and the establishment of 47.4 acres of riparian habitat).

<sup>23</sup>The facts of this case are as follows. Loadout's permit was issued on April 21, 2008, nearly two years after the public notice was issued and approximately nine months after the initial CMP was filed. *See* Loadout Notice (Doc. 86-1); *Pl's Mem. In Supp. Of Their Mot. For Partial Summ. J.* (Doc. 113), 2-3. Fola's permit was issued on March 5, 2008, nearly three years after the public notice was issued and approximately a year and a half after Fola's initial CMP was filed. *See* Fola Notice (Doc. 36-2); *Fola's Mem. In Supp. Of Its Mot. For Summ. J.* (Doc. 136), 2-3.

resulted in a violation of 33 C.F.R. § 325.3(a)'s mandate that comment be meaningful.

Although the district court in *Wood* found public notice sufficient, its reasoning does not compel a different result. *See* 947 F.Supp. 1371. In *Wood*, plaintiffs challenged a § 404 permit which allowed Hyundai Electronics of America ("Hyundai") to fill 10.4 acres of wetlands in order to build a semi-conductor plant near Eugene, Oregon. *Id.* at 1374. Prior to issuance of the permit, the Corps administered an extended public comment period, during which two public hearings on the application were held. *Id.* at 1375, 1381. Additionally, the Corps considered several comment letters which were submitted after the close of the official comment period. *Id.* at 1375. Plaintiffs, nonetheless, challenged the permit under a theory of inadequate notice and comment, arguing that changes made to the project after the close of comment rendered the previous notice and comment insufficient. The *Wood* Court disagreed and found the pre-changes notice and comment sufficient under CWA Guidelines for two reasons: (1) the extended comment period and the public hearings described above afforded the public a "meaningful" opportunity to comment on the application prior to the contested changes; and (2) the post-comment changes resulted in a reduction of wetland impacts and therefore decreased adverse environmental impacts. *Id.* at 1381.

The *Wood* Court's decision is not contrary to this Court's conclusion. The ultimate purpose of the notice provisions contained in the CWA and CWA Guidelines is to ensure that a permit issued pursuant to the statute complies with the statutory intent to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters," 33 U.S.C. § 1251, by minimizing potential adverse effects on the environment. *See* 40 C.F.R. § 230.10; 33 C.F.R. § 320.4. Thus, a post-comment change to a permit application that reduces adverse environmental

effects does not warrant the same consideration as a post-comment CMP, monitoring plan, pivotal data, or other rationale that provides the basis for a determination of no significant degradation. *Wood* can therefore be distinguished on the facts. In *Wood*, the plaintiffs contested a post-comment change that reduced adverse impacts. Thus, the opportunity for comment that the *Wood* plaintiffs sought would not have affected the Corps' ultimate determination of no significant degradation. Here, on the other hand, Plaintiffs argue that notice was deficient because no information was released *before* the Corps' determinations of no significant degradation were made. Therefore, Plaintiffs seek to uphold their procedural right *to participate in* the Corps' public interest review. The *Wood* plaintiffs, on the other hand, sought additional opportunity to comment *after* the relevant public interest review was concluded and the determination of no significant degradation made. Accordingly, *Wood* is not contrary to this Court's finding that a complete lack of substantive information on mitigation rendered the Loadout and Fola Notices deficient. The absence of such information shielded essential data and detail from public review and comment and prevented the public from commenting intelligently on the adverse impacts associated with each application.

As is discussed more fully in the NEPA section of this Opinion and Order, the Corps' responses to Plaintiffs comments on the Loadout and Fola Notices support this conclusion. Plaintiffs submitted a 29-page comment letter in response to the Loadout Notice and a similarly detailed letter in response to the Fola Notice. However, when responding to Plaintiffs' comments, the Corps repeatedly criticizes Plaintiffs' comments for their lack of project-specific information and analysis. Thus, the Court finds that the Corps' responses to Plaintiffs' comments are more indicative of the deficiency of the relevant notices, rather than a lack of diligence on the

part of the Plaintiffs, because it is clear that: (1) Plaintiffs attempted, to the best of their ability, to provide meaningful comments on the *expected* adverse impacts of and mitigation associated with the companies' proposed projects; and (2) Plaintiffs were forced to make general comments which lacked project-specific information because such project-specific information was not provided to them.

### **C. The Corps Failed to Comply With the Notice Requirements in NEPA.**

NEPA contains lofty goals; including the goal of encouraging a productive and enjoyable relationship between man and his environment, while promoting efforts to prevent or eliminate damage to the environment. *See* 42 U.S.C. § 4321. NEPA pursues these goals strictly through the imposition of specific procedural requirements, not through the imposition of particular substantive results. *See, e.g., Methow Valley*, 490 U.S. at 350. Therefore, the procedural safeguards created by NEPA must be carefully adhered to. *See, e.g., Id., Hodges*, 300 F.3d at 445-46; *Nat'l Audubon*, 442 F.3d at 184.

NEPA does not contain specific public comment and review procedures. Nonetheless, federal courts – including the Fourth Circuit – have consistently held that public involvement lies at the center of NEPA's procedural requirements. *See, e.g., Block*, 690 F.2d at 770,771; *Hodges*, 300 F.3d at 438; *Nat'l Audubon*, 442 F.3d at 184. Additionally, the significant role public involvement plays in achieving NEPA's lofty goals, by enforcement of its strict procedural safeguards, is reflected in the CEQ Guidelines. *See Block*, 690 F.2d at 770,771; *Nat'l Audubon*, 442 F.3d at 184; 40 C.F.R. §§ 1500.1(b), 1501.4(b), 1506.6(a) & 1506.6(d). These guidelines: (1) instruct that environmental information be made available to the public *before* decisions are



made and *before* action is taken, and (2) direct that this information be of “high quality,” meaning that it “must concentrate on the issues that are truly significant to the action in question.” 40 C.F.R. § 1500.1(b). According to the Guidelines, such instructions are necessary because “public scrutiny [is] essential to implementing NEPA.” *Id.* The CEQ Guidelines therefore create qualitative standards by which public involvement must be measured. Specifically, they require that an agency engaged in environmental review “shall involve ... the public, to the extent practicable, in preparing assessments,” 40 C.F.R. § 1501.4(b), a duty that includes “[m]ak[ing] diligent efforts to involve the public” and “[s]olicit[ing] appropriate information from the public.” 40 C.F.R. §§ 1506.6(a) & (d).

Here, the existence of sufficient compensatory mitigation – or the lack thereof – is the “truly significant” issue with regard to the Corps’ determination whether the Loadout and Fola § 404 permits comply with the no significant adverse environmental effects standard established in the CWA, CWA Guidelines and NEPA. Therefore, in an argument that mirrors their claim under the CWA, Plaintiffs’ NEPA challenge alleges that the complete lack of substantive information on mitigation provided in the Fola and Loadout Notices rendered the notices deficient under NEPA. As discussed, the Court agrees with Plaintiffs that mitigation is the centerpiece of a determination of no significant degradation and/or a FONSI issued with respect to a § 404 permit for a mountaintop mine. For, it is site-specific mitigation measures that allow the Corps to: (1) issue such determinations, and (2) issue a permit without further environmental review. *Id.* The Court therefore agrees with Plaintiffs that a public notice that contains no substantive information on mitigation is deficient under NEPA. In this case, the notice not only fails to concentrate on the “truly significant” issues posed by the application, *see* 40 C.F.R. § 1500.1(b),

but it also fails to “solicit appropriate information from the public,” *see* 40 C.F.R. § 1506.6(d), meaning the agency has failed to (1) “make [a] diligent effort[] to involve the public,” *see* 40 C.F.R. § 1506.6(a), and (2) “involve ... the public ... to the extent practicable.” *See* 40 C.F.R. § 1501.4(b). Consequently, a public notice containing no substantive information on mitigation violates the CEQ Guidelines related to agency requirements for public involvement and deprives the public of its procedural right to an adequate opportunity to participate in the permit evaluation process. *See, e.g., Block*, 690 F.2d at 770,771; *Hodges*, 300 F.3d at 438; *Nat’l Audubon*, 442 F.3d at 184.

This determination – that the Corps failed to comply with the public involvement requirements presented by NEPA – is supported by case law. To begin with, the parties agree that the operable standard regarding the NEPA claim in this case is found in *Bering Strait Citizens for Responsible Development v. U.S. Army Corps of Engineers*, where the Ninth Circuit held that “[a]n agency, when preparing an EA, must provide the public with sufficient environmental information, considered in the totality of the circumstances, to permit the members of the public to weigh in with their views and thus inform the agency decision-making process.” 524 F.3d 938, 953 (9th Cir. 2008). *Bering Strait* involved a gold mining company’s application for a § 404 permit for the disposal of fill material, which would adversely affect approximately 346 acres of wetland. *Id.* at 943. Prior to issuance, and as required under the CWA and NEPA, the Corps issued public notice of the permit. The notice elicited a large volume of responses, both in support and in opposition to the project, from the public as well as from other federal agencies. *Id.* at 943-44. The permit was issued and, following issuance, environmental groups sued the Corps, in pertinent part, for failure to comply with the public notice requirements of

NEPA during the permitting process. The *Bering Strait* plaintiffs argued that the Corps' notice was inadequate under NEPA because the agency failed and/or refused to circulate the draft EA on the project for public review and comment. *Id.* at 952.

Although the Ninth Circuit rejected the *Bering Strait* plaintiffs' argument regarding the circulation of the draft EA, in addition to articulating the standard quoted above, the Circuit Court opined that, with respect to public involvement, "[t]he way in which the information is provided is less important than that a sufficient amount of environmental information – *as much as practicable* – be provided so that a member of the public can weigh in on the significant decision that the agency will make in preparing the EA." *Id.* at 953 (emphasis supplied) (quoting *Sierra Nevada Forest Prot. Campaign v. Weingardt*, 376 F.Supp.2d 984, 991 (E.D. Cal. 2005)). The significant decision the Corps makes when preparing an EA is the FONSI, which allows the project to proceed without further environmental review and/or conditions. Thus, under *Bering Strait*, sufficient information has not been provided to afford the public an adequate opportunity to weigh in on a FONSI unless and until as much environmental information as practicable concerning the FONSI has been disseminated and commented upon.

Even though the Ninth Circuit found the notice sufficient in *Bering Strait*, the case's reasoning supports Plaintiffs' claim here, where, "considered in the totality of circumstances," mitigation is the most crucial issue affecting the Corps' decision to issue a FONSI for a mountaintop mine. Under *Bering Strait*, as much information on mitigation as practicable must "be provided so that a member of the public can weigh in on [this] significant decision." *Id.* In order to "weigh in," the public must have the relevant environmental information early – i.e. *before* the close of the public comment period. *See* 40 C.F.R. § 1500.1(b). The term

“practicable” therefore poses the same content-timing predicament for public notice that was discussed in the CWA portion of this decision. Because a public notice must issue early, it often must issue when some information critical to the decision-making is lacking. Nonetheless, according to the CEQ Guidelines, the public notice must not issue unless and until as much information as practicable can be provided and the public will be afforded an adequate opportunity to “weigh in” on “truly significant” issues. When determining the adequacy of a public notice for a § 404 permit, therefore, the questions presented under NEPA are: (1) What are the “truly significant” issues presented by the permit application; (2) What is “practicable” for the Corps in terms of the dissemination of environmental information; and (3) What is required to find that the public has sufficiently “weigh[ed] in”?

As discussed earlier, the truly significant issue with respect to the Corps’ approval of the Loadout and Fola permits was the adequacy of the proposed mitigation measures to compensate for the projects’ adverse environmental impacts. To be adequate, the Loadout and Fola Notices must therefore provide sufficient information – as much as practicable – to allow the public to weigh in on this question.

As evidence that the Corps failed to involve the public to the extent practicable, Plaintiffs cite the Corps’ circulation of the relevant mitigation plans and decision documents to state and federal agencies for review and comment. *Tr. for Mot. Hr’g on August 20, 2009* (Doc. 161), 19-20. Plaintiffs contend that if it was practical for the Corps to circulate these documents to be reviewed and commented upon by state and federal agencies, then it was practicable for the Corps to, at a minimum, release some substantive information on mitigation for public review and comment. Considered in light of the fact that the Corps’ decision on the Loadout application was

made approximately nine months after the submission of the company's EID and the initial CMP, and the fact that the agency's decision on the Fola application was made approximately a year and a half after the submission of the project's CMP, the Court agrees.

Next, as evidence that the Corps did not provide Plaintiffs with an adequate opportunity to weigh in on the FONSI's issued for the Loadout and Fola permits, Plaintiffs cite the Corps' responses to the comments Plaintiffs submitted in reply to the relevant public notices. First, with respect to the Loadout application, in response to the Plaintiffs' comment that "1) the proposed mine will cause or contribute to significant degradation ... 2) the mitigation plan is inadequate to offset those negative environmental impacts; [and] 3) the fill does not comply with state water quality standards ...", the Corps refers Plaintiffs to the CMP "for further details" and criticizes Plaintiffs for "[a]t no time ... identify[ing] the existing water quality at the site proposed in the application." *See* Corps' Response to Comments on Loadout Application (Doc. 138-1), 2 (emphasis in original). In response to Plaintiffs' comment regarding the ability of the *expected* Loadout CMP to adequately compensate for lost stream function, the Corps replies, "The revised [CMP] follows guidelines defined and in accordance to RGL 02-2. The comments do not apply to the type of mitigation proposed and are clearly written with no knowledge of the proposed project. Please refer to the CMP for more detail." *Id.* at 17. And, in response to Plaintiffs' comment that "[the Corps] cannot logically conclude that the mine will have no significant impact on the environment," the critical determination required by the CWA and NEPA, the Corps answers, "These comments are largely irrelevant to the Corps analysis, and cannot serve as the basis for requiring an [EIS] on [sic.] denying the permit." *Id.* at 38.

The Corps found Plaintiffs' comments "irrelevant" because "the Environmental

Organizations can present neither new information nor new analysis of the information applicable to the proposed permit activity[.]” *Id.* However, Plaintiffs argue they could not provide such “new information” or “new analysis” because, at the time public comment was open, these organizations had little to no project-specific information regarding Loadout’s permit application. For example, the Notices lacked practical information that would allow Plaintiffs to meaningfully comment on proposed mitigation, such as: the type of mitigation proposed (stream creation or stream enhancement); the location of the proposed mitigation (on-site or off-site and, if off-site, where); the length of the streams the company plans to create or enhance; a map; information regarding the topography and historical use of the area; and so forth. *Tr. for Mot. Hr’g on August 20, 2009* (Doc. 161), 14-17. Consistent with CWA regulations, Plaintiffs are not requesting engineering-level detail with respect to proposed mitigation. However, Plaintiffs do contend that some substantive information on mitigation – a “conceptual analysis” for example – is necessary, as is evidenced by the Corps’ responses, to intelligently comment on a public notice.

The Court agrees with Plaintiffs’ argument. *Id.* at 10 (“So what they were doing was criticizing us for lack of specificity, but the whole reason we couldn’t be more specific is because the Corps had withheld the information that we needed.”). Environmental organizations could not adequately “identify the existing water quality at the site proposed in the application,” comment on whether the project would cause or contribute to significant degradation, or comment on whether the mitigation plan was adequate to offset negative environmental impacts because the Loadout Notice failed to provide these organizations with site or project-specific information on mitigation. Without such information, Plaintiffs were forced to submit their comments “with no knowledge of the proposed project.” Consequently, the Corps’ dismissal of

Plaintiffs' comments for lacking or otherwise failing to take into account information the agency should have provided is unreasonable, arbitrary and capricious. The Corps' responses to the Plaintiffs' Loadout comments are therefore evidence of the deficiency of the Loadout Notice, not of Plaintiffs' lack of diligence or understanding. Similarly, the Corps' finding that "[n]o compelling evidence has been provided to this office which would indicate th[e] project would result in significant impacts to the quality of the human or aquatic environment," *see* Loadout CDD (Doc. 86-4) at 83, is more a reflection of the sparsity of information contained in the Loadout Notice than of an actual lack of significant adverse impacts.

The Corps' responses to Plaintiffs' comments on the Fola permit application also demonstrate the deficiency of the Fola Notice. *See* Fola DD (36-7) at 129 ("The comments and issues contained in the [Appalachian Center's] letter appear to be the same or very similar to comments that have been submitted to almost every [Corps'] application that has been submitted to the Corps for the past several years. The comments are very general in nature and contain little specific content regarding the applicant's proposed project referenced in Public Notice 200400967. ... Speculative, unsupported or unsubstantiated impacts are not considered probable and, since most of the [Appalachian Center's] comments contain little, if any, information regarding specific impacts associated with the proposed activities, such comments do not fall in the required probably category for consideration by the Corps."). The Fola Notice did not provide Plaintiffs sufficient information to weigh in on the probable adverse impacts of the Fola application and, because it failed to disseminate adequate site and/or project-specific information to allow Plaintiffs to understand and/or comment upon the project's environmental effects and/or the proposed mitigation measures' ability to compensate for such effects, the Fola Notice

impaired Plaintiffs' statutory right to informed pre-decisional comment under NEPA.

Taken together, the distribution of the Loadout and Fola Notices to federal and state agencies and the Corps' dismissal of Plaintiffs' comments as "too general" to warrant substantial responses demonstrate the Corps' failure to meet the standard for the sufficiency of public notice and comment established in *Bering Strait*. With no substantive information on mitigation, the Loadout and Fola Notices provided neither Plaintiffs nor the public in general as much information as practicable to allow for a meaningful opportunity to weigh in on the truly significant issues presented by the Loadout and Fola applications. As such, the Loadout and Fola Notices were deficient under NEPA and the CEQ Guidelines.

This conclusion is supported by the Eastern District of California's decision in *Sierra Nevada Forest Protection Campaign v. Weingardt*, a case the Ninth Circuit relied upon in *Bering Strait*. 376 F.Supp.2d 984. In *Weingardt*, the Eastern District ruled on a challenge to the public notices issued for four United States Forest Service ("USFS") permits. 376 F.Supp.2d at 986-88. The Eastern District found the notices insufficient because they contained relatively short descriptions of the proposed projects, with little to no detail regarding the type of environmental impacts expected. *Id.* at 992. In *Weingardt*, the close of the comment period was followed by the release of documents and reports, totaling several hundred pages, which evaluated the specific impacts of the proposed USFS project. *Id.* at 986-88. These post-notice/post-comment documents were not subject to public review and comment and, because the documents contained information critical to the USFS' EA analysis, the Eastern District found that "[w]hen compared with the extensive environmental analysis eventually produced, the two-and-three-page public scoping notices were not adequate to inform the public of the kinds of data and information that



the agency would rely on in the preparation of the EA.” *Id.* at 992.

The *Weingardt* holding supports Plaintiffs’ claim, for the facts in *Weingardt* are similar to the facts here. In both cases, the information contained in the public notices was minimal and the information critical to the relevant agency’s EA analysis – hundreds of pages of such information – was released post-notice and post-comment. Further, because the information was released post-notice and post-comment, in both cases, the public was denied an opportunity to meaningfully comment on the proposed project. *Id.* (finding that “the [USFS] failed to give the public an adequate pre-decisional opportunity for informed comment”).

In opposition to Plaintiffs’ NEPA claim, the Corps and the Intervenor-Defendants cite a series of federal circuit court cases to support the proposition that “[f]ederal courts around the country are uniform in rejecting claims that certain documents such as EAs, EIDs and CMPs are required to be drafted and circulated for public comment automatically.” *Loadout’s Mem. in Opp. to Pl.’s Mot. for Summ. J.*(Doc. 127), 9. These cases, however, do not convince the Court that Plaintiffs’ NEPA claim is without merit.

A finding that a specific document (i.e., the CMP) must be circulated for public review and comment is not essential to this Court’s finding that the Loadout and Fola Notices were deficient under NEPA. Plaintiffs’ NEPA claim is not that the Corps was required to circulate the Loadout and/or Fola CMPs for public review and comment, but rather that the minimum standard for public review and comment, as established in *Bering Strait*, was not met. As a result, the federal circuit court cases cited by the Corps and Intervenor-Defendants are distinguishable on the issues presented and on the facts. *See Alliance to Protect Nantucket Sound, Inc. v. U.S. Dep’t of Army*, 398 F.3d 105, 115 (1st Cir. 2005) (holding the circulation of a draft EA not required and

finding the “to the extent practicable” standard met when the Corps extended the comment period over 5 months, held two public hearings, and noted and substantially responded to public comments in EA); *Greater Yellowstone Coalition v. Flowers*, 359 F.3d 1257, 1279 (10th Cir. 2004) (holding public notice sufficient when it included maps detailing the layout of the proposal, informed the public that the project “[was] likely to adversely affect bald eagles,” and invited the public to request a public hearing); *Fund for Animals, Inc. v. Rice*, 85 F.3d 535, 545 (11th Cir. 1996) (holding public notice sufficient when the permit application was widely disseminated, the notice informed the public that “several threatened or endangered species may be expected to be present at the site,” there were multiple state-sponsored hearings, and the permit was the result of extensive inter-agency consultation). The cases cited by the Corps and Intervenor-Defendants are distinguishable because, in each case, the truly significant issue presented by the relevant permit application – such as the potential impacts on endangered species created by the projects in *Greater Yellowstone Coalition* and *Fund for Animals* – were highlighted in the attendant public notice. Thus, in contrast to the Loadout and Fola Notices, the notices challenged in *Alliance to Protect Nantucket Sound*, *Greater Yellowstone Coalition*, and *Fund for Animals* each provided an adequate opportunity for informed pre-decisional comment as required by NEPA and the CEQ Guidelines.<sup>24</sup>

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<sup>24</sup>The Corps and Intervenor-Defendants also highlight the fact that Plaintiffs did not request a public hearing on either the Fola or Loadout Notice as evidence that the notices were sufficient. The Court, however, finds this argument unpersuasive. A decision not to request a public hearing on a notice does not render the information contained in that notice sufficient under NEPA. Instead, a decision not to request a public hearing can as readily be attributed to a deficiency in the public notice as it can be considered to demonstrate the adequacy of the notice. For, without sufficient information to identify the truly significant issues presented by a permit application, interested members of the public may not have adequate information upon which to base a hearing request.

#### IV. Conclusion

With respect to the Loadout and Fola Notices, the Corps failed to comply with its regulatory duties under the CWA, NEPA and the APA because it failed to provide notices that either (1) provided a clear understanding of the nature and magnitude of the Loadout and Fola proposals, or (2) allowed the public to be involved to the extent practicable in the permit process. As a result, the Court **FINDS** the Loadout and Fola Notices deficient under law and **ORDERS** that Plaintiffs be provided the remedy outlined below.

Finally, in conclusion, the Court finds it prudent to note that this litigation could have easily been avoided and the flaw in the original Loadout and Fola Notices easily remedied if the Corps had issued supplemental notices in the instant case. With regard to the Loadout and Fola applications there were periods of approximately nine months and nearly a year and a half, respectively, between the time the company submitted a CMP and permit approval. Although supplemental notice is discretionary, *see, e.g.*, 33 C.F.R. § 325.2(a)2); *B & B P'ship v. United States*, 133 F.3d 913, \*6-\*7 (4th Cir. 1997) (unpublished decision); *Fund for Animals*, 85 F.3d at 545, and the Court does not therefore hold that the Corps was required to issue supplemental notice, *see id.*, the Court finds that, in both permits, the interim period between the submission of the project's CMP and the respective permit approval would have been a prudent time for the Corps to issue supplemental notice. Such notice would have apprised Plaintiffs and the public in general of the truly significant issues raised by each proposal, therefore providing the public an opportunity to comment intelligently thereon. Consequently, such supplemental notice would have conserved judicial and other government resources, meanwhile, preventing the expenditure

of time, money and stress on the part of Plaintiffs as well as both mining companies.

## V. Remedy

The Court **GRANTS** Plaintiffs' motions for summary judgment on the ground that the Loadout and Fola Notices were deficient and **DENIES** the motions for summary judgment filed by the Intervenor-Defendants on these grounds. Additionally, the Court **HOLDS IN ABEYANCE** Fola's motion for summary judgment insofar as it pertains to Plaintiff's claims related to selenium discharges and **GRANTS** Intervenor-Defendants' motions for summary judgment insofar as they are controlled by the Fourth Circuit's decision in *Ohio Valley Environmental Coalition v. Aracoma Coal Company*, 556 F.3d 177.

Further, because the Court **FINDS** the public notices for the Nellis and Ike Fork surface mines deficient, the Court **REMANDS** Permit No. 200100895 (Loadout) and Permit No. 200400967 (Fola) to the Corps for the limited purpose of correcting this procedural flaw. Consistent with the reasoning provided in this Opinion and Order, the Court **ORDERS** the Corps to: (1) re-issue an amended notice for each permit, (2) receive and respond to comments on the revised notices, and (3) reconsider each permit with any new comments in mind. However, because the Court is sensitive to the substantial mining activity Loadout and Fola have conducted under the existing Nellis and Ike Fork surface mine permits, and because the Court realizes that the procedural flaw identified by Plaintiffs did not stem from any wrong-doing on the part of the mining companies, the Court **STAYS** the effect of this Opinion and Order for 60 days. The stay is **GRANTED** so that the parties may have an opportunity to appeal this decision and/or to seek other desired relief. Over the course of the stay, Loadout and Fola may continue to conduct

limited mining activities in accord with any existing agreements between the parties and any previous Opinions and/or Orders by this Court.

The Court **DIRECTS** the Clerk to send a copy of this written Opinion and Order to counsel of record and any unrepresented parties.

ENTER: November 24, 2009

ROBERT C. CHAMBERS  
UNITED STATES DISTRICT JUDGE

01268-EPA-5016

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

11/25/2009 09:26 AM

To "McIntosh, David", "Heinzerling, Lisa", "Jackson, Lisa P.",  
"Perciasepe, Bob", "Sussman, Bob", "Fulton, Scott",  
"McCarthy, Gina"

cc "Oster, Seth", "Andy, Adora"

bcc

Subject Fw: COP 15 -- Cabinet Participation Announcement

MABL.

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

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**From:** "Russell, Anthony L." <(b) (6) Privacy>  
**Sent:** 11/25/2009 09:09 AM EST  
**To:** "Ashley, Matt Lee" <Matt\_lee-ashley@ios.doi.gov>; "Brooks-LaSure, Allyn" <Brooks-LaSure.Allyn@epamail.epa.gov>; "Fendley, Edward J." <(b) (6) Privacy> "Glunz, Christine M." <(b) (6) Privacy> "Griffis, K" <KGriffis@doc.gov>; "Kobren, Ben" <KobrenBM@state.gov>; "LaBolt, Benjamin" <(b) (6) Privacy> "Leistikow, Dan" <dan.leistikow@hq.doe.gov>; "Mather, Chris" <Chris.Mather@oc.usda.gov>; "Reynolds, Christina" <(b) (6) Privacy>  
**Cc:** "Zichal, Heather R." <(b) (6) Privacy>  
**Subject:** COP 15 -- Cabinet Participation Announcement

Good morning,

We anticipate this announcement going out this morning at about 1000 coincidental to a press gaggle by Gibbs, Browner and Froman. If you have any feedback, concerns please advise myself and Matt Lehrich.

Thanks,  
Tony

THE WHITE HOUSE  
Office of the Press Secretary

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FOR IMMEDIATE RELEASE  
November 25, 2009

**Cabinet Secretaries and Top Administration Officials to Attend Copenhagen, Keynote Series of Events**

*Diverse, high-ranking delegation underscores commitment to American leadership on clean energy*

WASHINGTON – Underscoring President Obama’s commitment to American leadership on clean energy, the White House today announced that a host of Cabinet secretaries and other top officials from across the Administration will travel to Copenhagen for the United Nations Climate Change Conference. Interior Secretary Ken Salazar, Agriculture Secretary Tom Vilsack, Commerce Secretary Gary Locke, Energy Secretary Steven Chu, and Environmental Protection Agency Administrator Lisa P. Jackson are all scheduled to attend, along with Council on Environmental Quality Chair Nancy Sutley, and Assistant to the President for Energy and Climate Change Carol Browner.

For the first time, the U.S. delegation will have a U.S. Center at the conference, providing a unique and interactive forum to share our story with the world. In addition to working with other countries to advance American interests, U.S. delegates will keynote a series of events highlighting actions by the Obama Administration to provide domestic and global leadership in the transition to a clean energy economy. Topics will range from energy efficiency investments and global commitments to renewables policy and clean energy jobs. The following keynote events and speakers are currently scheduled:

- **Wednesday, December 9<sup>th</sup>** : Taking Action at Home, *EPA Administrator Lisa P. Jackson*
- **Thursday, December 10<sup>th</sup>** : New Energy Future: the role of public lands in clean energy production and carbon capture, *Secretary of the Interior Ken Salazar*
- **Friday, December 11<sup>th</sup>** : Clean Energy Jobs in a Global Marketplace, *Commerce Secretary Gary Locke*
- **Monday, December 14<sup>th</sup>** : Leading in Energy Efficiency and Renewables, *Energy Secretary Steven Chu*
- **Tuesday, December 15<sup>th</sup>** : Clean Energy Investments: creating opportunities for rural economies, *Agriculture Secretary Tom Vilsack*
- **Thursday, December 17<sup>th</sup>** : Backing Up International Agreement with Domestic Action, *CEQ Chair Nancy Sutley and Assistant to the President Carol Browner*

These events will underline the historic progress the Obama Administration has made to address climate change and create a new energy future. In addition to passage of the American Clean Energy and Security Act in the House of Representatives this summer, Administration officials will highlight an impressive resume of American action and accomplishments over the last 10 months, including:

#### **DOMESTIC LEADERSHIP**

- **Recovery Act**: The U.S. is investing more than \$80 billion in clean energy through its Recovery Act – including the largest-ever investment in renewable energy, which will double our generation of clean renewable energy like wind and solar in three years.
- **Efficiency Standard for Automobiles**: President Obama announced the first ever joint fuel economy/greenhouse gas emissions standards for cars and trucks in May. The new standards are projected to save 1.8 billion barrels of oil over the life of the program with a fuel economy gain averaging more than 5 percent per year and a reduction of

approximately 900 million metric tons in greenhouse gas emissions.

- **[Advancing Comprehensive Energy Legislation](#)**: Passing comprehensive energy and climate legislation is a top priority for the Administration and significant progress has been made. In June, The U.S. House of Representatives passed the American Clean Energy and Security Act that will promote clean energy investments and lower U.S. greenhouse gas emissions more than 80 percent by 2050. The Senate continues to advance their efforts to pass comprehensive legislation and move the U.S. closer to a system of clean energy incentives that create new energy jobs, reduce our dependence on oil, and cut pollution.
- **[Appliance Efficiency Standards](#)**: The Obama Administration has forged more stringent energy efficiency standards for commercial and residential appliances like refrigerators and microwaves. This common sense approach makes improved efficiency a manufacturing requirement for the everyday appliances used in practically every home and business, resulting in a significant reduction in energy use. Altogether, about two dozen new energy efficiency standards will be completed in the next few years.
- **[Offshore Energy Development](#)**: Within the Administration's first 100 days, a new regulatory framework was established to facilitate the development of alternative energy projects in an economic and environmentally sound manner that allows us to tap into the vast energy potential of the Outer Continental Shelf (OCS). The National Renewable Energy Lab estimates that development of wind energy alone on the OCS may provide an additional 1,900 gigawatts of clean energy to the U.S.
- **[Emissions Inventory Rule](#)**: For the first time, the U.S. will catalogue greenhouse gas emissions from large emission sources – an important initial step toward measurable and transparent reductions.

### **INTERNATIONAL LEADERSHIP**

- **[The Major Economies Forum \(MEF\)](#)**: President Obama launched the MEF in March 2009, creating a new dialogue among developed and emerging economies to combat climate change and promote clean energy. At the July L'Aquila summit, MEF Leaders announced important new agreements to support the UN climate talks and launched a new Global Partnership to promote clean energy technologies.
- **[Eliminating Fossil Fuel Subsidies](#)**: The President spearheaded an agreement at the Pittsburgh G20 summit for all G20 nations to phase out their fossil fuel subsidies over the medium term and to work with other countries to do the same. Asia-Pacific Economic Cooperation nations followed the G20 lead at their summit in Singapore, expanding the number of countries committing to these subsidies. According to the International Energy Agency, this measure alone could reduce global greenhouse gas emissions 10 percent or more by 2050.
- **[Bilateral Energy and Climate Partnerships](#)**: The U.S. is accelerating its collaboration with [China](#), India, [Mexico](#), [Canada](#) and other key international partners to



combat climate change, coordinate clean energy research and development, and support the international climate talks.

- [Energy and Climate Partnership for the Americas](#): President Obama proposed a partnership with our neighbors in the western hemisphere to advance energy security and combat climate change. An early product of this cooperation is Chile's Renewable Energy Center, which receives technical support from the U.S. Department of Energy.
- [Phasing Down HFCs \(Hydrofluorocarbons\)](#): The U.S. joined Canada and Mexico in proposing to phase-down HFC emissions, a very potent greenhouse gas, in developed and developing countries under the Montreal Protocol. This represents a down payment of about 10% of the emission reductions necessary to cut global greenhouse gas emissions to half their current levels by 2050.