



Energy & Environment Legal Institute Report:

**Improper Collusion Between  
Environmental Pressure Groups and the  
Environmental Protection Agency  
As Revealed by  
Freedom of Information Act Requests  
Interim Report**

**SEPTEMBER 2014**

**Attorney Author:  
Chris Horner<sup>1</sup>**

**Contributing reviewer:  
David Schnare, Ph.D.**

**Contact: [horner@fmelawclinic.org](mailto:horner@fmelawclinic.org)**

---

<sup>1</sup> E&E Legal wishes to thank Clifford Smith of the Free Market Environmental Law Clinic, which represents E&E Legal on numerous FOIA matters, for his substantial contributions to this report. We also thank reviewers Chaim Mandlebaum and Matthew Hardin.

**Table of Contents:**

**Executive Summary . . . . .3**

**Introduction . . . . . 10**

**EPA Agenda Demands Transparency . . . . .23**

**The Early Days of the New Administration – The Johnson Memo and  
“Endangerment” . . . . .32**

**Not Just Conflicting Rhetoric: EPA Conflicts of Interests Lead  
to Impermissible Results . . . . .40**

**Specific Conflicts of Interests at EPA . . . . .53**

**EPA, Sierra Club — “Pants on Fire” & Too Close for Comfort . . . . .60**

**EPA/Sierra Collusion on Rules, Permits . . . . .67**

**EPA/Sierra Collusion on State Level Bureaucratic Decisions. . . . . 70**

**EPA/Sierra Collusion on Rule Comments . . . . .72**

**EPA/Green Group Collusion on Public Hearings . . . . .75**

**Other EPA/Green Pressure Group Political Collaboration . . . . .79**

**EPA/Sierra Collaboration to Shield EPA Regulation from  
Congressional Review . . . . . 85**

**Conclusion . . . . . 87**

**Appendix A - Cast of Characters . . . . . 90**

**Appendix B - All Emails Cited . . . . . 114**

**Appendix C - All Other Non-Public Documents Cited . . . . .267**

## **Executive Summary**

This report examines lessons learned from documents produced pursuant to several Freedom of Information Act (FOIA) requests by the Energy & Environment Legal Institute (E&E Legal, or EELI) — pieced together with others obtained by the Competitive Enterprise Institute (CEI). It focuses on the relationship between the Obama Administration’s Environmental Protection Agency (EPA) and various special interest groups. The Obama EPA claims to be pursuing a common-sense agenda, but its own emails reveal a clear understanding, internally and with its allies, that its agenda is ideological and that it is in fact pursuing candidate Obama's vow to “bankrupt” coal. Emails prove this agenda is assisted both in its big picture and in detail by pressure groups from which EPA obtained many senior staff. The public shift to more moderate positions was purely rhetorical, in response to political pressures.

The truth of how EPA operates also is starkly contrary to Mr. Obama’s promises of limiting the influence of special interests, the revolving door, and transparency. Contrary to candidate Obama’s promise to run the “most transparent administration in history,” free of conflicts of interest, documents reveal that various environmentalist pressure groups with extreme agendas have unprecedented access to and influence upon their former colleagues and other ideological allies who are now EPA officials. EPA serves as an extension of these groups and neither EPA nor the groups recognize any distinction between them.

Further, certain officials have glaring appearances of conflicts yet were rushed into place to impose an agenda they had long advocated as outside activists, precisely opposite of the behavior called for by conflicts policy, contrary to Executive Order 12674.

The hypocrisy, while only a compounding factor, is startling. The campaign-style rhetoric continued even as the coordination became unprecedented. President Obama boasted, for example, “On my first day in office, we closed the revolving door between lobbying firms and the government so that no one in my administration would make decisions based on the interests of former or future employers.”<sup>2</sup> The truth, as this report documents, is quite different.

As regards the substance, White House and senior Obama Administration officials have repeatedly sought to backtrack on the promises such as that, “If someone wants to build a new coal-fired power plant they can, but it will bankrupt them because they will be charged a huge sum for all the greenhouse gas that’s being emitted.”<sup>3</sup> Yet Vice President Joe Biden also swore on a campaign rope-line, “No coal plants here in America.” After these assurances helped improve public awareness and embolden political opposition, senior Administration officials denied a “war on coal”, claimed, e.g., that “We are not saying you can’t build a new coal plant in America,” and vowed that there will be a “clear regulatory path” for new coal plants to be constructed.<sup>4</sup> Emails revealed herein show that even EPA officials see these rewrites as untrue.

The emails cited in this report clearly demonstrate that those public claims are spin. The “war on coal” is an understood reality, internally and among green group lobbyists, many of whom are past associates of numerous administration officials who merely took their agenda in-

---

<sup>2</sup> Barack Obama rails against Supreme Court 'strike on democracy' , By: Malachy Browne, 1/24/2010. Available at: [http://politico.ie/index.php?Itemid=878&catid=232:world&id=6190:barack-obama-rails-against-supreme-court-decision-on-electioneering&option=com\\_content&view=article](http://politico.ie/index.php?Itemid=878&catid=232:world&id=6190:barack-obama-rails-against-supreme-court-decision-on-electioneering&option=com_content&view=article), last retrieved 2/10/2014.

<sup>3</sup> Available at: <http://www.youtube.com/watch?v=DpTIhyMa-Nw>. Last retrieved 1/31/2014.

<sup>4</sup> “EPA assailed on power plant regulations”, E2 Wire The Hill's Energy and Environmental Blog, November 14, 2013. Available at: <http://thehill.com/blogs/e2-wire/e2-wire/190269-epa-assailed-on-power-plant-carbon-regs>, last retrieved 1/31/2014.

house, bringing the impermissible “unalterably closed mind” to ostensibly public service. EPA publicly maintains there is no war on coal while internally describing, e.g., a Sierra Club official as the lead “no coal person” (in Gina McCarthy description, seeking the individual’s contact information), and Sierra’s program as its “anti-coal campaign” — the same officials and campaigns to which EPA immediately turns for advice on key power plant issues.

Not only do in-house activists seek out these outside groups for their stances on key issues, but “amplify” their work (and in turn praise these groups amplifying EPA’s message), and collude with pressure group activists to block other agencies’ approval of projects such as Army Corps permitting of construction of coal-export terminals, and even State Department approval of the Keystone XL pipeline where EPA has at best a marginal advisory role.

This is surely normal to these EPA officials, all of whom lack significant experience in the private sector, in labor union leadership, or even as an elected official. All are either career bureaucrats or former green group activists, and they coordinate with their former colleagues from their new government jobs in an unprecedented fashion.

The documents discussed herein show the special role and undue influence these relationships provide, the very sort of influence the Obama administration once disavowed. This sort of improper influence and collusion is in pursuit of a shared and admittedly ideological agenda, from working together to orchestrate public hearings, to helping each other write a U.S. Senator’s public statement on their shared agenda, and even to jointly target individual power plants to block under any new EPA standards.

These relationships set the agenda from the very early days at the Obama Administration EPA. Activist environmental-group lawyer Lisa Heinzerling, lead counsel in the *Massachusetts*

*v. EPA* case by which a 5-4 Supreme Court allowed (but did not order) EPA regulation of carbon dioxide (CO<sub>2</sub>), was brought in to the Obama EPA immediately, clearly for the purpose of orchestrating mandatory regulation of CO<sub>2</sub>, which she just as quickly set about to do. A more obvious appearance of conflict is hardly imaginable, yet emails show Heinzerling was given the lead role in formally obtaining the outcome that defined her career — reversing EPA’s legal interpretation of the Clean Air Act, and *Massachusetts v. EPA*, and otherwise crafting the “global warming” agenda. They offer no hint at openness to reconsidering. In a matter that at minimum appearances dictated she should have recused herself from, Heinzerling took the lead.<sup>5</sup>

Other emails reveal uncomfortably close and facially improper relationships between current and former green lobbyists. The latter now hold positions with EPA from which they promoted the green groups’ lobbyists, materials, and positions, and played substantial roles in crafting the mutually aligned agenda but now *as* EPA. For example, the relationship between Michael Goo, recently head of the EPA Office of Policy and a former Natural Resources Defense Council (NRDC) lobbyist, and John Coequyt, a top Sierra Club lobbyist running what EPA emails acknowledge is Sierra’s “anti-coal campaign”, is troubling (particularly for an agency that swears it isn’t anti-coal). For example, Coequyt worked to ensure Goo participated in meetings of importance to Sierra, while Goo ensured his colleagues paid particular attention to Sierra’s concerns and materials. Other documents demonstrate how Coequyt:

\* Supplied research and advocacy materials directly to individual activists within EPA, even helping EPA keep score of coal plants to shut down and to be blocked, for “internal use”;

---

<sup>5</sup> It seems likely that Lisa Jackson confronted, yet circumvented, this problem internally. See Email, From: Eric Wachter, To: Richard Windsor, Subject [REDACTED b6 (Personal Privacy)] recusals, 02/13/2009, stating in its entirety, “A handful of cases mainly dealing [REDACTED]. She would be recused from [REDACTED]. She says she is clean other than that.”

\* Pushed EPA officials to ensure “zombie” coal plants, i.e. plants that had been planned and may one day be built, remain shelved;

\* Avoided creating complete logs of their interactions through various means, including, e.g., meeting with Goo at the Marriott Hotel nearby EPA’s headquarters (circumventing detailing their discussions in EPA’s visitor logs, where people most logically would look), and when he was otherwise in the building including for numerous meetings with senior officials Goo facilitated;

\* Exploited such a useful pipeline into the Agency that when he was on vacation his Sierra Club team would plead with EPA friends for updates on the grounds that his absence left them feeling out of EPA’s loop.

But Goo and Coequyt’s relationship, while notably close and improperly collaborative, was not unique. This sort of improperly close relationship between top EPA officials and green lobbyists are common. Documents show that EPA press staff collaborated with a Sierra Club lobbyist to write Sen. Jeanne Shaheen's (D-NH) statement on the “climate” agenda for a “roundtable” event they participated in. In other instances, green lobbyists provided EPA with their polling on the shared priorities, were directly involved in deciding where EPA would hold public hearings, and ensured hearing attendees would be supportive of their shared agenda.

Green lobbyists also receive special treatment from the EPA. EPA officials repeatedly gave green groups a leg up in submitting comments for the administrative record on important regulations. Green groups were able to submit comments ahead of any members of the general public, or other interested parties, even though the comments in question were submitted before the record was open for comment to the general public. EPA employees likewise submitted

special interest group comments directly if those groups failed to do so themselves, but had only remembered to pass them along to EPA allies.

These relationships go all the way to the top. Current EPA Administrator Gina McCarthy says in one email that she is directly corresponding with various green group leaders,<sup>6</sup> which emails EPA has failed to produce despite that they surely are responsive to the requests at issue (this begs whether the correspondence was in fact done by email, or text message, which CEI learned McCarthy increasingly turned to as an alternative to email, each and every among thousands of which she has acknowledged to CEI, through counsel, destroying). Still, other emails do show she gave green group leaders “heads up” on sensitive issues. In one case she openly stated she was trying to save the group from embarrassment. Similarly, former EPA Administrator Lisa Jackson, a.k.a. “Richard Windsor”, communicated with senior Sierra Club lobbyists via her personal email account, and used it to “amplify” various PR efforts for their shared agenda. Example after example clearly show that senior leadership in the EPA, made up exclusively of career bureaucrats and former and likely future green group activists, operate on behalf of the green groups, and do so to the exclusion of other legitimate stakeholders and the public at large.

These abuses by EPA leadership demand they initiate a new process free from conflicts of interest, worthy of public confidence and legal legitimacy, giving all stakeholders an equal voice in the process. Also, the new process should be in pursuit of goals that are clearly identified and explained, not roundabout methods to achieve politically unpopular goals through alternative

---

<sup>6</sup> Email from Gina McCarthy to Beth Craig, in thread including Robert Sussman and other EPA officials, Subject: Re: ptr from environmental grps, 08/10/2009, “Many of the signatories I know all too well and they are emailing me separately looking to meet, I will need to respond soon.”



means (for example, Heinzerling and Jackson gloat about imposing “progressive policy” on the nation through their “climate” agenda — admittedly ideological policy consistently rejected by the democratic process). Congress, interest group stakeholders, and the general public should demand that regulations actually are common-sense measures promoting real measures concerning environmental protection, not achieving the goals of a small minority of activists who have managed to seize the levers of power in one branch of government. The current leadership’s collusive, ideological approach falls short, and these mistakes must be corrected before any regulatory process goes forward.

## Introduction

E&E Legal is committed to compelling transparency in government, toward educating the public on energy and environmental policy through an aggressive open records/freedom of information practice. Recognizing the public's desire for accountability among public officials, President-elect Obama pledged to run "the most open and transparent transition in history."<sup>7</sup> He also prominently laid out his philosophy specifically concerning the federal Freedom of Information Act (FOIA), stating in a memo to department heads that, "In the face of doubt, openness prevails. The government should not keep information confidential merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears."<sup>8</sup> Mr. Obama pledged that he would not allow conflicts of interest in his administration, promising "No political appointees in an Obama-Biden administration will be permitted to work on regulations or contracts directly and substantially related to their prior employer for two years. And no political appointee will be able to lobby the executive branch after leaving government service during the remainder of the administration."<sup>9</sup>

We believe he should keep both of these promises. Our work proves that so far he and his administration have fallen far short. We also note similar calls for investigation from the

---

<sup>7</sup> "Obama Lays Out Ethics Rules," The Fix - The Washington Post, By: Chris Cillizza, November 11, 2008. Available at: <http://voices.washingtonpost.com/thefix/eye-on-2008/obama-lays-out-ethics-rules.html>, last retrieved 1/31/2014.

<sup>8</sup> MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES  
SUBJECT: Freedom of Information Act. Available at: [http://www.whitehouse.gov/the\\_press\\_office/Freedom\\_of\\_Information\\_Act](http://www.whitehouse.gov/the_press_office/Freedom_of_Information_Act), last retrieved 2/4/2014.

<sup>9</sup> "Tougher rules against revolving door for lobbyists and former officials," The Tampa Bay Times Polifact, Available at: <http://www.politifact.com/truth-o-meter/promises/obameter/promise/240/tougher-rules-against-revolving-door-for-lobbyists/>, last retrieved 3/17/2014.

political left, insisting that, when rules represent “an unprecedented break from past practices, the public has a right to know whether this decision was based on policy or politics.”<sup>10</sup>

E&E Legal’s efforts to hold the Obama Administration accountable, particularly regarding the campaign to “bankrupt” coal about which it offers seemingly endless, contradictory admissions and denials, are ongoing and the subject of concerted efforts by the Environmental Protection Agency (EPA) to frustrate transparency at every turn. Using FOIA to investigate conflicts of interests, predetermination, undue influence, and other potential abuses at the EPA should be a straightforward process involving mechanical application of the law. Under FOIA, producing requested documents which are part of the public record should take 20 business days or less,<sup>11</sup> with an additional ten days in the event an agency demonstrates “unusual circumstances”.<sup>12</sup> Instead, in E&E Legal’s experience the EPA repeatedly ignores deadlines for production or even communication with the requesting party. EPA has told counsel for EELI three times that it segregates its requests for separate treatment. The two requests made by E&E Legal that contribute most substantially to this report were pulled out of the ordinary FOIA process by EPA’s senior FOIA officer, who proceeded to stonewall the requests.<sup>13</sup> As E&E Legal has already detailed in a previous report, with demonstrable statistical significance EPA

---

<sup>10</sup> Melanie Sloan Amanda Peterka, “Watchdog calls on IG to probe refiners' influence on proposed RFS rule,” E&E News, May 22, 2014, available at <http://www.governorsbiofuelscoalition.org/?p=9424>.

<sup>11</sup> 5 U.S.C. § 552(a)(6)(A).

<sup>12</sup> 5 U.S.C. § 552(a)(6)(B).

<sup>13</sup> The documents produced responsive to these two requests — which EPA is supposed to post on its own website — are available at the Energy and Environmental Law Institute’s Website at [http://eelegal.org/?page\\_id=1493](http://eelegal.org/?page_id=1493).

has selectively and illegally denied E&E Legal's fee waivers, while it readily granted waivers sought by ideologically friendly groups concerning similar requests.<sup>14</sup>

EPA took more than nine months before it finally began to comply with the law, and only after the filing of a legal action in court, before producing records in response to these two EELI requests, which records revealed in this report illustrate questionable EPA practices and add to the serious questions about the propriety of EPA's regulatory agenda.<sup>15</sup> Many emails cited herein came from a Competitive Enterprise Institute (CEI) request that EPA insists on processing so slowly that it promises to satisfy it in *100 years*, after which, EPA states, it will then turn to other CEI and E&E Legal requests (though the latter requests having nothing to do with the former).

Still, the EPA continues to stonewall these productions. More than two years after the initial requests, EPA's continues to heavily redact emails it does turn over. Some of this is self-evidently improper, as proved by several late, possibly accidental but nonetheless proper releases of otherwise withheld discussions, found in other email threads. This indicates that EPA indeed does withhold information on the basis of its potential for embarrassment, for example, withholding conversations showing just how closely the Obama EPA follows direction from and gives preferential and improper roles to certain environmentalist pressure groups, as discussed regarding former EPA Deputy Administrator Robert Sussman and his seemingly improper collaboration with Sierra Club.

---

<sup>14</sup> See Energy & Environment Legal Institute Report "EPA Improperly Denies FOIA Fee Waivers for Disfavored Groups, Inspector General Again Improperly Limits Inquiry into Abuses", By: Christopher Horner, Chaim Mandelbaum, Cliff Smith, Brittany Mandi. July, 2014. Available at: <http://eelegal.org/wp-content/uploads/2014/07/EE-Legal-Report-on-EPA-Fee-Waiver-Bias-and-OIG-Abuse-6-27-14.pdf>, Last retrieved: 9/9/2014.

<sup>15</sup> See *ATI v. EPA*, Complaint, Case No. CV: 13-112. In Appendix C.

In the litigation compelling EPA to comply with the law under these two requests, EPA has promised to complete its document production in November 2014. After this, as a practical matter which EPA well knows and may even be taking into account in so heavily redacting documents, E&E Legal will be forced to narrow its challenges to EPA's many withholdings in order to focus the court's attention on any of them. In other words, more than two years later, the FOIA requests remain unfulfilled, and EPA's overwithholding enhances its chance of keeping information that should be released, private.

This, the time that each step of litigation consumes, the admission by a FOIA officer that she was instructed by EPA's chief FOIA officer to perform no work on the requests, EPA's apparent strategy, and the importance of what E&E Legal have learned already make this interim report appropriate and necessary. EPA's practices, including production of incomplete, heavily redacted documents<sup>16</sup> paints a troubling picture, on matters of public concern.

A principal lesson of this exercise in compelling transparency under the law is the case study it provides in how an agency should not respond to a FOIA request, and the practices that might drive such a desire for secrecy. With its various levels of EPA needlessly dragging out the process, the Agency makes clear that it is among the most closed, ideological and politicized

---

<sup>16</sup> See e.g., Appendix B (All emails produced pursuant to E&E Legal/FMELC FOIA requests that are cited in this report are included in Appendix B) Email thread, including Richard Wayland, Mike Thrift, Janet McCabe, Kevin McLean, Michael Ling, Sara Schneeberg, Scott Mathies, 6/06/2012, "Had an interesting discussion with Josh Stebbins of Sierra Club just now", with all substance of two pages of relating the details redacted as "deliberative process." It is unclear why emails concerning discussions with outside parties about those parties' priorities and desires — not litigation — must be redacted. For example, various emails fully redact discussion of conversations with Sierra representatives. See e.g., Email thread, including Richard Wayland, Mike Thrift, Janet McCabe, Kevin McLean, Michael Ling, Sara Schneeberg, Scott Mathies, 6/06/2012, "Had an interesting discussion with Josh Stebbins of Sierra Club just now", with all substance of two pages of relating the details redacted as "deliberative process." Also, concern by Sierra Club about EPA activities was apparently cause for concern among more junior EPA officials engaged in those activities. Email, From: Mike Thrift, To: Sarah Schneeberg, cc: Janet McCabe, Kevin McLean, Michael Ling, Scott Mathias, Richard Wayland, Subject: Re: Fw: April 12, 2012 Letter. 06/06/2012.

organizations in government. Supporting this conclusion is the Agency's recent history. Prominently, former EPA head Lisa Jackson resigned after CEI FOIA requests revealed that she was using a false-identity email account in the name of "Richard Windsor", frustrating FOIA and the Federal Records Act FOIA requests<sup>17</sup>; EPA's own records affirm statistically significant bias in (improperly) placing financial barriers in the way of certain FOIA requesters;<sup>18</sup> and CEI's original "Windsor" FOIA request showed that dozens of EPA officials use private email accounts for official business as well;<sup>19</sup> Gina McCarthy and other EPA officials moved over to text messaging for much correspondence between themselves and others outside of EPA,

---

<sup>17</sup> "Attorney claims EPA chief resigned over alias email accounts", Fox News, By: Judson Berger, December 27, 2012. Available at: <http://www.foxnews.com/politics/2012/12/27/attorney-claims-epa-chief-resigned-over-alias-email-accounts/>, last retrieved 2/3/2014.

<sup>18</sup> Analysis by David Schnare PhD and Brittany Madni of information produced in response to EPA FOIA No. EPA-2014-002474, Excel spreadsheet of which is available at <https://foiaonline.regulations.gov/foia/action/public/view/request?objectId=090004d280186d73>.

<sup>19</sup> Exposed examples of EPA officials using private accounts include former EPA Region 8 Administrator James Martin's ME.com account (*see Competitive Enterprise Institute v. EPA*, D.D.C., 12-cv-1497 (FOIA 08-FOI-00203-12) (see also FOIA EPA FOIA-R8-2014-000358)); Region 9 Administrator Jared Blumenfeld's Comcast.net account (*see CEI v. EPA*, D.D.C. 13-cv-627 (voluntarily dismissed on EPA's promise of producing responsive records, under (FOIA EPA-R9-2013-007631)); Lisa Jackson's false-identity email account in the name of "Richard Windsor" (*see CEI v. EPA*, D.D.C. 12-cv-1617), and Region 2 Administrator Judith Enck's AOL account (EPA-R2-2014-001585). In addition to those three EPA regional administrators and former Administrator Jackson, *see also*, "the Committee has learned that at least these individuals were using private email accounts: ... Bob Perciasepe, Deputy Administrator;... Michelle DePass, Assistant Administrator for International and Tribal Affairs; Mathy Stanislaus, Assistant Administrator for the Office of Solid Waste and Emergency Response; M. Allyn Brooks-LaSure, Deputy Associate Administrator for Public Affairs; Brendan Gilfillan, Deputy Press Secretary; Bob Sussman, former Senior Policy Counsel; David Cohen, Spokesman; Robert Goulding, former Director of Operations; Michael Moats, former Chief Speechwriter; Seth Oster, former Associate Administrator for the Office of External Affairs and Environmental Education; Larry Elworth, former Chief Agricultural Advisor; Tseming Yang, former Deputy General Counsel; Diane Thompson, former Chief of Staff." [Eye on the EPA: Less Than Thorough - Flaws in Recent EPA OIG Investigations: OIG Ignores Leads on EPA's Email Follies](#), Senate Committee on Environment and Public Works, Minority (Feb. 13, 2014).

<sup>20</sup> EPA affirmed this through its responses to CEI requests HQ-2013-006005 (for Gina McCarthy texts) and correspondence in litigation over the latter (*CEI v. EPA*, cv: 13-779 (D.D.C.)), and HQ-2014-002006 (seeking copies of texts with McCarthy's known correspondents).

destroying many thousands of communications with no backup.<sup>20</sup> This inarguably reflects a culture allergic to sunlight, which goes to great lengths to avoid transparency.

Second, the emails revealed here affirm that EPA filling its ranks with activists from “green” activist groups has produced conflicts of interest beyond those brought by activist academics and bureaucrats who plainly fail the “unalterably closed mind” test for involvement in producing regulations. Of course, that bias and background of numerous senior appointees likely made coordinating with and giving special treatment to green-group activists an instinctive move. But that collaborating so closely with their former colleagues, seemingly as if they were still co-workers, may have seemed natural doesn’t make the fruits of such collusion lawful.

As this report also details, EPA’s top ranks even boast to each other at the highest levels of imposing “progressive national policy”,<sup>21</sup> while denying publicly there is any political agenda driving same-said policy: it’s all about the climate, which EPA then acknowledges would not be impacted by the regulations; so then it’s about “investment opportunities;” or maybe it’s “oil addiction”, “green jobs” and “clean energy”. That is, it’s the progressive political agenda. Lisa Heinzerling sent the email discussing these issues which then-Administrator Lisa Jackson agreed with. Heinzerling would know of what she speaks, being long-associated with the Center for Progressive Reform.<sup>22</sup> “Progressive policy” was her objective before, after, and during her EPA tenure as a senior official who had the lead on preparing EPA’s “bankrupt coal” agenda.

---

<sup>21</sup> Email exchange between Lisa Jackson and Lisa Heinzerling, produced to the Competitive Enterprise Institute in response to FOIA 2012-EPA-2012-001343, 2/27/09.

<sup>22</sup> See Lisa Heinzerling Bio, Available at: <http://www.progressivereform.org/HeinzerlingLisaBio.cfm>, last retrieved, 9/2/2014.

This is a legal problem, one that these documents show EPA views as no more than a public relations issue, only adding to concerns raised over the fundamental trustworthiness and impartiality of government, a problem that must be corrected.<sup>23</sup> What is more, EPA's connection with green pressure groups is a classic case of a "revolving door". Outgoing officials frequently find themselves working for these same green pressure groups when they leave the EPA.

Third, as these documents show, in spite of clearly being aware of these potential conflicts, the EPA and various green groups do research for one another, coordinate messages with one another, support one another's efforts and coordinate their efforts toward a shared goal, as if the EPA and outside green groups were one and the same. In one example capturing several illustrative points, green groups organize aggressive campaigns to flood the regulatory record with comments supportive of proposals implementing the shared agenda, keep their allies informed by email which small circle includes current green group activists and former green group activists now working in the Agency, the latter whom then circulate the information to a cadre of activists across various EPA offices, who in turn rejoice.<sup>24</sup>

The joyous party in this particular instance was the man identified as having muzzled EPA whistleblower Alan Carlin, lead EPA economist and Director of its National Center for Environmental Economics Al McGartland.<sup>25</sup> Someone else singled out McGartland, as well as

---

<sup>23</sup> See Email: From: Bob Perciasepe to Brendan Gilfillan, 5/21/2012..

<sup>24</sup> Email, From: Al McGartland, (Director of the National Center for Environmental Economics and lead EPA economist) To: Alexa Barron, Paul Balsarak, Barry Elman, Shannon Kenny, DavidA Evans, Alex Marten, Subject: Re: RECORD 3 MILLION COMMENTS IN SUPPORT OF EPA'S CARBON POLLUTION STANDARD!!!! 08/14/2012. This was originally sent to green lobbyists and a small crowd of their allies within EPA, Alex Barron, Michael Goo, Shira Sternberg, and Joe Goffman.

<sup>25</sup> Emails relevant to the Carlin affair are available at [http://www.epw.senate.gov/public/index.cfm?FuseAction=Minority.Blogs&ContentRecord\\_id=317cf1d8-802a-23ad-4b26-565ed2550325](http://www.epw.senate.gov/public/index.cfm?FuseAction=Minority.Blogs&ContentRecord_id=317cf1d8-802a-23ad-4b26-565ed2550325).



two in-house activists who star in this report, Alex Barron, Michael Goo, among others for an internal heads up about an issue detailed in a Washington Post article: if U.S. coal exports were allowed to continue it “could cancel out many of the global warming benefits of the U.S. coal decline”.<sup>26</sup> The note offers “a reminder of why climate change is a problem” and that “coal exports could be the next Keystone [XL Pipeline] for enviros.”<sup>27</sup> Senior officials throughout EPA had already grasped this priority for the greens, and therefore for EPA. Another email, obtained in another request, shows EPA employees sharing the very same concern, forwarding around a different Post article on the same topic (the issue also being a priority of the Washington Post) to environmental activists, with some hand-wringing over exports being “how coal companies can sell their coal if it isn’t being burned in the U.S.”<sup>28</sup>

That latter FOIA production, for which EELI once again had to litigate, also produced notes of a daily senior staff meeting in which the political appointee running EPA’s Region 10 in the Pacific Northwest, Dennis McLerren, asserted “During the EPA Senior Staff call, Dennis highlighted the [sic] coal export terminals as a big issue for region 10.”<sup>29</sup> Technically, it is a big issue for the Army Corps of Engineers, which has authority over the permits; EPA consults on those permits and is able to impact the Corps’s process. But, as other emails in the same production also show, EPA’s employees are quite personally concerned about, and apparently

---

<sup>26</sup> Email, From: Sandy Germann, Subject: W Post: Coal’s not dying — it’s just getting shipped abroad. 02/01/2012.

<sup>27</sup> Id.

<sup>28</sup> Email, From: Madonna Narvez, To: Various (dozens including more than one dozen outside environmental activists, her “Air Toxics contacts”), Subject: News: Study: The coal industry is in far more trouble than anyone realizes, produced in response to request R10-2013-008285. 04/16/2013 .

<sup>29</sup> Email From: Jeff Hunt, To: Various (Numerous EPA R10 staffers) Subject: mgt team meeting notes — 4/18. 04/18/2012.

active in their private life over, the prospect of coal export terminals. The driving force when EPA intervenes in the Corps's process is clear, as made manifest in various emails. One, from senior Region 10 official Richard Albright to Administrator McLerran and the former green-group activist now running EPA's "war on coal", Janet McCabe, beamed about a Washington state anti-coal initiative bringing them "Another step closer..."<sup>30</sup> In response, Regional chief McLerran tells Albright and McCabe that a green pressure group had credited EPA with having "been a part of all of the major" achievements by that group, Climate Solutions.<sup>31</sup>

These contacts and the continuing coordination between these groups are so extensive that, as other emails described herein show, senior EPA officials are in fact in-house activists, with unalterably closed minds. They show that this bias and collusion with ideologically aligned parties has, on specific rule-makings, in fact corrupted the administrative process that leaves certain major proposed and finalized regulations certainly without political legitimacy, and open to legal challenge as well.

This coordination to the point of collusion is particularly troubling given that Sierra Club's explicit goal is to halt construction of all new coal plants, and it also campaigns to ensure that the nation's most abundant energy reserves remain in the ground. This position, going beyond merely seeking to bankrupt those who would burn the fuel, is also directly contrary to the stated public position of the Obama Administration walking back pre-election vows by then-candidate Obama, which candor proved politically problematic. Indeed, the documents produced

---

<sup>30</sup> Email, From: Rick Albright, To: Dennis McLerran, Janet McCabe, Subject: Fw: Bill moves Wash. plant off coal by 2025. 04/13/2011.

<sup>31</sup> Email, From: Dennis McLerran, To: Rick Albright, Janet McCabe, Subject: Re: Fw: Bill moves Wash. plant off coal by 2025, same thread as id. 04/13/2011.

as a result of our FOIA requests demonstrate clearly that that the Obama Administration *is* in fact waging a war on coal, its public assertions to the contrary, with the encouragement, support and participation of many environmental activist groups and their former employees, with the clear intention to end the coal industry altogether. Equally clear is that they are being dishonest about it, saying one thing in public and another thing when they think no “outsiders” would see what is going on. It is only the context that these emails demonstrate that internal boasts among appointees at the highest levels about plans to enact strict rules in the name of alleged environmental crises being, in fact, the imposition of the “progressive” agenda.<sup>32</sup> The sender of this email, with which then-Administrator Lisa Jackson enthusiastically agreed, was Lisa Heinzlering. She would know of what she speaks, being long-associated with the Center for Progressive Reform.<sup>33</sup> Emails affirm the obvious impropriety: attaining the progressive agenda was her objective before, after, *and during* her EPA tenure as a senior official given the lead on EPA’s “‘bankrupt’ coal” agenda.

As detailed *infra*, emails obtained by the Competitive Enterprise Institute as well as E&E Legal affirm what also should have been obvious, that Heinzerling was not only instrumental but led the major policy shift on their means of imposing the “progressive” agenda — through regulations nominally addressing “climate” — that she should have had nothing to do with, having spent her professional life advocating it only to then assume a leading role in supposedly unbiased review(s) of whether, in effect, she had been wrong throughout her activist career.

---

<sup>32</sup> Email exchange between Lisa Jackson and Lisa Heinzerling, produced to the Competitive Enterprise Institute in response to FOIA 2012-EPA-2012-001343. 2/27/09 .

<sup>33</sup> See Lisa Heinzerling Bio, Available at: <http://www.progressivereform.org/HeinzerlingLisaBio.cfm>, last retrieved, 9/2/2014.

Similarly, the emails show EPA officials at the highest levels creating informal advisory teams of senior green-group representatives and their outside counsel to assist with crafting massively intrusive new regulations using the Clean Water Act, while private parties actually impacted by this agenda testify that Agency officials told them they would have to wait until the rule was written until EPA would interact with them.<sup>34</sup> Among a list of activist-minded officials across various offices who regularly email their support for the shared pressure-group/EPA agenda, Industry studies are immediately disparaged and dismissed as “bogus claims” to be “add[ed] to the industry study pile”.<sup>35</sup>

Similarly, the emails show EPA officials at the highest levels creating informal advisory teams of senior green-group representatives and their outside counsel to assist with crafting massively intrusive new regulations using the Clean Water Act, while private parties actually impacted by this agenda testify that Agency officials told them they would have to wait until the rule was written until EPA would interact with them.<sup>36</sup> Among a list of activist-minded officials across various offices who regularly email their support for the shared pressure-group/EPA

---

<sup>34</sup> Email, From: Robin Kime, To: Michael Goo, Alex Barron, (blocking off time for “Meeting with CWA Constituent Group...LPJ next Tuesday”;) Schedule Email for Lisa P. Jackson EPA Administrator, Tuesday, December 18, 2012.12/06/2012. Meeting with Clean Water Act Constituent Groups, which include Riverkeeper, Inc., NRDC (s), Sierra Club (2), Earthjustice, Waterkeeper Alliance, and outside counsel. See also testimony of Jack Field, to the House Small Business Committee, May 29, 2014, [http://smallbusiness.house.gov/uploadedfiles/5-29-2014\\_field\\_testimony.pdf](http://smallbusiness.house.gov/uploadedfiles/5-29-2014_field_testimony.pdf).

<sup>35</sup> See e.g., Email, From: Alex Barron, To: McGartland, Rob Brenner, Lydia Wegman , Jim DeMocker, Lorie Schmidt, Nathalie Simon, and Wegman Subject, API ozone study. 07/28/2011 (Response on same day to Barron, copying all).

<sup>36</sup> Email, From: Robin Kime, To: Michael Goo and Alex Barron, blocking off time for “Meeting with CWA Constituent Group...LPJ next Tuesday”; Schedule for Lisa P. Jackson EPA Administrator, Tuesday, December 18, 2012, Meeting with Clean Water Act Constituent Groups, which include Riverkeeper, Inc., NRDC (2), Sierra Club (2), Earthjustice, Waterkeeper Alliance, and outside counsel. See also testimony of Jack Field, to the House Small Business Committee, May 29, 2014, [http://smallbusiness.house.gov/uploadedfiles/5-29-2014\\_field\\_testimony.pdf](http://smallbusiness.house.gov/uploadedfiles/5-29-2014_field_testimony.pdf).

agenda, Industry studies are immediately disparaged and dismissed as “bogus claims” to be “add[ed] to the industry study pile”.<sup>37</sup>

Others simply call industry “polluters”, for example in EPA’s Office of General Counsel, internally circulating claims that industry “suppress their own scientists too!”, implying an understanding that “polluters” somehow suppress other, unspecified scientists.<sup>38</sup> This is the sort of dialogue expected among environmentalist pressure groups, common within EPA, between which populations there are few obvious distinctions. The excitable attorney sending the latter email, incidentally, is the same who authored the instruction to Region 6 counsel of “standard protocols we usually follow” regarding apparently unwanted FOIA requests, to first claim the request is “overbroad”, and next claim “that it will probably cost more than the amount of \$ they agreed to pay.”<sup>39</sup> *Whatever the request is it’s too broad to respond to, and whatever you agreed to pay, well, it would cost more than that.*

These documents show that EPA officials, and particularly senior Obama appointees driving the regulatory agenda, have minds that are unalterably made up on important regulatory issues; in the case of these appointees, these are issues they had worked on as activists much of their lives, and embarked on their jobs with a predetermined goal that would not be shaken by facts, economics, the effect on the American public, or any other concern. Under the law, this

---

<sup>37</sup> See e.g., Email, From: Alex Barron, To: McGartland, Rob Brenner, Lydia Wegman , Jim DeMocker, Lorie Schmidt, Nathalie Simon, Subject, API ozone study. 07/28/2011. Wegman response on same day to Barron, copying all.

<sup>38</sup> See Email: From: Geoffrey Wilcox, To: Office of General Counsel “ARLO” email list, cc: Nancy Ketchum. 04/24/2009.

<sup>39</sup> Email, From: Wilcox, To: Joe Kordzi, cc: Lea Anderson, Todd Hawes, Kevin McLean, Lucinda Watson, Agustin Carbo-Lugo, 01/12/2011 (obtained by the Competitive Enterprise Institute in response to FOIA request R6-2013-003663).

makes them unfit to participate in regulations on these topics. No simple reshuffling of positions will fix this problem. Instead, what is required is a complete change of personnel and restarting the tainted regulatory processes, free from collusion and other conflicts. As E&E Legal has argued in comments on one of EPA's "war on coal" rules which represent the product of this collusion,<sup>40</sup> the Obama Administration may regulate as it sees fit, but it must follow the law, and it ought to keep its promises.

---

<sup>40</sup> Comments on EPA's Proposed Standards of Performance for Greenhouse Gas Emissions from New Stationary Sources: Electricity Generating Units Docket EPA-HQ-OAR-2013-0495 RIN 2060-AQ91, available at <http://eelegal.org/wp-content/uploads/2014/03/EE-Legal-FME-Law-Comments-on-EPA-GHG-NSPS-as-submitted.pdf>. Release describing same available at <http://eelegal.org/?p=2714>.

## EPA's Agenda Demands Transparency

In a videotaped interview with the San Francisco Chronicle on January 17, 2008, then-candidate Barack Obama, locked in a close race for the Democratic nomination, famously said that under his plan, “If someone wants to build a new coal-fired power plant they can, but it will bankrupt them because they will be charged a huge sum for all the greenhouse gas that’s being emitted.”<sup>41</sup> This sort of statement on energy and environmental issues was new to candidates for national office — Al Gore’s “strategic goal of completely eliminating the internal combustion engine over, say, a 25-year period” stirred substantial discussion although posed in far less statist terms. It is difficult, looking back, to see how even a paper holding the Chronicle’s editorial views could avoid exploring such an argument that it was a proper governmental objective to “bankrupt” an industry produced roughly 40% of America’s electricity, and about 20% of America’s total energy consumed.<sup>42</sup>

Recent estimates indicate that U.S. coal resources have the potential to power America for *9000 years* at current consumption levels.<sup>43</sup> Yet, inherent in EPA’s defense of its regulations cited elsewhere in this report, is the environmentalists’ view that national security is somehow enhanced by “bankrupting” such an industry and through what all computer models project would be climatically meaningless regulations if nonetheless in the name of climate control.

---

<sup>41</sup> Available at: <http://www.youtube.com/watch?v=DpTIhyMa-Nw>. Last retrieved 1/31/2014.

<sup>42</sup> According to the Institute for Energy Research, coal accounts for 37.5% of all electricity produced in the U.S., although this reflects a substantial reduction of several percent in recent years. Graphs available here: <http://www.instituteforenergyresearch.org/wp-content/uploads/2013/05/Coal-Overview-Graph-02.png>, Last retrieved 1/31/2014. <http://www.instituteforenergyresearch.org/wp-content/uploads/2013/05/Coal-Overview-Graph-01.png>, Last retrieved 1/31/2014.

<sup>43</sup> See Energy Overview - Coal, Institute for Energy Research. Available at: [http://www.instituteforenergyresearch.org/energy-overview/coal/#\\_edn2](http://www.instituteforenergyresearch.org/energy-overview/coal/#_edn2). Last retrieved 1/31/2014.

This is problematic. It is far more problematic that senior policymaking officials in EPA have closed their minds on the topic. Since taking office, President Obama and his allies insist the Administration has no intention of “bankrupting” coal, seemingly claim that their agenda isn’t political<sup>44</sup> but that instead the “war on coal” is nothing but a political slogan used by his opponents for political gain<sup>45</sup> However, since the failure of 2009’s “cap and trade” bill to get traction in the Senate,<sup>46</sup> the Obama Administration’s EPA has promulgated numerous regulations under the Clean Air Act (CAA), which do appear to offer the prospect of “bankrupting” the coal industry — despite EPA denials of that, as well, which are undermined by other emails shared with green-group activists, all as described herein.

The Administration is not shy about its intentions to impose heavy regulations on the coal industry. In the 2013 State of the Union Address, President Obama explicitly stated, in relation

---

<sup>44</sup> In a somewhat confusing assertion EPA Administrator Gina McCarthy says “Climate change is not the product of conspiracies or political agendas,” although no one claims that climate change — which of course is always occurring — comes from a political agenda, but the policies demanded in its name, which it appears she is addressing here if with uncertain clarity. Lindsay Abrams, “EPA chief slams climate deniers for their anti-science shenanigans”, [salon.com](http://www.salon.com/2014/04/30/epa_chief_slams_climate_deniers_for_their_anti_science_shenanigans/), April 30, 2014, Available at: [http://www.salon.com/2014/04/30/epa\\_chief\\_slams\\_climate\\_deniers\\_for\\_their\\_anti\\_science\\_shenanigans/](http://www.salon.com/2014/04/30/epa_chief_slams_climate_deniers_for_their_anti_science_shenanigans/). Last retrieved 9/12/2014

<sup>45</sup> Obama Official Denies 'War on Coal', US News and World Report, By: Rebekah Metzler, August 1, 2013. Available at: <http://www.usnews.com/news/articles/2013/08/01/obama-official-denies-war-on-coal>, Last retrieved 2/20/2014.

<sup>46</sup> The bill passed in the House of Representatives, 219-212, *see*: <http://clerk.house.gov/evs/2009/roll477.xml>, last retrieved 1/31/2014, but failed to overcome a threatened filibuster in the Senate. Senator Kerry was quoted as saying, “In order to pass comprehensive legislation, you have to have 60 votes. To get 60 votes, you’ve got to have Republicans. As of today, we don’t have one Republican.” *See*: Christian Science Monitor, “Harry Reid: Senate will abandon cap-and-trade energy reform” By: Gail Russell Chaddock. Available at <http://www.csmonitor.com/USA/Politics/2010/0722/Harry-Reid-Senate-will-abandon-cap-and-trade-energy-reform>, last retrieved 1/31/2013. However, it was not Republicans who were primarily responsible for its demise. Several moderate Democrats also urged the President to drop the legislation. *See* “Senate Democrats to W.H.: Drop cap and trade,” Politico, By: Lisa Lerer, 12/27/2009, available at: <http://www.politico.com/news/stories/1209/30984.html>, last retrieved 3/17/2014. Without 60 votes to overcome a filibuster, which would have included every Democrat, the bill could not pass.



to carbon dioxide emissions, that “If Congress won’t act soon to protect future generations, I will. I will direct my Cabinet to come up with executive actions we can take, now and in the future, to reduce pollution, prepare our communities for the consequences of climate change, and speed the transition to more sustainable sources of energy.”<sup>47</sup> This reformulation, made necessary due to political problems in the Era of YouTube, recasts prior boasts that such efforts are intended to “bankrupt” coal, as Candidate Obama said in 2008. The new line is that they plan to ensure that coal is sufficiently “green,” made possible by new technologies the Administration insists are both technically feasible and economically viable.

However, as Administration officials repeatedly claim that under their regulatory regime, coal will remain viable,<sup>48</sup> opponents<sup>49</sup> as well as EPA employees and allies do not appear to believe the spin.<sup>50</sup>

---

<sup>47</sup> Remarks by the President in the State of the Union Address, February 12, 2013. Available at: <http://www.whitehouse.gov/the-press-office/2013/02/12/remarks-president-state-union-address>, last retrieved 1/31/2014.

<sup>48</sup> The reasons for this certainly appear to be nothing but political. After candidate Obama became President Obama, concerned with re-election, this issue became more than theoretical and became a reality. Several politically important states, such as Pennsylvania, Ohio, Colorado, New Mexico and Virginia produce a significant amount of coal. See, U.S. Coal Production by State & by Rank, National Mining Association. Available at: [http://www.nma.org/pdf/c\\_production\\_state\\_rank.pdf](http://www.nma.org/pdf/c_production_state_rank.pdf), last retrieved 2/7/2014. Particularly after the 2010 mid-term elections, in which the Obama Administration’s party took heavy losses, particularly in coal producing states, public opposition to its anti-coal policies became a threat to the Obama Administration’s political survival.

<sup>49</sup> House Energy and Commerce Committee Chairman Fred Upton (R-MI) characterizes the record as, “The EPA is holding the coal industry to impossible standards.” See “EPA assailed on power plant regulations”, The Hill, E2 Wire The Hill’s Energy and Environmental Blog, November 14, 2013. Available at: <http://thehill.com/blogs/e2-wire/e2-wire/190269-epa-assailed-on-power-plant-carbon-regs>, last retrieved 1/31/2014.

<sup>50</sup> See e.g. John Deutch, “Obama’s Second-Term Energy Policy Is Working,” *Wall Street Journal*, August 18, 2014, <http://online.wsj.com/articles/john-deutch-obamas-second-term-energy-policy-is-working-1408404210>. Deutch is listed in that piece as having an interest in the gas industry, but acknowledges “The agency has justified its rules for new plants by asserting that carbon [sic] sequestration—the capture and storage of CO<sub>2</sub> in underground reservoirs—is an “adequately demonstrated control technology.” It certainly isn’t, and it’s also too expensive. But it likely doesn’t matter since no one is planning a new coal-fired electricity generating plant in the U.S. in the foreseeable future.”

Clues to the truth are found in the Obama Administration staffing EPA almost exclusively with environmental activists from anti-energy “green” pressure groups that want coal eliminated entirely, and like-minded career bureaucrats. For example, Region 9 Director Jared Blumenfeld worked for the Sierra Club as well as the Natural Resources Defense Council (NRDC) prior to his time at the EPA as Region 9 Administrator. Michael Goo, who was EPA’s Associate Administrator for Policy, is the former Legislative Director for Climate Change for the Natural Resources Defense Council.<sup>51</sup> Numerous staffers who are party to email correspondence cited in this report came from political jobs pushing this agenda legislatively.

The previously stated and apparent agenda is in line with that of outside groups like the Sierra Club, transparent in their desire not only stop all new coal plants from being built but to have those currently operating put out of business and coal completely eliminated as an energy source.<sup>52</sup>

---

<sup>51</sup> See Appendix A for a much more complete list of people who have participated in the “revolving door” between the EPA and various activist groups.

<sup>52</sup> Notably, however, Sierra Club has an internal conflict of interest. In early 2012, reports demonstrated that between 2007 and 2010, The Sierra Club obtained more than \$25 million dollars from the natural gas industry, most from Aubrey McClendon, CEO of Chesapeake Energy, one of the biggest gas drilling companies in America, specifically to fund the “Beyond Coal” campaign. See “Exclusive: How The Sierra Club Took Millions from the Natural Gas Industry and Why They Stopped”, by Brian Walsh. Time, Ecocentric Blog, February 2, 2012. Available at: <http://science.time.com/2012/02/02/exclusive-how-the-sierra-club-took-millions-from-the-natural-gas-industry-and-why-they-stopped/>, last retrieved 1/31/2014. This was a very large part The Sierra Club’s budget, who’s reported total funding was \$88 million in 2011. See, “Sierra Club Leader Will Step Down,” Green Blog, The New York Times, November 18, 2011. By: John M. Broder. Available at: <http://green.blogs.nytimes.com/2011/11/18/sierra-club-leader-will-step-down/>, last retrieved 1/31/2014. Natural gas is a direct competitor to coal, so the gift seems less than altruistic. See generally: “Natural gas gains popularity with power generators,” Marketrealist.com, By: Ingrid Pan, November 1, 2013. Available at: <http://marketrealist.com/2013/11/introduction-4/>, last retrieved 1/31/2014. The Obama Administration is much friendlier to the natural gas industry, and it has returned the favor. See generally: “Obama Warms to Energy Industry by Supporting Natural Gas,” By Mark Drajem May 9, 2012. Available at: <http://www.bloomberg.com/news/2012-05-09/obama-warms-to-energy-industry-by-supporting-natural-gas.html>, last retrieved 1/31/2014. This gives rise to concerns about crony capitalism and rent-seeking behavior amongst major industries that would use the politics and the law to gain an advantage under the guise of environmental protection.

The contradiction between the Obama Administration's professions of innocence of a "war on coal" and the actions taken by committed, life-long anti-coal activists in and outside of his administration is a subject of continuing discussion.<sup>53</sup> The disconnect between Obama's regulatory actions and staffing EPA with ideological opponents of coal, largely from environmental activist groups, and its professed objectives (as presently revised), provides further reason for skepticism concerning the Obama Administration's real intentions and cause for scrutiny.<sup>54</sup>

The Administration and leading pressure groups also share a close relationship with the competitor of their principal target, coal.<sup>55</sup> Sierra Club famously received \$26 million from just one gas player to promote its "Beyond Coal" campaign.<sup>56</sup> Adding to these concerns is the increasing partnership between the Obama Administration's EPA and the American Lung Association (ALA) on many of these issues, regardless of the fact that the ALA has long since

---

<sup>53</sup> *See generally* Obama declares a War on Coal, By: Phil Kerpen, Fox News, June 25, 2013. Available at: <http://www.foxnews.com/opinion/2013/06/25/obama-declares-war-on-coal/>, last retrieved 2/4/2014.

<sup>54</sup> *See* Appendix A.

<sup>55</sup> *See generally* "Obama Warms to Energy Industry by Supporting Natural Gas," By Mark Drajem May 9, 2012. Available at: <http://www.bloomberg.com/news/2012-05-09/obama-warms-to-energy-industry-by-supporting-natural-gas.html>, last retrieved 1/31/2014.

<sup>56</sup> The natural gas industry and one individual company in particular, Chesapeake Energy, donated millions of dollars to Sierra Club, one of the EPA's closest partners in collusion, accounting for what appears to be more than 10% of Sierra's total budget for several years. *See*, "Exclusive: How The Sierra Club Took Millions from the Natural Gas Industry and Why They Stopped", by Brian Walsh. Time, Ecocentric Blog, February 2, 2012. Available at: <http://science.time.com/2012/02/02/exclusive-how-the-sierra-club-took-millions-from-the-natural-gas-industry-and-why-they-stopped/>, last retrieved 1/31/2014,

<sup>57</sup> *Pandering for Profit: The Transformation of Health Charities to Lobbyists*, By: Professor James T. Bennett, George Mason University, Department of Economics, GMU Working Paper in Economics No. 11-54, 12/14/2011. Available at: [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1972369](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1972369).

transitioned into a wealthy Washington lobby<sup>57</sup> now, somehow, leading the administration's "climate change" push (likely due to the public increasingly seeing other groups as radical).

These concerns prompted E&E Legal to look into these relationships using FOIA. On April 2, 2012 E&E Legal filed two separate FOIA requests with the EPA, one asking for any emails with "Sierra" in the body, subject line, or email domain name, the other asking for any email with "Lung" in the domain name or American Lung Association (ALA) in the body. Both of these requests were limited to emails in or for the offices of Policy, External Affairs and Environmental Education, Air and Radiation, or the office of the Deputy Administrator.<sup>58</sup> EPA acknowledged the "Sierra" request the same day, assigning it the tracking number HQ-FOI-0152-12. EPA acknowledged the ALA request the next day, assigning it the tracking number HQ-FOI-0158-12.

FOIA requires that the Agency provide a substantive response within 20 working days. It may either produce the documents, or explain the refusal and inform the requester of its right to appeal.<sup>59</sup> Alternately, the agency must cite "unusual circumstances" and request, and make the case for, an extension.<sup>60</sup> After one telephone call from EPA seeking to narrow the response to records using "Sierra Club" instead of the common shorthand of "Sierra" — on the basis that

---

<sup>58</sup> See Appendix C for copies of the FOIA requests.

<sup>59</sup> 5 U.S.C. § 552(a)(6)(A).

<sup>60</sup> 5 U.S.C. § 552(a)(6)(B). See also *Open America v. Watergate Special Prosecution Force*, 547 F.2d 605 (D.C. Cir. 1976).

EPA has many employees in the covered offices named Sierra<sup>61</sup> — EPA provided no further response.<sup>62</sup>

After approximately 3 months of waiting for a response, Chris Horner who submitted the requests contacted the EPA FOIA officer assigned to one of them, “Vivian”.<sup>63</sup> She explained that the “Sierra” request was her responsibility and the other was assigned to “Cindy.”<sup>64</sup> Upon examining the record, Vivian expressed surprise that nothing had been done on the requests, stating that her supervisor, Mr. Larry Gottesman,<sup>65</sup> had taken over both requests, specifically informing both FOIA officers he would contact Horner with the fee waiver response and the initial determination so the FOIA officers should do no further work on either request.<sup>66</sup> The phone call ended with Vivian stating that she would make a note to Mr. Gottesman and he would contact Mr. Horner the next day. However, Mr. Gottesman continued to do nothing on the requests.<sup>67</sup> Seeking to avoid litigation, although it was their right given this behavior, on July 11, 2012, E&E Legal filed an administrative appeal, attesting to this conversation in a sworn affidavit.

---

<sup>61</sup> See Affidavit of Christopher C. Horner, Appendix C.

<sup>62</sup> Id.

<sup>63</sup> Id. We believe this was Vivian Warden, and that the “Cindy” she referenced is Cindy Floyd-Coleman.

<sup>64</sup> Id.

<sup>65</sup> Mr. Gottesman is “the U.S. Environmental Protection Agency’s (EPA’s) Freedom of Information Officer,” a senior position entailing, e.g., testimony to Congress on Agency fulfillment of its statutory duties under FOIA, *See, e.g.*, [http://epa.gov/ocir/hearings/testimony/111\\_2009\\_2010/2010\\_0318\\_lfg.pdf](http://epa.gov/ocir/hearings/testimony/111_2009_2010/2010_0318_lfg.pdf).

<sup>66</sup> See Affidavit of Christopher C. Horner, Appendix C.

<sup>67</sup> Id.

Nearly a month after E&E Legal filed the appeal, the EPA admitted via a letter that it had not responded to either the requests for documents or the requested fee waivers as required, but that it would within 5 days concerning the requests for fee waivers.<sup>68</sup> After more delay, in a subsequent letter, EPA denied the requests for fee waivers because the requests would not “significantly increase the public’s understanding of government operations or activities.”<sup>69</sup> Then, the EPA refused to process the request until payment of fees was guaranteed in writing, but then oddly also refused to estimate the amount of fees that E&E Legal must agree to first.<sup>70</sup>

By refusing to waive fees, yet refusing to say what fees might be, the EPA innovatively created a dead end for E&E Legal, under which EPA would provide no action on these requests that the Agency had seemingly worked so hard to avoid responding to with documents. After E&E Legal filed suit, emails described in this report do seem to indicate reasons for EPA’s reluctance to be forthcoming. After further attempts by E&E Legal to resolve the matter without litigation, all without avail, E&E Legal filed a complaint in the U.S. District Court for the District of Columbia on January 27, 2013.<sup>71</sup> This complaint laid out in detail the events above and showed with great clarity that the EPA was in clear violation of FOIA laws. Rather than argue to a court that its behavior was appropriate, EPA promptly dropped its refusal to waive fees and began to produce documents, providing the first installment to E&E Legal on May 31, 2013, more than a year after the initial request was made. These initial productions wrap up in

---

<sup>68</sup> See Complaint, *ATI v. EPA*, Case No. CV: 13-112. In Appendix C.

<sup>69</sup> Id.

<sup>70</sup> Id.

<sup>71</sup> Id.

November 2014, after which E&E Legal must sort between numerous questionable withholdings to ask the court for the most egregious and/or useful exemplars.

Given the current EPA's spotty record with transparency and the long list of activists<sup>72</sup> permeating its top ranks, it is reasonable to conclude that EPA stonewalled E&E Legal for explicitly political reasons, specifically, to delay the release of these revealing correspondence as long as possible, giving the agenda they discuss more time to proceed and with less scrutiny. A more charitable interpretation is that EPA simply sees itself and its agenda not subject to unaccountability to those who are not on board, as certain "ClimateGate" emails revealed is the case among other taxpayer-funded environmental activists. Either explanation is troubling. Whatever the motivation, EPA unfortunately managed to delay release of these records — and continues to delay release of more information responsive to the same two requests — denying the public and policymakers a clear view of the most controversial EPA agenda in its history. As debate over the agenda resumes, this report releases at least some of what EPA has worked so hard to hide.

---

<sup>72</sup> See Appendix A.

## **The Early Days of the New Administration – The Johnson Memo and “Endangerment”**

Not every one among the Obama EPA’s regulations in pursuit of the vowed “bankrupt[ing]” of coal-fired electricity, to “necessarily” cause electricity rates to “skyrocket”, targets greenhouse gases (GHGs), although many of the big-ticket items do; not all GHG regulations flow from EPA’s “endangerment” finding, though most do. The latter was a formal claim by Obama’s EPA that carbon dioxide endangers public health.<sup>73</sup>

In April 2007 the United States Supreme Court ruled 5-4 in *Massachusetts v. EPA* that EPA has the authority to establish regulatory standards for greenhouse gasses as “pollutants” under the CAA;<sup>74</sup> it did not instruct the Agency to do so. The plaintiffs, led by Lisa Heinzerling, had argued strenuously that EPA had an obligation to do so. This point, on which Heinzerling had what is plainly an unalterably closed mind, becomes important given she indeed was brought into EPA, immediately after the inauguration, to promote that same agenda but now through government policy. Emails affirm she was assigned the lead role in a process supposedly determining — which implies and assumes an open mind — whether EPA *should* do something it was told by the Supreme Court it *could* do, in a case fundamentally reinterpreting the CAA to cover a gas Congress never asserted should be regulated. In fact, as losing parties to the litigation had demonstrated, Congress rejected regulating CO<sub>2</sub> every time it was proposed.

---

<sup>73</sup> It is not “carbon” any more than H<sub>2</sub>O, or water, is “hydrogen”. This is a truncation promoted by the environmentalists to promote an image other than the odorless, colorless gas CO<sub>2</sub>, one similarly associated with tiresome regularity by media outlets and other activists with images of smog or billowing plumes; nonetheless it remains, as we all learned growing up, plant food. See e.g., WaPo Photo Fraud: This is NOT carbon dioxide, [JunkScience.com](http://junkscience.com/2013/06/07/wapo-photo-fraud-this-is-not-carbon-dioxide/), June 7, 2013, Available at: <http://junkscience.com/2013/06/07/wapo-photo-fraud-this-is-not-carbon-dioxide/>, last retrieved, 9/12/2014.

<sup>74</sup> *Massachusetts v. Environmental Protection Agency*, 549 U.S. 497 (2007).



Following that opinion, then-Administrator Steve Johnson produced the “Johnson Memo” addressing how the EPA would treat CO<sub>2</sub> in the context of the “prevention of significant deterioration” or PSD program (specifically, whether the SCOTUS opinion it required CO<sub>2</sub> to be considered when granting “Prevention of Significant Deterioration” permits to new or upgraded power plants).<sup>75</sup> Emails obtained by CEI indicate that Johnson’s successor, Obama-appointee Lisa Jackson (later unmasked by CEI, using FOIA, as “Richard Windsor”), assumed her position fully intending to “reconsider” and reverse the Johnson memo’s findings, which she immediately set about doing,<sup>76</sup> bringing in the person with the greatest appearance of a conflict imaginable.

These emails also show that the national media either got wind of this decision or saw the writing on the wall in the form of the staff hires, and began inquiring about this potential, major policy reversal.<sup>77</sup> EPA officials informed the White House of these calls.<sup>78</sup> EPA spread the word that the line was to be that “The Administrator is reviewing the matter as she committed to do during her confirmation process.”<sup>79</sup>

---

<sup>75</sup> Robin Bravender, “EPA Sends 'Johnson Memo' Reconsideration on CO<sub>2</sub> Emissions to White House”, *New York Times*, March 5, 2010. Available at: [www.nytimes.com/gwire/2010/03/05/05greenwire-epa-sends-johnson-memo-reconsideration-on-co2-51429.html](http://www.nytimes.com/gwire/2010/03/05/05greenwire-epa-sends-johnson-memo-reconsideration-on-co2-51429.html), Last retrieved 2/28/2014.

<sup>76</sup> Fact Sheet -- Reconsideration of Former Administrator Johnson Interpretive Memo on Definition of Pollutants Covered Under the Clean Air Act, Available at: [epa.gov/nsr/fs20090930guidance.html](http://epa.gov/nsr/fs20090930guidance.html), last retrieved, 2/28/2014.

<sup>77</sup> These outlets were the New York Times [John Broder], Washington Post, Associated Press [“Dana” (likely Dina Cappiello)], and Greenwire). Email, From: Richard Windsor (Lisa Jackson), To: David Cohen, cc: Allyn Brooks-LaSure, Subject: Re: Post has checked in, 2/09/2009. Broder’s piece, E.P.A. Expected to Regulate Carbon Dioxide, came out February 19, 2009.

<sup>78</sup> Email, From: David Cohen, To: Richard Windsor (Lisa Jackson), cc: Lisa Heinzerling, David McIntosh, Subject: wh press-office conference call today, 02/09/2009.

<sup>79</sup> Email, From: David Cohen To: Roxanne Smith, Allyn LaSure, Richard Windsor (Lisa Jackson) Subject: roxanne: here’s the quote for post, 2/09/2009.

Jackson instructed her staff to “downplay” that EPA was considering such a move, despite or because of what now we plainly see as a predetermined outcome.<sup>80</sup> Indeed it was obviously a priority to avoid or head off any attention to what they were up to.<sup>81</sup> At the same time, in a separate but parallel move rushing to impose the rest of the “bankrupt” agenda, emails affirm that she — in a process run by Heinzerling in close coordination with former Al Gore aide, non-Senate-confirmed “Czar” and longtime climate crusader Carol Browner now ensconced in the White House — initiated the massive regulatory scheme targeting the country’s electricity supply. They set in motion something of a pincer movement, involving otherwise independent but parallel efforts also including the “endangerment” finding. The companion step, oddly enough but due to Clean Air Act arcana, involved regulating GHGs from automobiles, a “tailpipe” rule, which together set the rest of what followed in motion. Emails show Heinzerling urging to Jackson that, as they went through the motions on the endangerment finding, they need not wait for that in order to begin this the tailpipe rule, triggering of the “climate reg” cascade.<sup>82</sup>

---

<sup>80</sup> Email, From: Richard Windsor to David Cohen, Allyn, Brooks-Lasure, Subject: Post has checked in, 02/09/2009.

<sup>81</sup> Email, From: Richard Windsor (Lisa Jackson), To: David Cohen Allyn, Brooks-Lasure, Subject: Post has checked in, 2/09/2009 (and accompanying thread from ); Email, From: David Cohen, To: Richard Windsor (Lisa Jackson), cc: Lisa Heinzerling, David McIntosh, Subject: wh press-office conference call today, 2/09/2009; Email, From: Lisa Heinzerling, To: Allyn LaSure, David Cohen, David McIntosh, Subject: Fw: no quote from Administrator Jackson..., 02/09/2009; Email, From: David Cohen To: Roxanne Smith, Allyn LaSure, Richard Windsor (Lisa Jackson) Subject: roxanne: here’s the quote for post, 2/09/2009, Email, From: David McIntosh, To: Lisa Heinzerling, Allyn LaSure, David Cohen, Subject: no quote from Administrator Jackson, 02/09/2009 (partially redacted); Email, From: Lisa Heinzerling, To: Richard Windsor (Lisa Jackson), Subject: Fw: no quote from Administrator Jackson..., 02/09/2009 (partially redacted); Email, From: Richard Windsor (Lisa Jackson), To: Lisa Heinzerling, David McIntosh, Allyn, Brooks-Lasure (non-official account) Subject: Fw: no quote from Administrator Jackson..., 02/09/2009; Email, From: Michael Goo, To: Shannon Kenny, Subject: Re: Sierra, 05/18/2011 (only “thoughts?” and “Yes” left unredacted); Email, From: Gina McCarthy, To: Bob Perciasepe, Subject: Re: Sierra Club, 02/09/2011 (only “Sure” left unredacted).

<sup>82</sup> Email, From: Lisa Heinzerling, To: Richard Windsor, David McIntosh, Subject: Timing on final endt, 02/26/2014.

If Jackson et al. really had set about to *review* the matter, as opposed to having already made up their minds, they certainly waded through the complexities quickly. To this team the issue was decided, their positions of what the law really said were predetermined, as they had argued them on the outside before putting them into place on the inside.

The global warming agenda was Job 1, to be tackled right away, when most administrations are organizing their departments, with one side's leading advocate brought in immediately to create the framework. These emails which we — and, in separate requests for “Richard Windsor” emails, the Competitive Enterprise Institute — have obtained reflect discussions taking place less than 3 weeks after President Obama's inauguration. By February 8, 2009, Heinzerling — plainly driving the issue to which she had committed her professional life, but now *as* the government — provided Jackson “a memo on EPA's activities relating to power plants, prepared in anticipation of tomorrow morning's conference call with Carol Browner's team.”<sup>83</sup> By February 9, she provided Jackson a memo on getting a head start on regulating GHGs via the PSD process, apparently prescient about whether the Johnson memo would be reconsidered and, if so, how that would turn out.<sup>84</sup> By February 26, “endangerment” was so regularly discussed it was simply shorthanded internally as “endt”, and Heinzerling wrote to Jackson that, because of the requirement that various agencies review proposals (which they

---

<sup>83</sup> Email, From: Lisa Heinzerling, To: Richard Windsor and numerous others, Subject: EPA activities regarding power plants, 02/08/2014.

<sup>84</sup> Email, From: Lisa Heinzerling, To: Richard Windsor, Subject: PSD memo to regions, 02/09/2014.

intended to be “expeditious”), Jackson should expect the endangerment “determination” (it is true she did not say “finding”) by August, maybe slipping to September.<sup>85</sup>

In the end, for reasons substantive or breathtakingly political, this response to a “planetary emergency”, extraordinarily controversial reversal of decades of implementing the CAA, after an apparent Potemkin process of thoughtfully exploring the matter, emerged in December. It was announced, in an example of remarkable political kismet, precisely as Administrator Jackson headed to the Copenhagen “Kyoto” negotiations.<sup>86</sup> Appearances then, and now thanks to FOIA’d emails, are of a politically managed hero’s welcome— finally ending the long global nightmare of the Clinton and Bush administrations refusing to take this radical step — improperly presented as the product of regulatory inquiry and deliberation.<sup>87</sup>

More troubling still is that this was orchestrated by someone with an “unalterably closed mind” on the issue, who set this process in motion in a frenzied first few days after transitioning her advocacy from outside to in-house, casting serious doubt on the idea that there was actual deliberation over *whether*, *vs*, how and when. Heinzerling was the attorney who successfully argued *Massachusetts v. EPA* — “the lead author of arguments from a coalition of environmentalists and states claiming EPA had a legal obligation to address greenhouse gas

---

<sup>85</sup> Email, From: Lisa Heinzerling, To: Richard Windsor, David McIntosh, Subject: Timing on final endt, 02/26/2014.

<sup>86</sup> 40 CFR Chapter I Endangerment and Clause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act; Final Rule, Available at: [http://www.epa.gov/climatechange/Downloads/endangerment/Federal\\_Register-EPA-HQ-OAR-2009-0171-Dec.15-09.pdf](http://www.epa.gov/climatechange/Downloads/endangerment/Federal_Register-EPA-HQ-OAR-2009-0171-Dec.15-09.pdf). Last retrieved: 2/21/2014.

<sup>87</sup> Action Jackson: U.S. EPA Boss Gets Warm Welcome in Copenhagen, By: Keith Johnson, The Wall Street Journal, 12/09/2009, Available at: <http://blogs.wsj.com/environmentalcapital/2009/12/09/action-jackson-us-epa-boss-gets-warm-welcome-in-copenhagen>, Last retrieved: 03/05/2012.

emissions from vehicles”<sup>88</sup> — to culminate a years-long campaign of demanding that EPA adopt rules to cut carbon dioxide emissions, listed nowhere among the CAA’s many pollutants.

Rumors that Heinzerling would join the administration spread in ideological outlets from Talking Points Memo to Grist on January 26, 2009, and within two weeks she issued the aforementioned memos affirming her prior positions, but now as EPA’s. As noted, by February 13, 2009 it appears likely that Jackson had confronted, and signed off on, the appearances or reality of conflict (Heinzerling having already been brought on board by then, for whatever intended purposes, of course). Soon, Ms. Heinzerling reported, in a cryptic email attaching a memo about “pending items”, that “reinforcements have arrived”.<sup>89</sup> She thought they [rightly] would be more appropriate to “take over” her tasks,<sup>90</sup> though by then she had constructed the framework. Despite this email, which possibly reflects compunctions about problems her serving in this role, later correspondence reveals she remained involved and apparently also charge, e.g., informing Jackson of the expected timing.

This process represents the product of officials with unalterably closed minds — *here is our answer, now get us there* — to the exclusion of the prescribed opportunity for public input, if given shape by those environmentalist activists not brought into the administration, and shepherded by those who were. Therefore, it is a serial violation of the public’s constitutional right to an equal opportunity to participate in the rule making process.

---

<sup>88</sup> A story no longer available by Carbon Control News as quoted in Elana Schor, Talking Points Memo, January 26, 2009, <http://talkingpointsmemo.com/dc/report-lawyer-in-ca-emissions-case-to-join-epa>.

<sup>89</sup>Email, From: Lisa Heinzerling, To: Lisa Jackson, Eric Wachter, Robert Goulding, David McIntosh, Bob Sussman, Allyn LaSure, Subject: pending items, 02/10/2009.

<sup>90</sup> Id. As she stated in the email, “I hope and believe the moment has come to give someone else the opportunity to address these matters.”

The rules therefore are the products of an unlawful process. The documentary record that we (and CEI) have extracted, against concerted efforts to delay and deny transparency, demonstrates a predetermination to achieve a certain outcome — the “endangerment” finding as premise for regulating power plants’ GHG emissions, toward fulfilling candidate Obama’s pledge to “bankrupt” coal, and his subsequent, serial rationalizations to “finally make [renewable energy] profitable” (see discussion, *infra*). The decision and related decisions were made before any actual deliberation nominally underpinning the December 2009 “endangerment” finding.<sup>91</sup> From the very beginning, the administration was determined to promulgate these regulations, regardless of the balance of evidence. There plainly was no realistic chance of achieving any other outcome.

Ethics requirements prohibit financial conflicts of interest for those who leave government and thereafter seek to represent parties before government. However, they also demand that officials — who all are of course presumed to have experience and a perspective — must nonetheless remain open to evidence and argument when undertaking administrative action, which requires objectivity in execution. This objectivity is also a bedrock requirement and black-letter administrative law.

As regards the mere appearance of a conflict of interest, the remedy to avoid the conflict is recusal. Here we have the precise opposite of recusal: not only is EPA’s team stacked with committed outside activists bringing their movement in-house, but EPA placed an official in the lead role having the most glaring appearance of conflict conceivable.

---

<sup>91</sup> Email, From: Lisa Heinzerling, To: Richard Windsor (Lisa Jackson), Subject: information regarding PSD & GHG, 02/10/2014.

As dozens of emails show, the EPA culture, particularly at present, is one of ideological group-think which manifests itself in activism and alignment with outside special interests beyond mere sympathy. It is also inconceivable that any administration promulgating an agenda not blessed by the environmentalist and media establishments — say, something promoted by oil or defense contracting industries, staffed by lawyers and recently transplanted activists for such industries — would fail to confront widespread outrage and exposé. Indeed, for years green groups and particularly Al Gore made much of a chief of staff in the Bush White House’s Council on Environmental Quality having worked for an oil industry trade association. It is this relative silence over apparent collusion that only makes the exception, a New York Times story indicating that Natural Resources Defense Council had an equally improper role, so prominent.<sup>92</sup>

---

<sup>92</sup> Coral Davenport, “Taking Oil Industry Cue, Environmentalists Drew Emissions Blueprint“, New York Times, July 6, 2014, Available at: [http://www.nytimes.com/2014/07/07/us/how-environmentalists-drew-blueprint-for-obama-emissions-rule.html?\\_r=0](http://www.nytimes.com/2014/07/07/us/how-environmentalists-drew-blueprint-for-obama-emissions-rule.html?_r=0). Last retrieved 9/12/2014. We do note that Ms. Davenport leaves the assertion that NRDC is following “oil industry” successes as simply asserted, that is, assumed, not established.

## **Not Just Conflicting Rhetoric: EPA Conflicts of Interests Lead to Impermissible Results**

Consider also what the record demonstrates about the influence of those who remained behind in environmentalist pressure groups, and the problem their influence poses to the legitimacy of EPA regulations. Presently, the Obama administration faces claims that improper outside influence invalidates an EPA rule — though the complaint is by a left-of-center groups demanding investigation over possible industry influence on an EPA rule.<sup>93</sup> This report shows that those allegations and suggestions pale when compared with the documented lack of separation between environmentalist pressure groups.

From the Obama administration's earliest days, green pressure groups were heavily involved in laying the foundation of and, with disproportionate input, helping shape various related regulatory efforts. A coalition including Sierra Club as well as other activist groups such as Environment America, National Wildlife Federation, The Audubon Society, Environmental Integrity Project, and the Natural Resources Defense Council sought a meeting with Gina McCarthy, then EPA's Assistant Administrator in charge of the anti-coal campaign, seeking to get in on the ground floor of the suite of anti-coal regs soon known colloquially as the "train wreck".<sup>94</sup> Senior EPA staff were "certain Gina would want to meet with them."<sup>95</sup> John Stebbins,

---

<sup>93</sup> See "CREW Requests Investigation into Improper Industry Influence on the EPA's Renewable Fuel, May 22, 2014. Available at: <http://www.citizensforethics.org/legal-filings/entry/crew-requests-investigation-industry-influence-epa-renewable-fuel-standards>. Last retrieved 9/12/2014.

<sup>94</sup> Email, From: Sarah Saylor, To: Polk Williams, cc: David McIntosh, Subject: Earthjustice meeting request, 07/31/2009.

<sup>95</sup> Email, From: Don Zinger, To: Craig Beth, Subject: Fw: Earthjustice meeting request 8/02/2009.



the Senior Attorney for Sierra, took the lead in meeting with EPA.<sup>96</sup> His purpose in this first meeting was to ensure that “the modeling we are doing will be taken into consideration in establishing the initial attainment/non-attainment designation for the 1 Hour SOD NAAQS standard this year.”<sup>97</sup>

Unfortunately, it is difficult to know much else regarding the meeting’s influence, as the follow up emails are heavily redacted as “deliberative process”.<sup>98</sup> Regardless, as with all exemplars cited in this report, for perspective and to better hear how these efforts might be treated we suggest considering the language but in the context of, say, an oil industry meeting to ensure George W. Bush’s EPA considers its modeling, or whatever the appropriate parallel request or responsiveness might be in any given email’s case.

Perhaps more important than any other issues discussed in these documents are those in which EPA officials discuss issues related to the coal industry, matching the prominence Obama gave to coal with pre-inauguration vows to “bankrupt” that industry, specifically, using EPA regulations. This is also true because of the importance of coal as an energy source in America, as Europe is again being reminded of the importance of energy security and how their security has been harmed by pursuit of the “green energy economy”, which supposed European success President Obama expressly patterned his agenda after. In fact, he gave eight speeches citing to

---

<sup>96</sup> Email, From: Josh Stebbins, To: Cindy at OAR Invitations, Subject: Sierra Club Meeting with AA McCarthy -- SO2 Modeling. 06/14/2011.

<sup>97</sup> Id.

<sup>98</sup> Email, To: Richard Wayland, To: Janet McCabe, cc: Scott Mathias, Steve Page, Subject:Re: Sierra Club Meeting request with Gina on SO2 modeling, 6/15/2011.

Spain as a “clean energy economy” success story, for example, until that was exposed as untrue and the various European bubble he models his policies on ultimately burst.

This also is the regulatory arena where the administration’s currently operative public stance is most at odds with its actions. The EPA’s stance on regulating coal fired power plants, as stated by EPA Administrator Gina McCarthy, is that coal will still be viable,<sup>99</sup> a stance one would expect given that this must be the case under the law<sup>100</sup> and because it is now the stated position of the Obama White House.<sup>101</sup> Likewise, Janet McCabe, then a senior aide, and now McCarthy’s successor running the Air Office/anti-coal regulations, said in a hearing before the House Energy and Commerce Committee that “We are not saying you can’t build a new coal plant in America,” and that there will be a “clear regulatory path” for new coal plants to be constructed.<sup>102</sup> Like efforts to rewrite the vow to “bankrupt” coal-fired power plants, this runs directly contrary to express assertions of the president, who has repeatedly articulated the goal for this regulatory

---

<sup>99</sup> Lindsay Morris, “Coal to Remain Viable, says EPA's McCarthy at COAL-GEN Keynote” Power Engineering, Aug 15, 2012. Available at: <http://www.power-eng.com/articles/2012/08/coal-to-remain-viable-says-epas-mccarthy-at-coal-gen-keynote.html>, last retrieved 1/31/2014.

<sup>100</sup> See: 42 U.S.C. § 7479 (3).

<sup>101</sup> “W.H. says clean coal has future as energy source,” Politico, May 16, 2012, Darius Dixon. Available at: <http://www.politico.com/news/stories/0512/76354.html#ixzz2zvKItr8b>, last retrieved 4/25/2014.

<sup>102</sup> “EPA assailed on power plant regulations”, E2 Wire The Hill's Energy and Environmental Blog, November 14, 2013. Available at: <http://thehill.com/blogs/e2-wire/e2-wire/190269-epa-assailed-on-power-plant-carbon-regs>, last retrieved 1/31/2014.

agenda is to “finally make [renewables] profitable”.<sup>103</sup> Either he has consistently misstated his true objectives or he consistently told the truth about them. We believe it is the latter and that emails E&E Legal obtained affirmed that EPA’s regulations are indeed designed to “bankrupt” coal. Similarly, recall Vice-President Joe Biden when campaigning, “‘No coal plants here in America,’ he said.”<sup>104</sup>

This is problematic, not only for the American economy and the American consumer, but also for the legality of numerous EPA regulations created under these auspices, as the laws granting the authority to promulgate regulations do not allow for purely political decisions, favoring one industry or another, to drive rulemakings. House Energy and Commerce Committee Chairman Fred Upton (R-MI) characterizes the record as indicating “The EPA is

---

<sup>103</sup> Before a joint session of Congress, President Obama stated that “we need to ultimately make clean, renewable energy the profitable kind of energy.” Remarks of President Obama - As Prepared for Delivery Address to Joint Session of Congress, 2/24/2009. Available at: [http://www.whitehouse.gov/the\\_press\\_office/Remarks-of-President-Barack-Obama-Address-to-Joint-Session-of-Congress](http://www.whitehouse.gov/the_press_office/Remarks-of-President-Barack-Obama-Address-to-Joint-Session-of-Congress). Last retrieved 2/21/2014. On the eve of the vote on the “Cap and Trade” bill, he reiterated it, “The list goes on and on, but the point is this: This legislation will finally make clean energy the profitable kind of energy.” A Historic Energy Bill, Address by President Barack Obama, June 29, 2009. Available at: <http://www.whitehouse.gov/blog/A-Historic-Energy-Bill>. Last retrieved 2/21/2014. In his first speech before the United Nations General Assembly, he reaffirmed “We will move forward with investments to transform our energy economy, while providing incentives to make clean energy the profitable kind of energy.” Obama's Speech to the United Nations General Assembly, September 23, 2009, Available at: <http://www.nytimes.com/2009/09/24/us/politics/24prexy.text.html?pagewanted=all>. Last retrieved 2/21/2014. In his 2013 State of the Union Address, he explicitly stated that the purpose was to, “Speed the transition to more sustainable sources of energy.” Remarks by the President in the State of the Union Address, February 12, 2013. Available at: <http://www.whitehouse.gov/the-press-office/2013/02/12/remarks-president-state-union-address>, last retrieved 1/31/2014.

<sup>104</sup> Ben Smith, “Biden: No coal plants here in America”, Politico, September 23, 2008, [http://www.politico.com/blogs/bensmith/0908/Biden\\_No\\_coal\\_plants\\_here\\_in\\_America.html?showall](http://www.politico.com/blogs/bensmith/0908/Biden_No_coal_plants_here_in_America.html?showall). Retrieved 3/8/14.

<sup>105</sup> “EPA assailed on power plant regulations”, E2 Wire The Hill's Energy and Environmental Blog, November 14, 2013. Available at: <http://thehill.com/blogs/e2-wire/e2-wire/190269-epa-assailed-on-power-plant-carbon-regs>, last retrieved 1/31/2014.

holding the coal industry to impossible standards.”<sup>105</sup> The 2014 Democratic nominee for the Senate seat held by Sen. Mitch McConnell, Alison Lundergan Grimes, says the same thing.<sup>106</sup>

It is in the context of this confusion that we note Sierra Club’s “Beyond Coal” campaign has a stated objective perfectly aligned with candidate Obama’s vision.<sup>107</sup> Sierra prominently features on its website that its goal is “to prevent new coal plants from being built,” to “Retire one-third of the nation’s more than 500 coal plants by 2020,” and to “Keep coal in the ground.”<sup>108</sup> This is the principal objective of the green pressure group industry. Records we have obtained and cite to in this report document the Agency’s improperly close collaboration with Sierra Club on this agenda that EPA nonetheless denies.

---

<sup>106</sup> See e.g., Philip Bump, “Obama’s coal proposal gives Alison Grimes an excellent way to fight with him”, Washington Post, June 5, 2014, Available at: <http://www.washingtonpost.com/blogs/the-fix/wp/2014/06/05/obamas-coal-proposal-gives-alison-grimes-an-excellent-way-to-fight-with-him/>, Last Retrieved: 9/9/2014, quoting and linking to a Grimes radio ad, stating in part, “Your EPA is targeting Kentucky coal with pie-in-the-sky regulations that are impossible to achieve,” she says. “It’s clear you have no idea how this affects Kentucky.”

<sup>107</sup> Sierra’s “Beyond Coal” campaign started in 2002, See, Background “Beyond Coal”, Available at: [http://www.sierraclub.org/designarchive/factsheets/beyondcoal/090%20BC%20Campaign/high90\\_BeyondCoal\\_FactSheet.pdf](http://www.sierraclub.org/designarchive/factsheets/beyondcoal/090%20BC%20Campaign/high90_BeyondCoal_FactSheet.pdf), Last retrieved 2/7/2014. and was supercharged in 2008 when New York City Mayor Michael Bloomberg pledged to donate \$50 million over 4 years. See, Beyond Coal Campaign, mikebloomberg.com, Available at: <http://www.mikebloomberg.com/index.cfm?objectid=48E2BFF7-C29C-7CA2-F304E8E390F76209>, last retrieved 2/7/2014. As previously noted, their interest was also increased after given massive donations from the Natural Gas industry, accounting for a substantial part of their budget.

<sup>108</sup> “About Us”, Beyond Coal website. Available at <http://content.sierraclub.org/coal/about-the-campaign>, last retrieved 1/31/2014. This goal is not limited to Sierra Club. Recently, 17 assorted environmental pressure groups wrote a letter to President Obama, criticizing his use of the term “all of the above” with relation to energy policy in the 2014 State of the Union address, instead, preferring the end of all fossil fuels. Letter to President Barack Obama, January 16, 2014, from American Rivers, Clean Water Action, Defenders of Wildlife, Earthjustice, Energy Action Coalition, Environment America, Environmental Defense Fund, Friends of the Earth, League of Conservation Voters, National Audubon Society, National Wildlife Federation, Native American Rights Fund, Natural Resources Defense Council, Oceana, Physicians for Social Responsibility, Population Connection, Sierra Club, Voices for Progress. Available at: [http://action.sierraclub.org/site/DocServer/All\\_of\\_the\\_Above\\_letter\\_Jan\\_16\\_FINAL\\_corrected.pdf?docID=14881](http://action.sierraclub.org/site/DocServer/All_of_the_Above_letter_Jan_16_FINAL_corrected.pdf?docID=14881), last retrieved 1/31/2014.

It is noteworthy that every member of the EPA's senior leadership who has not made his or her career in the EPA or state level environmental agencies has a history of employment with green pressure groups, including most of the groups that expressly urged the executive branch to use all means it might conceive of to eliminate coal, and ultimately all hydrocarbon or "fossil" fuels. Indeed, the idea of a "revolving door" between government and corporations — other corporations, apparently — is a longstanding concern for good-government groups, on the political left in particular, and with good reason. Influence by any group with aligned interests, at the expense of other groups with different interests and the public's ability to equally participate, should be inherently suspect and is by definition excessive. It presages poor outcomes for the public-at-large.

These concerns are particularly acute when people rely on or provide a special role for former or possible future employers or business partners, i.e., a "conflict of interest," the mere appearance of which must be avoided when making decisions impacting the general welfare.<sup>109</sup> Indeed, Obama himself railed against the "revolving door" and claimed to have ended the problem, declaring that "On my first day in office, we closed the revolving door between lobbying firms and the government so that no one in my administration would make decisions

---

<sup>109</sup> See e.g., Executive Order 12674, (Apr. 12, 1989): Principles of Ethical Conduct for Government Officers and Employees available at [http://www.oge.gov/Laws-and-Regulations/Executive-Orders/Executive-Order-12674-\(Apr--12,-1989\)---Principles-of-Ethical-Conduct-for-Government-Officers-and-Employees/](http://www.oge.gov/Laws-and-Regulations/Executive-Orders/Executive-Order-12674-(Apr--12,-1989)---Principles-of-Ethical-Conduct-for-Government-Officers-and-Employees/); e.g., "(e) Employees shall put forth honest effort in the performance of their duties....(h) Employees shall act impartially and not give preferential treatment to any private organization or individual...(n) Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards promulgated pursuant to this order."

based on the interests of former or future employers.”<sup>110</sup> Records E&E Legal has obtained show the door simply revolves to different corporations, though now with more tangible impacts than Mr. Obama ever demonstrated, in addition to the appearance he has railed against.

Despite such rhetoric this “revolving door” — and the appearance of conflicts of interest it entails — is clearly a problem within the Obama Administration EPA. Its current and past senior leadership were drawn from the ranks either of career state or federal bureaucracies or environmental activist groups. These are not mutually exclusive of course and sometimes appointees have bounced back and forth between the two.<sup>111</sup> Those few that aren’t either career bureaucrats or former green pressure group employees are academics affiliated with these groups in their academic and consulting capacities.<sup>112</sup> What’s more, senior employees who exit Obama’s EPA often find themselves employed by those same environmental pressure groups with which they just finished colluding, directly contrary to President Obama’s statement that he had “closed the revolving door,” so that “no one in my administration would make decisions

---

<sup>110</sup> Barack Obama rails against Supreme Court 'strike on democracy' , By: Malachy Browne, 1/24/2010. Available at: [http://politico.ie/index.php?Itemid=878&catid=232:world&id=6190:barack-obama-rails-against-supreme-court-decision-on-electioneering&option=com\\_content&view=article](http://politico.ie/index.php?Itemid=878&catid=232:world&id=6190:barack-obama-rails-against-supreme-court-decision-on-electioneering&option=com_content&view=article), last retrieved 2/10/2014.

<sup>111</sup> See Appendix A for a long list of various EPA officials and their histories working for green pressure groups, as well as others of interest to this report, as well as certain important current members of these groups that are actively lobbying their former colleagues at the EPA. Additionally, as far as our research shows, there is not a single person in a leadership position at the EPA during the Obama Administration who has any significant experience in business, as a labor leader, or even in elected office. Every political appointee, for whom there is available information concerning their employment history, is either a career government bureaucrat at the federal or state level, or someone who works for various environmental pressure groups. The only exception to this rule is former Region 6 Administer Al Armendariz, who had previously made his career as an academic. Nonetheless, Armendariz was still a frequent consultant for several environmental pressure groups, and listed several prominent members of these groups as references on his resume. See Appendix C – Armendariz Resume.

<sup>112</sup> See Appendix C – Armendariz Resume, and discussion of Lisa Heinzerling bio, FNs 16, 27.

based on the interests of former or future employers.”<sup>113</sup> One stark example addressed in more detail later is former Region 6 Administrator Al Armendariz<sup>114</sup> who, in the words of his EPA colleagues, departed for Sierra Club to “run their anti-coal campaign,” in the very region where he until then ran EPA’s anti-coal campaign, with the very same groups he had been working with.<sup>115</sup>

The emails cited herein and obtained via FOIA requests clearly demonstrate what can be reasonably expected: people who spend years or decades trying to do something as activists, then migrate into government, are hired for who they are and what they have done — and, plainly, what they still hope to do both in and after government service. Another obvious manifestation of this is found in Lisa Heinzerling; while it would be absurd to presume these appointees arrive in their positions with no perspective or experience, they must approach their positions willing to reconsider the issues or accept alternative points of view. If this is the case with Obama’s EPA appointees it does not immediately present itself; the evidence is that they served far less as “experts” than committed activists, determined to perform the same objectives but this time *as* government.

---

<sup>113</sup>“Barack Obama rails against Supreme Court 'strike on democracy'”, By: Malachy Browne, Politico, 1/24/2010. Available at: [http://politico.ie/index.php?Itemid=878&catid=232:world&id=6190:barack-obama-rails-against-supreme-court-decision-on-electioneering&option=com\\_content&view=article](http://politico.ie/index.php?Itemid=878&catid=232:world&id=6190:barack-obama-rails-against-supreme-court-decision-on-electioneering&option=com_content&view=article), last retrieved 2/10/2014.

<sup>114</sup> For example, *See* Sierra Club Welcomes Dr. Al Armendariz to Beyond Coal Campaign, Press Release 6/29/2012, Available at: [http://action.sierraclub.org/site/MessageViewer?em\\_id=244561.0](http://action.sierraclub.org/site/MessageViewer?em_id=244561.0), last retrieved 2/10/2014.

<sup>115</sup> Email, From: Arvin Ganesan, To: Richard Windsor ((Lisa Jackson’s false-identity email account), Gina McCarthy, Bob Perciasepe, Diane Thompson, Brendan Gilfillan, Bob Sussman, Laura Vaught, Subject: Al Armendariz. 6/27/2012.

The problem is that this zeal does not liberate them from the requirement of an open mind. They are the wrong people for the wrong job; EPA is allowed to regulate, but not these people, not this way.

In other instances involving senior advisors the Obama EPA made what have the appearance of gestures toward avoiding obvious, formal (associational) conflicts of interest when bringing in activists from outside pressure groups — such that, *e.g.*, a former Sierra Club activist would liaise with Natural Resources Defense Council, and vice versa, though still with former allies and colleagues with whom they worked together on the issues. So Sierra’s John Coequyt worked regularly with former NRDC official Michael Goo to stop “Zombie” coal plants from being resurrected,<sup>116</sup> still collaborating as colleagues to *e.g.*, provide Goo with inventories of plants the Sierra, NRDC et al. groups want taken off-line and which EPA’s regulatory regime is, by sheer coincidence, forcing off-line.<sup>117</sup> These two met near constantly, it would seem

---

<sup>116</sup> Email, From: John Coequyt, To: Michael Goo, Alex Barron, Subject: Zombies, 4/29/2011.

<sup>117</sup> *See* Email, From: John Coequyt, To: Alex Barron, Joseph Goffman, Michael Goo, Subject: Fwd: [International-Coal] 1,200 MW White Stallion Coal Plant CANCELLED, 02/15/2013.



according to these emails, and when they were not meeting they were corresponding.<sup>118</sup> Nothing changed after one moved in-house except that some of them had formal roles in developing then publishing the agenda in the Federal Register in the form of regulations.

What's more, the unalterably closed mind of these officials creates situations where they "entirely failed to consider an important aspect of the problem," which courts have found can nullify a rulemaking.<sup>119</sup> Ostensibly, numerous of Obama's major environmental regulations are in pursuit of mitigating climate change by limiting man's contribution of CO2 emissions to the global CO2 budget,<sup>120</sup> which we are told by some defenders is the most "urgent" problem that we

---

<sup>118</sup> Email, From: John Coequyt, To: Michael Goo, Subject: Re: John, 3/31/2011. Email, From: Michael Goo, To: John Coequyt, Subject: John, March 31, 2011, 3/31/2011. Email, From: John Coequyt, To: Alex Barron, Subject: Do you have a phone number? 04/01/2011. Email, From: Alex Barron, To: John Coequyt, Subject: Re: Do you have a phone number? 4/1/2011. Email, From: John Coequyt, To: Alex Barron, Subject: Can we chat today, 8/17/2011. Email, From: John Coequyt, To: Alex Barron, Subject: Re: Do you have 5mn to chat after 2pm? 5/29/2012. Email, From: John Coequyt, To: Alex Barron, Subject: Do you have 5mn to chat after 2pm? 5/29/2012. Email, From: John Coequyt, To: Alex Barron, Subject: You have a minute to chat this afternoon? 6/22/2012. Email, From: Michael Goo, To: Alex Barron, Subject: General Discussion 3513A, Required: Alex Barron, John Coequyt, 08/30/2012. Email, From: John Coequyt, To: Alex Barron, Subject: Can we talk today? 6/01/2012. Email, From: Arvin Ganesan, To: Michael Goo, Subject: Fw:fw: Thursday, 10/10/2011. From: John Coequyt, To: Michael Goo, Subject: Accepted: General Discussion, 8/29/2012. Email, From: John Coequyt, To: Michael Goo, Subject: Accepted: Meeting w/Coequyt See Notes, 5/15/2012. Email, From: Michael Goo, To: John Coequyt, Subject: Re: Meeting Request for Next Week, 5/12/2012. Email, From: John Coequyt, To: Michael Goo, Subject: Meeting Request for Next Week, 05/11/2012. Email, From: Michael Goo, To: Alex Barron, John Coequyt, Subject: Update: Meeting w/Coequyt & Joanne - See Notes, 5/14/2012. Email, From: John Coequyt, To: Alex Barron, Subject: I have a quick question if you have a minute, 07/05/2012. Email, From: John Coequyt, To: Michael Goo, Subject: Lunch friday with Walke and I? 8/21/2012. Email, From: Michael Goo, To: John Coequyt, Subject: Re: Lunch friday with Walke and I? 8/21/2012. Email, From: Robin Kime, To: John Coequyt, Subject: Fw: Michael, 8/29/2012. Email, From: Robin Kime, To: John Coequyt, Subject: Re: Michael, 8/29/2012. Email, From: Robin Kime, To: John Coequyt, Subject: Michael, 8/29/2012. Email, From: John Coequyt, To: Robin Kime, Subject: Re: Michael, 8/29/2013. Email, From: Robin Kime, To: John Coequyt, Subject: Re: Michael, 08/29/2012. Email, From: John Coequyt To: Robin Kime, Subject: Re: Michael, 08/29/2012. Email, From: John Coequyt, To: Alex Barron, Subject: Can we chat? 9/24/2012.

<sup>119</sup> *Louisiana-Pacific Corp. v. United States EPA*, 281 Fed. Appx. 877, 878 (11<sup>th</sup> Cir. 2008) (citing *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

<sup>120</sup> See, What EPA is Doing, Available at: <http://www2.epa.gov/carbon-pollution-standards/what-epa-doing>. Last retrieved 3/4/2014.

face.<sup>121</sup> However, under no scenario would this actually lead to lower global levels of CO<sub>2</sub>, let alone any computer-modeled, detectable climatic impact. This consensus view includes even assuming the “global treaty” Kyoto Protocol, is perfectly implemented for 100 years.<sup>122</sup>

Activist-laden EPA and its third-party allies proceeded with numerous such regulations despite knowing they would have no impact on the asserted problem being addressed — climate change — and completely ignoring the economic problems caused by these regulations, which by law must be considered.<sup>123</sup> The rule represented a shared political or ideological vision — what Heinzerling and Lisa Jackson agreed was “progressive policy” — but a vision that most certainly cannot impact climate change in any meaningful way no matter that that claim is the cover under which they have decided to promote that “progressive policy”. It was, as the administration acknowledged, about “oil addiction”, “green jobs” and “clean energy”,<sup>124</sup> but would not actually impact what it nominally addressed. It was regulation in support of the progressive political agenda, as they candidly admit to themselves then misrepresent to Congress

---

<sup>121</sup> See, Oral Arguments of Solicitor General Donald Verilli, *Utility Air Regulatory Group v. EPA*, heard Monday, 02/24/2014, “And there really is an urgency here, you know, that's part of what's driving EPA in this situation, of course, is understanding that this is an urgent environmental problem.” Available at: [http://www.supremecourt.gov/oral\\_arguments/argument\\_transcripts/12-1146\\_nk5h.pdf](http://www.supremecourt.gov/oral_arguments/argument_transcripts/12-1146_nk5h.pdf), last retrieved: 03/06/2014. See also numerous assertions by Secretary of State John Kerry.

<sup>122</sup> All computer model projections upon which EPA basis its rule, related rules, and otherwise agree on this, which also was admitted by former EPA Administrator Lisa Jackson before the Senate Environment and Public Works Committee, *i.e.*, “U.S. action alone will not impact world CO<sub>2</sub> levels.” *Jackson Confirms EPA Chart Showing No Effect on Climate Without China, India*, Senate Committee on Environment and Public Works, July 7, 2009. Available at: [http://www.epw.senate.gov/public/index.cfm?FuseAction=Minority.PressReleases&ContentRecord\\_id=564ed42f-802a-23ad-4570-3399477b1393](http://www.epw.senate.gov/public/index.cfm?FuseAction=Minority.PressReleases&ContentRecord_id=564ed42f-802a-23ad-4570-3399477b1393). Last retrieved: 2/21/2014.

<sup>123</sup> See 42 U.S.C. § 7479 (3), which reads in part, that when mandating new technology, “economic impacts and other costs,” must be taken into account.

<sup>124</sup> See *e.g.*, Press Release, “EPA Rejects Claims of Flawed Climate Science”, US EPA, 7/29/2010, <http://yosemite.epa.gov/opa/admpress.nsf/7ebdf4d0b217978b852573590040443a/56eb0d86757cb7568525776f0063d82f!OpenDocument>, last visited September 1, 2014.

and the public insisting it is instead about science, in the face of science “deniers” who wish children to suffer and the rest of the environmentalist litany of human and iconic “shields” employed to avoid open debate.

This desire to use regulatory agencies to impose an ideological agenda altered and likely explains the Agency’s decision to not consider the balance of interests. Senior EPA appointees came to EPA already decided on this course of action, and immediately set about to bring it about. Other perspectives were not granted the right of equal consideration, and supporting voices were given an improper role. The rules adopted under this process are plainly unlawful.

The reasons for claiming intervention warding of a climate crisis as opposed to openly arguing their regime represents “progressive national policy” are obvious, and political. The same reasons led to the rhetorical switch from an open “war on coal”, to denying it and claiming it was (still, impermissibly) about “finally making [politically selected industries] profitable”, in part by “bankrupt[ing] those they had politically de-selected. While popular among green pressure groups, is well outside the political mainstream, is highly questionable as a legal matter in addition to there being no indication the public supports it. To the contrary, the re-branding followed repeated invocation of the “bankrupt” and “necessarily skyrocket” vows during political debate, seemingly contributing to the defeat of “cap-and-trade” in Congress despite large partisan majorities, followed by loss of the House which passed the bill. After the 2010 “shellacking”, that numerous important “swing” states, such as Pennsylvania, Colorado, Ohio, New Mexico and Virginia, have significant coal industries became a consideration. Losing any one of these was dangerous for Obama’s re-election efforts; losing several would almost certainly have cost him the 2012 election.

The rhetoric had to change, even if the agenda and commitment did not. Instead, it was left to the green groups to work with EPA to bring about the shared agenda that was rejected when tried through the proper democratic process. Even though EPA downplayed its actions, the issue posed a threat to the Obama Administration. The Obama campaign still won the necessary states, although he did poorly in coal heavy regions.<sup>125</sup> Unfortunately, the voters never really had a chance to be properly informed on this issue, not only due to the administration obscuring the issue but because of EPA delays. While it is difficult to know why the EPA went to such extraordinary lengths to stonewall our requests for the documents discussed in this report, it is notable they successfully delayed disclosure until after voters cast their ballots in 2012.

Regardless, this EPA agenda is not grounded in the *urgency of a climate crisis*, but is admittedly to bring about the economic viability of politically favored industries and the end of politically disfavored industries. It amounts to little but a massive and rather naked transfer of wealth from one industry to another and the destruction of wealth for average Americans on behalf of a vague and distant ideological goal. And, the subject of this report, this agenda is pursued in a manner presenting numerous appearances of conflicts of interest.

---

<sup>125</sup> President Obama emerges bruised but victorious in 'coal war'", Politico, By: Eric Martinson and Darren Goode, November 11, 2012. Available at: <http://www.politico.com/news/stories/1112/83561.html>, last retrieved 4/25/2014. Congressmen Mark Critz (D-PA) and Ben Chandler (D-KY), both representing coal industry heavy districts, were both defeated in 2012, in spite of having survived the Republican-heavy 2010 mid-term elections, and in spite of Democrats doing well nationally in 2012, in large part because their opponents argued they were too close to the anti-coal policies of the Obama Administration.

## Specific Conflicts of Interests at EPA

That current and recent leadership at the EPA is rife with conflicts of interests or the appearance thereof, mainly by former employees of environmental pressure groups that lobby the EPA on a nearly continuous basis as is well known throughout EPA. In one email, Bob Perciasepe, the (now recently departed) Deputy Administrator of the EPA, copied an EPA spokesman on an article citing Perciasepe as a conflicted individual, given that he is a former Chief Operating Officer of the National Audubon Society (and, in true revolving door fashion, before that he had a previous stint at the EPA).<sup>126</sup> Sent to Perciasepe by an apparent critic, the piece was titled “EPA Probes for Conflicts of Interest Should Start In Their Own Building, Tallahassee”, and Perciasepe apparently wanted the aide to be ready to respond.<sup>127</sup> The item noted 13 high-level EPA officials including 6 of 10 regional administrators all of whom had previously worked for the various “green” groups with which EPA was partnering to advance a

---

<sup>126</sup> See Open Secrets – Robert Perciasepe, at: [http://www.opensecrets.org/revolving/rev\\_summary.php?id=24591](http://www.opensecrets.org/revolving/rev_summary.php?id=24591), Last retrieved 2/19/2014.

<sup>127</sup> Email, From: Bob Perciasepe, To: Brendan Gilfillan, Subject: Fw: Article, 05/21/2012. Forwarding “EPA Probes for Conflicts of Interest Should Start In Their Own Building”, May 17, 2012, Article available at: <http://www.freemarketamerica.org/media-2/press-releases/58-epa-probes-for-conflicts-of-interest-should-start-in-their-own-building.html>, Last retrieved 2/12/2014.

shared agenda.<sup>128</sup> The article only noted the potential for conflicts, meaning the appearance and need for proceeding carefully and with a willingness to recuse.

The records we obtained confirmed that they manifested themselves in improper collusion and otherwise preferential treatment to green group allies, be they former employees or groups they partnered with in their previous employment with these groups.

Many of the 13 officials remain in their jobs, while the EPA promoted others or, in some cases, they were promoted elsewhere in the Obama Administration, such as Michael Goo, who was heavily involved in various rulemakings on greenhouse gasses<sup>129</sup> and later moved over to the Department of Energy to work on similar issues.<sup>130</sup>

---

<sup>128</sup> The officials listed, an illustrative but non-exclusive universe, are: Nancy Stoner, Interim Assistant Administrator of Water, Formerly Worked for: Natural Resources Defense Council. Glenn Paulson, Chief Scientist, Formerly Worked for: Natural Resources Defense Council. Michael L. Goo, Associate Administrator for the Office of Policy, Formerly Worked for: Natural Resources Defense Council. Bob Perciasepe, Deputy Administrator, Formerly Worked for: National Audubon Society. Cynthia Giles, Assistant Administrator for Enforcement & Compliance, Formerly Worked for: The Conservation Law Foundation's Advocacy Center. Michelle J. DePass, Asst. Administrator for the Office of International and Tribal Affairs, Formerly Worked for: The New York City Environmental Justice Alliance. Mathy Stanislaus, Assistant Administrator for Solid Waste Formerly Served on the Board of: NYC Environmental Justice Alliance. Curt Spalding, Region 1 Director, Formerly Worked for: "Save the Bay" and "Narragansett Bay Keeper". Judith A. Enck, Region 2 Director Formerly Worked for: New York PIRG and Environmental Advocates of New York. Susan Hedman, Region 5 Director. Formerly Worked for: Environmental Law and Policy Center and Center for Global Change. Karl Brooks, Region 7 Director, Formerly Worked for: Idaho Conservation League. James B. Martin – Region 8 Director, Formerly Worked for: Environmental Defense Fund. Jared Blumenfeld – Region 9 Director, Formerly Worked for: Sierra Club Legal Defense Fund, the NRDC and International Fund for Animal Welfare.

<sup>129</sup> See, e.g.: Email, From: John Coeuyt, To: Michael Goo, Lorie Schmidt, Shannon Kenny, Alex Barron, Subject: NSPS green group letter, 9/20/2011. From: Lena Moffitt, To: Alex Barron, Subject: Have a second talk NSPS? 7/29/2011. Email, From: John Coeuyt, To: Joseph Goffman, Rohan Patel, Michael Goo, Jonathan Lubetsky, Subject: FYI. GA Power Plant Development, 04/10/2012. Email, From: John Coeuyt, To: Michael Goo, Subject: Fwd: new source brief, 7/23/2012. Email, From: Michael Goo, To: Alex Barron, Subject: Fw: new source brief, 7/24/2012.

<sup>130</sup> Robin Bravender, Katherine Ling, "Cool kids' jump to Moniz's new policy shop", E&E News, November 12, 2013. Available at: <http://www.eenews.net/stories/1059990330>, Last retrieved 2/19/2012.

These emails show EPA's Joe Goffman was the outreach and liaison to Sierra Club for EPA's "Air Office", which has responsibility for the anti-coal regulations. Goffman is a veteran of more than a dozen years with the Environmental Defense Fund (and was "a member of the board of directors of the Environmental Resources Trust, a not-for-profit organization" affiliated with EDF, Audubon, and lobbyist C. Boyden Gray, "to create innovative market-based projects and transactions that yield environmental benefits."<sup>131</sup>). Goffman acknowledged in one email that he pushed Sierra requests regarding "New Source Performance Standards for GHG emissions" outside of "normal channels".<sup>132</sup>

Goffman is to whom Gina McCarthy turned for "Sierra Club's no coal person."<sup>133</sup>

Conflicts of interest and special treatment for Sierra Club and related green pressure groups run throughout EPA's team. EPA's failure to recuse those individuals with clear conflicts of interest, *e.g.*, former EDF counsel Goffman and NRDC counsel Goo, from all advisory and decision-making activities and liaising with former close working colleagues at the Sierra Club, shatters any pretense of impartiality by EPA. Impartiality is in fact a requirement of regulating.

Other known conflicts within EPA's senior policy circle include the infamous former Region 6 Administrator Al Armendariz — an EPA official involved in EPA's regulation of

---

<sup>131</sup> Goffman Bio, <http://nicholas.duke.edu/cgc/seminars/goffman-1.pdf>, last accessed 3/7/14. *See also:* Environmental Resources Trust, [http://www.sourcewatch.org/index.php?title=Environmental\\_Resources\\_Trust](http://www.sourcewatch.org/index.php?title=Environmental_Resources_Trust), last accessed 4/25/2014.

<sup>132</sup> Email, From: Joseph Goffman, To Patricia Embrey and four others including Rob Brenner, Subject: Fw: New Source Performance Standards for GHG emissions, 9/26/2010.

<sup>133</sup> Email, From: Gina McCarthy, To:, Joseph Goffman, Subject: FYI — March 2 — Attendee List for Meeting with ODEQ — Re: PSO Plans to Meet Air Quality Rules, 02/22/2012.

greenhouse gases<sup>134</sup> who resigned after a video surfaced of him saying his philosophy was to “crucify” energy companies,<sup>135</sup> has readily admitted that he had a conflict of interest with the Sierra Club,<sup>136</sup> certain officials of which he prominently listed on his resume,<sup>137</sup> and with which activist group he was also improperly involved in high-level meetings.<sup>138</sup> Other emails confirm this fact was known by others in the EPA as well, although his input in this situation was redacted (claims about the involvement being “deliberative” obviously proving too much, specifically that Armendariz was involved in policy decision making when he should not have been).<sup>139</sup>

Likewise, Armendariz prominently listed himself as a “technical advisor” to WildEarth Guardians while he was a Professor at Southern Methodist University.<sup>140</sup> You wouldn’t know these things from his failures to recuse himself properly once he took his agenda in-house to the Obama EPA. Emails E&E Legal obtained show Armendariz in continuous contact and

---

<sup>134</sup> See e.g., Meeting Email, From Janet McCabe, Subject: GHG discussion, “Required: Al Armendariz”, “Where: Environmental Defense Fund”. 12/13/2010.

<sup>135</sup> Darren Samuelsohn and Erica Martinson, “Armendariz exits EPA quickly after 'crucify' video”, Politico, April 30, 2012. Available at: <http://www.politico.com/news/stories/0412/75760.html>, Last retrieved 2/3/2014.

<sup>136</sup> Email, From: Al Armendariz, To: Bub Sussman, CC: Larry Starfield, Bob Perciasepe, Janet McCabe, Gina McCarthy, Subject: Re: Summit Power 11/14/2010.

<sup>137</sup> See Appendix C, Armendariz Resume.

<sup>138</sup> Email, From: Janet McCabe, Subject: GHG discussion, 12/13/2013.

<sup>139</sup> Email, From: Al Armendariz, To: Lawrence Starfield, cc: Suzanne Murray, Layla Mansur, Subject: Re: IMPORTANT - new Complaint for infrastructure SIPs for 1997 8-hor ozone NAAQS - information needed for CD, 11/04/2010 (partially redacted).

<sup>140</sup> See Appendix C, Armendariz Resume.



frequently meeting with former client WEG in the person of Jeremy Nichols.<sup>141</sup> It is clear both by numerous allusions in the emails, as well as Nichols's position as Director of WEG's Climate and Energy Program,<sup>142</sup> that the regularly discussed energy issues related to EPA's role in regulating coal and energy production/use.

In Armendariz's case, the revolving door completed its circle, dropping him off at Sierra Club after exposure of his carrying on with the green-group approach at EPA led to inevitable resignation.<sup>143</sup> Yet before his new job with Sierra Club was publicly announced, Sierra Club called Arvin Ganesan, the Deputy Chief of Staff for Policy at the EPA, and informed him, as Ganesan put it in an email giving EPA colleagues a heads-up, that Armendariz "has accepted a job with the Sierra Club and will run *their anti-coal campaign* in the Texas region."<sup>144</sup> (emphasis added) Ganesan then explained in an email that "Sierra Club will NOT be making this announcement Friday afternoon, but this has the potential to spill out before then."<sup>145</sup>

---

<sup>141</sup> Email, From: Al Armendariz, To: Jeremy Nichols, 12/8/2009. From: Jeremy Nichols, To: Al Armendariz 12/8/2009. Email, From: Jeremy Nichols, To: Alarmendariz, Subject: Re: Congrats, 7/13/2010. Email, From: Al Armendariz, To: Jeremy Nichols, 2/13/2010. Email, From: Jeremy Nichols, To: Al Armendariz, cc: Joyce Runyan, Subject: Congrats, 7/13/2010. Email, From: Al Armendariz, To: Jeremy Nichols, Subject: Re: Congrats 7/23/2010. Email, From: Al Armendariz, To: Jeremy Nichols, 7/24/2010. Email, From: Jeremy Nichols, To: Al Armendariz, Subject: Re: change of plan, 7/24/2010, this list is not exhaustive, but just a sample of emails discussing meetings and discussions.

<sup>142</sup> Meet our Staff, WildEarth Guardians, Available at: [http://www.wildearthguardians.org/site/PageServer?pagename=about\\_staff#.UxDE6YWimSo](http://www.wildearthguardians.org/site/PageServer?pagename=about_staff#.UxDE6YWimSo), Last Retrieved 2/28/2014.

<sup>143</sup> Darren Samuelsohn and Erica Martinson, "Armendariz exits EPA quickly after 'crucify' video", *Politico*, April 30, 2012. Available at: <http://www.politico.com/news/stories/0412/75760.html>, Last retrieved 2/3/2014.

<sup>144</sup> Email, From: Arvin Ganesan, To: Richard Windsor (Lisa Jackson), Gina McCarthy, Bob Perciasepe, Diane Thompson, Brendan Gilfillan, Bob Sussman, Laura Vaught, Subject: Al Armendariz 6/27/2012.

<sup>145</sup> *Id.*

The internal acknowledgement of a group as “anti-coal” which EPA was dealing with in developing its anti-coal regulations, that it flatly denied were part of a war on coal, is instructive regarding EPA’s candor. Two days later, when Sierra made the news of Armendariz’s move public, current EPA chief and then-Air Office chief Gina McCarthy shared her relief that the bad timing<sup>146</sup> could have been worse had it come out before that morning.<sup>147</sup> Why that is is found in a quick search, revealing that the previous day the House Committee on Oversight and Government Reform held a hearing on the abusive practice of “sue-and-settle” — whereby EPA and green groups collude to file and resolve litigation thereby obtaining a court’s blessing of a result EPA could never get through the regulatory process with public participation and subject to constitutional protections and judicial challenge.<sup>148</sup> That same day, the House Committee on Energy and Commerce held a hearing on a separate EPA move to further tighten Clean Air Act rules as grew-group allies demanded,<sup>149</sup> and the next day — “this AM” — it held one on EPA’s GHG regulations.<sup>150</sup>

---

<sup>146</sup> See The American Energy Initiative: A Focus on the New Proposal to Tighten National Standards for Fine Particulate Matter, House of Representatives Committee on Energy and Commerce, June 28, 2012. Available at: <http://energycommerce.house.gov/hearing/american-energy-initiative-focus-new-proposal-tighten-national-standards-fine-particulate>, last retrieved: 9/12/2014.

<sup>147</sup> Goffman: “thank heaven this did not come out before this AM”; McCarthy: “I know. Bad enough now”. 6/29/09 email exchange between Gina McCarthy and Joe Goffman, produced to the Competitive Enterprise Institute in response to FOIA 2012-EPA-2012-001343.

<sup>148</sup> See Mandate Madness: When Sue and Settle Just Isn’t Enough, House Committee on Oversight and Investigations, June 28, 2012. Available at: <http://oversight.house.gov/hearing/mandate-madness-when-sue-and-settle-just-isnt-enough/>, last retrieved 9/12/2014

<sup>149</sup> See The American Energy Initiative: A Focus on the New Proposal to Tighten National Standards for Fine Particulate Matter, House of Representatives Committee on Energy and Commerce, June 28, 2012. Available at: <http://energycommerce.house.gov/hearing/american-energy-initiative-focus-new-proposal-tighten-national-standards-fine-particulate>, last retrieved 9/12/2014.

<sup>150</sup> See The American Energy Initiative: A Focus on EPA's Greenhouse Gas Regulations <http://energycommerce.house.gov/hearing/american-energy-initiative-focus-epas-greenhouse-gas-regulations-0>, last retrieved: 9/12/2014.

If the news of Armendariz's re-turn through the revolving door had come out, EPA then would have had to actually respond to questions, and not merely issue statements, about his and others' improperly close and collusive relationships with ideologically aligned groups (ones on which EPA also lavishes taxpayer dollars), with neither EPA nor these groups recognizing any practical distinction between or limitations on the collaboration with the Agency and the special interest.

These relationships, and the movement of personnel back and forth between green pressure groups and EPA, support the picture painted even with purely internal correspondence we obtained that senior EPA officials had their minds made up before they came to EPA and offered no indication they were receptive to other outlooks, or challenging information.

These emails inarguably present impermissible conflicts of interest and a clear pattern of improper collusion, improper influence, and a lack of real opportunity for others to have input into, or equal opportunity to comment on, EPA's rulemaking processes. The minds of senior Obama EPA appointees, implementing a costly and admittedly (among themselves, in email) ideological agenda, were closed. EPA's rule are plainly unlawful.

## **EPA, Sierra Club — “Pants on Fire” & Too Close for Comfort**

Even more important than the conflicts and appearances of conflicts of interest tainting the process are the actions taken by EPA officials regarding these regulations. Emails obtained as part of this production demonstrate that officials closely aligned with outside environmental pressure groups, especially the Sierra Club, colluded with members of these groups to achieve a predetermined outcome, the end of the coal industry through EPA regulation.

To grasp the knowing bias and expected outcome of their agenda, public protestations notwithstanding, consider two illustrative emails involving Assistant Administrator for Policy Michael Goo and Senior Advisor in the Office of Policy Alex Barron. In one, Director of the Sierra Club’s “Beyond Coal” campaign, John Coequyt, emails Goo and Barron joking about that public stance, specifically characterizing Gina McCarthy’s claim that coal would not suffer under EPA’s agenda as a “pants on fire” lie (per Politifact, a “statement is not accurate and makes a ridiculous claim”).<sup>151</sup> In another, purely internal email, EPA is still withholding what appears to be a three to five word quip by Barron, representing all that he wrote in response to Goo, about a Politico article “Will EPA’s greenhouse regs wipe out coal?”<sup>152</sup>

Here, EPA is transparently and implausibly buying time by withholding the reply as privileged “deliberative process”. Such moves notwithstanding these emails make plain that it is understood within EPA and its green-group collaborators that the shared regulatory agenda, which also are the product of improperly close collaboration, is one that EPA employee and

---

<sup>151</sup> Email, From: John Coequyt, To: Michael Goo, Alex Barron, forwarding article headlined, “Coal to Remain Viable, says EPA’s McCarthy at COAL-GEN Keynote”. See <http://www.politifact.com/>. 08//16/2012.

<sup>152</sup> Email, From: Alex Barron, To: Michael Goo, Subject: Will EPA’s greenhouse regs wipe out coal? 03/28/2012 .

pressure group activist alike know are not intended to leave coal “viable”, that Ms. McCarthy is misrepresenting to the public what those involved in the regulatory process know in private to be the objective.

Coequyt also prominently boasted to EPA officials of the plans for power plants put on hold by EPA’s actions on this shared agenda; he also expressed anxiety that a standard might be written that would allow certain new plants to come back online, which plants he labeled “Zombie’s” [sic]. “Attached is a list of plants that the companies said were shelved because of uncertainty around GHG regulations. If a standard is set that these plants could meet, there is not a small chance that the company could decide to revive the proposal.”<sup>153</sup> Coequyt had reason to believe his persistence in supplying EPA with such materials was welcome.<sup>154</sup> We do know, for example, that his EPA partner Barron shared Coequyt’s concerns, and corresponded back asking for further information and, critically, disseminating the email to other EPA officials involved in the process; they in turn followed up on the lobbying. For example, Michael Goo’s assistant followed up specifically seeking a copy and certain information in the attachment for inclusion in EPA briefing materials.<sup>155</sup>

The fear that some plants might still be able to operate remained one of Coequyt’s chief concerns regularly communicated to top EPA officials, whose replies also indicated interest. In a

---

<sup>153</sup> Email, From: John Coequyt, To: Michael Goo, Alex Barron, Subject: Zombie’s[sic] 4/29/2011 02:35PM.

<sup>154</sup> Email, From: John Coequyt, To: Alex Barron, Subject: Check this out, 8/17/2011. Email, From: John Coequyt, To: Alex Barron, Subject: Numbers. 9/07/2011. Email, From: John Coequyt, To: Alex Barron, Subject: Check this out, 8/17/2011. From: John Coequyt, To: Alex Barron, Subject: You are looking at this, right? 9/07/2011.

<sup>155</sup> Email, From Robin Kime, To: Verma Irving, Subject: May I please have 1 copy of this email and tab 1 of the attachments, 3 hole punched? Thanks!, 4/29/2011, forwarding Coequyt’s “Zombie’s” email/spreadsheets.

later 2011 email, Coequyt bragged to Barron of the numbers of coal plants they had stopped. “Here is the official word from the Beyond Coal Campaign. You can cite us for internal use for sure. 153 defeated/26 progressing.”<sup>156</sup> The same email went on to predict 70% of the plants remaining on the drawing board would be stopped as well. This hint that Barron, Goo and others were Sierra’s advocates but officially *as government* is not an isolated instance.

They worked to minimize the record of these dealings, holding meetings off-site at the Starbucks at the J.W. Marriott hotel across the street from EPA, avoiding the need to sign Coequyt into the Agency’s logs (where the curious might look for such a record of meetings),<sup>157</sup> and requesting that meetings be placed in the calendar as “general”.<sup>158</sup>

Goo also would work Sierra’s interests from the inside arranging meetings with others on various issues.<sup>159</sup> He personifies the problem of EPA’s conflicts, of being the environmentalists’ guy in the Agency, one of numerous officials in the senior ranks (Goo having moved over to the Department of Energy in 2013). As a former NRDC activist he would have worked closely on a

---

<sup>156</sup> Email, From: Alex Barron, To: Shannon Kenny, Paul Balsarak, Al McGartland, David A. Evans, Subject: Fw: Zombie’s [sic]. 4/29/2011, 07:51pm. Al McGartland is the Office Director for the National Center for Environmental Economics (NCEE) at the EPA, Shannon Kenny is the Acting Principal Deputy Associate Administrator at the EPA, Paul Balsarak is a Policy Analyst at the EPA, and David A. Evans, an economist at the NCEE. This suggests that he was informing economists and policy analysts of Coequyt’s fear that some plants might be economically viable if they wrote the rule “wrong,” and wanted to ensure this didn’t happen.

<sup>157</sup> Email, From: Robin Kime To: John Coequyt Subject Re: Michael, 8/29/12; Email, From: Michael Goo, To: Alex Barron, John Coequyt, Subject: Update: Meeting w/Coequyt & Joanne- See Notes, 5/14/12.

<sup>158</sup> Email, between administrative assistants Robin Kime Jacqueline Poole, regarding discussion that day between Coequyt and Goo at Coequyt’s suggestion — “Your back, we should chat” [sic], “If this is added to the calendar can you please call it ‘General’?” 02/08/2013.

<sup>159</sup> Email, From: Michael Goo, To: Bob Perciasepe, Teri Porterfield, Subject: Fw: Meeting with Bob Perciasepe. 12/06/2012.; 01/10/2013 Email from Michael Goo to administrative assistant Robin Kime, forwarding Coequyt correspondence asking “Can you set something up for us with Bob P. Maybe next week?” to which Goo replied “Yeah lemme do that.” Subject: Fw: Should we meet soon on SO2?

shared agenda with Sierra Club before he brought his efforts in-house to EPA.<sup>160</sup> In this position Goo tells Sierra “I am always happy to meet with you guys” when they are in the building for other purposes<sup>161</sup> — also meeting with Sierra and NRDC at the same time<sup>162</sup> — distributes information of importance to Sierra throughout EPA’s senior ranks, meets with Sierra’s representatives at the Marriott Hotel across the street, and runs interference or otherwise facilitates meetings for Sierra activists with other senior EPA officials.

Amusingly, in one email Sierra Club’s Lena Moffitt emailed Goo, Alex Barron and senior aide Arvin Ganesan to thank them for meeting with Sierra to discuss how the Agency and Sierra could stop the proposed Keystone XL pipeline — not an issue in EPA’s domain except to contribute to an inter-agency consultative process. Meeting in person — be it at the Marriott or in EPA’s offices — is less convenient than simply sharing advice by email, though it has obvious benefits. Which benefits Moffitt proceeded to undermine somewhat (who knows how much), reiterating noting in her “thank you” email Goo’s counsel. Apparently, that was that they wanted help “further identifying those opportunities for EPA to engage that don’t involve ‘throwing your body across the tracks,’ as Michael put it.”<sup>163</sup> So much for meeting in person to avoid putting such discussions in writing.

---

<sup>160</sup> Email, From: John Coequyt, To: Michael Goo, Subject: NSPS Meeting with Green Group and Gina. 1/13/2012; see also 1/31/2013 email from Coequyt to Goo about 2/06/13 meeting between Sierra and EPA’s Janet McCabe, asking if Goo will attend.

<sup>161</sup> Email, From: Michael Goo to John Coequyt, Subject: Meeting. 8/29/2012.

<sup>162</sup> Email, From: John Coequyt, T: Michael Goo, Subject: Lunch friday with Walke and I?, 8/21/2012; Email, From: Michael Goo to John Coequyt, Subject: Lunch friday with Walke and I?. 8/21/2012, “I’ve got lunch with Melanie. How about tomorrow or thursday?”

<sup>163</sup> Email, From: Lena Moffitt (Sierra Club) To: Michael Goo, Arvin Ganesan, Alex Barron, Subject: Nice to see you. 09/29/2011. *See also*, Email, From Lena Moffitt, To: Alex Barron, Subject: Re: Johanns and KXL, 05/31/2011.

While the closest relationships were obviously between Coequyt, Barron and Goo, they were not exclusive. Coequyt bemoaned to Goo how things are worse at EPA when Goo is gone,<sup>164</sup> exclaimed “Wtf” to him when it emerged that EPA would not promise to finalize its regulations before the 2012 elections,<sup>165</sup> and other Sierra Club staffers emailed EPA asking for updates for the reason that they were out of the loop whenever Coequyt was away.<sup>166</sup> He also had close relationships with other top EPA officials and communicated with them on various other plant closures and other issues.<sup>167</sup> There is a circle of EPA officials across various offices who would correspond with each other and with, e.g., Coequyt, on issues ranging from personal matters (sometimes copying other green group activists<sup>168</sup>), to issues involving their aligned agenda — sharing a gloat, for example, over EPA’s winning streak in the courts,<sup>169</sup> sharing

---

<sup>164</sup> Email, From: John Coequyt, To: Michael Goo, Subject: You Having fun in Sweden? 02/07/2013. “No fun around here these days. Seems to only get worse at EPA.”

<sup>165</sup> Email, From John Coequyt To: Arvin Ganesan, Michael Goo, Subject: Fw: Probably not news to you... 01/19/2012.

<sup>166</sup> Email, From: Lena Moffitt (Sierra Club) To: Michael Goo, Subject: Have a second to talk NSPS? 07/29/2011. “Wanted to check in with you to see where things stand. We’ve been a bit out of the loop over here with John on vacation.”

<sup>167</sup> From: John Coequyt, To: Michael Goo, Arvin Ganesan, Alex Barron, Joseph Goffman, Joel Beauvais, Subject: Fwd: Update on White Stallion plant ("transitional source"), 11/29/2012. Email: From: Joseph Goffman, Subject: Meeting with Sierra Club, Required: Joanne Spalding, John Coequyt, Kevin Culligan, Optional Amit Srivasta, 8/30/2012.

<sup>168</sup> See e.g., Email, From: John Coequyt, To: Alex Barron, Alexandra Teitz, Arvin Ganesan, Shannon Kenny, Lorie Schmidt, John Walke, Jessica Maher, Michael Goo, Subject: Check out the photo of Michael and Debbie. 07/05/2012.

<sup>169</sup> See Email, From: John Coequyt, To: Arvin Ganesan, Michael Goo, Lorie Schmidt Subject: EPA Wins.... 07/20/2012.

<sup>170</sup> See Email, From: Michael Goo To: John Coequyt, Subject: Re: Fwd: MATS New Source Case: Held in Abeyance. 09/13/2012. Responding to Goo email.



thanks for specific court victories,<sup>170</sup> and expressing mutual concern over growing House opposition to the shared agenda.<sup>171</sup>

Others included on these emails are members of organizations with whom certain EPA officials, such as Goo, have at minimum the appearances of conflicts of interests.<sup>172</sup> Coequyt updated top EPA officials on Sierra Club PR efforts to influence reporting on various issues, and the media outcomes from hearings they both worked on.<sup>173</sup> EPA officials responded by helping “amplify” Sierra’s message via social media by forwarding a Sierra advocacy effort that was turned into a Time magazine article.<sup>174</sup> Indeed, Sierra Club’s president emailed this to Jackson at her personal, Verizon email account, from which she called “cool amplification” of their shared message in forwarding it to EPA, again for “amplification”, bringing the term “echo chamber” to mind. Coequyt also emailed the Time story to EPA officials across various offices with a note, “FYI. This turned out well...”<sup>175</sup>

---

<sup>171</sup> See Email, From: Michael Goo To: John Coequyt, Subject: Re: Block EPA power plant limits, 221 House members urge OMB. 02/23/2012. Responding to Coequyt email.

<sup>172</sup> In addition to others cited herein see e.g., Email, From: John Coequyt, To: Michael Goo, Arvin Ganesan, Joseph Goffman, Alexandra Teitz, Alex Barron, Lorie Schmidt, Jonathan Lubetsky, Shannon Kenny, Subject: Fwd: Big Day in DC - EPA Hearing Summary and Thank You! 5/25/2012.

<sup>173</sup> Email, From: Elena Saxonhouse, To: David Doniger, Joanne Spalding, Megan Ceronsky, Ann Weeks, John Coequyt, Subject: Update on White Stallion plant ("transitional source") 11/29/2012. From: John Coequyt, To: Michael Goo, Subject: Fwd: Should someone from SC listen to this? I cannot. Fwd: [CLEAN] Webinar: NRDC Presents: Closing the Power Plan Carbon Pollution Loophole, 12/14/2012

<sup>174</sup> Email, From: Lisa Jackson, To: Alisha Johnson, Brendan Gilfillan, Michael Moats, Seth Oster, Adora Andy, David McIntosh, Michael Goo, Gina McCarthy, Subject: Fw: TIME's Bryan Walsh on his Sierra Club-sponsored mercury test, 4/14/2011.

<sup>175</sup> Email, From: John Coequyt, To: Michael Goo, Alex Barron, David McIntosh, Arvin Ganesan, Lorie Schmidt, Joel Beauvais, Subject: (Blank) 4/13/2011.

In fact EPA regularly directly collaborates with these green pressure groups on public advocacy efforts aligned with supporting their shared agenda. These emails show it was this EPA's *modus operandi*.

Gina McCarthy specifically requested officials reach out to groups “we normally work with when we have a message developed.”<sup>176</sup> Deputy Administrator Bob Perciasepe arranged to coordinate with two dozen groups including Sierra to help them continue to have greater influence in the process, and specifically to aid the groups’ and EPA’s shared regulatory agenda (“the purpose is to create a photo-op and narrative beat for the comment gathering efforts on the issue. Groups will use materials from the event to communicate with supporters and recruit additional comment signers via newsletter, emails and social media”).<sup>177</sup> In these emails EPA acknowledges both its formulaic opposite of arresting the usual suspects — get the band back together, this being the usual cheerleaders and echo chamber — and being part of the groups’ recruiting, affirming there was simply no practical distinction between them or their interests. They worked together on a near continuous basis and shared the same agenda, namely, to “bankrupt” a disfavored industry as promised by the president, while a candidate, to “finally make” uneconomic energy producers and sources “profitable”.

---

<sup>176</sup> Email, From: Gina McCarthy, To: Beth Craig, cc: Don Zinger, Steve Page, Subject: Fw: Oil Burning, 4/29/2010.

<sup>177</sup> Email, From: Bob Perciasepe, Subject: Deputy administrator's Meeting with Enviros - receipt of 500,000 communications.

## **EPA/Sierra Collusion on Rules, Permits**

In addition to the plant-specific targeting and advocacy Sierra Club was able to interest EPA in, other email evidence demonstrates that EPA closely coordinated with groups, particularly Sierra, concerning specific regulations and permits. One notable example is the recent New Source Performance Standards (NSPS) rule, a rule that mandates certain technological standards for stationary power plants (the Clean Air Act being a technology-based regime, that is, allowing the regulator to set standards based upon what technologies are available, per EPA).<sup>178</sup> On this, Sierra leaders could and did often sit down with top EPA officials, giving them reports and studies for their personal consideration (instead of simply using the official record like the rest of the world).<sup>179</sup> Sierra had access directly to top EPA officials, namely McCarthy and Perciasepe as well as Robert Sussman, concerning the NSPS rule,<sup>180</sup> on which they worked toward the same ends. When it was clear that the House-passed cap-and-trade legislation was not going to proceed in the Senate, and when confronted with a petition to block a permit for an existing coal-fired power plant, McCarthy sought a specific summary of

---

<sup>178</sup> Email, From: John Coequyt, To: Michael Goo, Lorie Schmidt, Shannon Kenny, Alex Barron, Subject: NSPS green group letter, 9/20/2011. From: Lena Moffitt, To: Alex Barron, Subject: Have a second talk NSPS? 7/29/2011. Email, From: John Coequyt, To: Joseph Goffman, Rohan Patel, Michael Goo, Jonathan Lubetsky, Subject: FYI. GA Power Plant Development, 04/10/2012. Email, From: Steve Page, To: Gina McCarthy cc: Peter Tsirigotis, Subject: Re: NSPS, 4/27/2010. Email, From: Gina McCarthy, To: Steve Page, Peter Tsirigotis, cc: Janet McCabe, Joseph Goffman, Subject: NSPS, 4/27/2010.

<sup>179</sup> Email, From: John Coequyt, To: Michael Goo, Subject: Fwd: new source brief, 7/23/2012. Email, From: Michael Goo, To: Alex Barron, Subject: Fw: new source brief, 7/24/2012. Email, From: Steve Page, To: Gina McCarthy cc: Peter Tsirigotis, Subject: Re: NSPS, 4/27/2010. Email, From: Gina McCarthy, To: Steve Page, Peter Tsirigotis, cc: Janet McCabe, Joseph Goffman, Subject: NSPS, 4/27/2010.

<sup>180</sup> Email, From: John Coequyt, To: Michael Goo, Subject: NSPS Meeting with Green Group and Gina, 1/13/2012. Email, From: Cynthia Browne, To: Gina McCarthy, cc: Amit Srivastava, Don Zinger, Julia Miller, Subject: Dinner, Sierra Club 5/31/2011. Email, From: Cynthia Browne, To: Gina McCarthy, cc: Amit Srivastava, Don Zinger, Julia Miller, Subject: Dinner, Sierra Club 5/31/2011. Email, From: Steven Page, To: Gina McCarthy, Subject: Accepted: Meeting with Sierra Club, EDF, and NRDC.

Sierra's arguments why GHG are already regulated under the Clean Air Act.<sup>181</sup> This is the same instinct she showed in another instance for granting a separate permit that EPA officials felt they needed because the plant in question was to use the CCS technology, something that EPA depends upon claiming is viable for purposes of future rule makings.<sup>182</sup> Also, regarding other National Ambient Air Quality Standards (NAAQS), numerous heavily redacted emails suggest that any concern from the Sierra Club prompted fear amongst more junior EPA officials.<sup>183</sup>

Sierra's Coequyt provided EPA staff with suggested reading material on NSPS, which Goo accepted and indicated he would consider, and then forwarded to Alex Barron to ensure he had it.<sup>184</sup> Coequyt made sure Goo, Barron and two other EPA contacts received copies of *e.g.*, the "NSPS green group letter", and energy efficiency regulation.<sup>185</sup> Coequyt sought to ensure that Goo would staff meetings Sierra held with senior EPA officials; a reasonable surmise for this practice is that Coequyt felt Goo would serve Sierra's interests well, if on EPA's side of the table. Similarly, Goo and Coequyt both found Barron to be a kindred spirit.

---

<sup>181</sup> Email, From: Beth Craig, To: Patricia Embrey and Jeffrey Clark, Subject: Clean Air Act Title V Petition - Big Stone. 8/05/2009. Craig wrote, "Is it possible to put together a short summary of the arguments that the Sierra Club made on why GHG are currently regulated under the CAA? Gina would like to get a copy. It is the Issue#3 section of the attached", which summary was prepared and Craig then forwarded (attachment not provided by EPA), "Gina, As requested."

<sup>182</sup> *See e.g.*, Email, From: Gina McCarthy, To: Rob Brenner, Subject: Fw: Draft Permit for Summit Power, 10/27/2010.

<sup>183</sup> Email, From: Mike Thrift, To: Sarah Schneeberg, cc: Janet McCabe, Kevin McLean, Michael Ling, Scott Mathias, Richard Wayland, Subject: Re: Fw: April 12, 2012 Letter. 06/06/2012.

<sup>184</sup> *See e.g.*, Email thread involving From Michael Goo and John Coequyt Subject: "new source brief", 7/23/2012; forwarded by Goo to Barron 7/24/2012.

<sup>185</sup> *See e.g.*, Email, From: John Coequyt, To: Michael Goo, Lorie Schmidt, Shannon Kenny, Alex Barron, Subject: NSPS green group letter"; Email, From: John Coequyt, To: Michael Goo. *See also, e.g.*, Email, From: John Coequyt, To: Michael Goo, Subject: Letter. 1/09/2012 (attachment not provided by EPA); Email from Alex Barron to Shannon Kenny, Subject: Re: Can one of you make 3 copies of the paper we got on mdv if EE and variations in heat rate, discussing "The sierra club thing" [sic] that "Goo wants to give one to kevin" [sic].

McCarthy<sup>186</sup> and Sussman<sup>187</sup> reciprocated this closeness, seeking direct input from Sierra on various issues, including on “power plants” and various power plant permitting issues (something that under the Administrative Procedure Act ought to be closer to a quasi-judicial proceeding than a rulemaking). During the same period that the green groups were conferring with EPA officials on NSPS, Bob Perciasepe met with “the head of the Sierra Club” Michael Brune when EPA Administrator Jackson “suggested Mike get in touch,” which he did through John Coequyt and his former colleague, now close contact in EPA Michael Goo.<sup>188</sup>

---

<sup>186</sup> Email, From: Gina McCarthy, To: Bob Perciasepe, Subject: Re: Sierra Club, 02/09/2011, heavily redacted as “deliberative process”, but including *e.g.*, “Yes we should call. Let’s discuss in morning and one of us will call” (Perciasepe in response to redacted McCarthy assertions/question); numerous others also show McCarthy working with the groups, from emails arranging meetings to dinner at the Metropolitan Club to hosting meet-and-greet events for their officials to saying she is in regular personal contact with them.

<sup>187</sup> *See discussion, supra. See also*, Email, From: Beth Craig, To: Bob Sussman, Subject: Re: Power Plant Information, 3/23/2009. “Dear Bob, Attached for your review is follow up information from our meeting with the Sierra Club on power plant permitting...Looking forward to having a discussion about this document and next steps” (attachment not produced by EPA). Meeting Email, From: Bob Sussman, To: Beth Craig, Bruce Nilles, David Bookbinder, Richard Ossias, Steve Page, Subject: Coal Plant Permits. 2/27/2009 (meeting on 3/02/2009); Email, From: Bob Sussman, To: Adam Kushner, Beth Craig, Steve Page, Richard Ossias, Bill Harnett, Subject: Re: David Bookbinder— Cliffside Plant. 4/06/2009 (relating a conversation with Sierra’s Bookbinder but redacting almost the entirety of the substance as “deliberative process”).

<sup>188</sup> Email, From: Michael Goo, To: Bob Perciasepe, Teri Porterfield, Subject: Fw: Meeting with Bob Perciasepe. 12/06/2012.

## **EPA/Sierra Collusion on State Level Bureaucratic Decisions**

One episode concerning Duke Energy's Cliffside (North Carolina) Plant is further illustrative of the sort of close collaboration between ideological pressure groups and EPA leadership. It shows how all Sierra needed to do was bring its concerns to EPA and they became EPA's concerns. It is also illustrative of the EPA's lack of transparency.

Duke Energy sought a permit for its Cliffside Plant implicating EPA's mercury "MACT" standards. The Clean Air Act allows states to implement this, although the Obama EPA is increasingly seizing state autonomy.<sup>189</sup> In this case, the state regulator's permit for the plant was on the verge of being approved. When Sierra Club became aware of this fact, they contacted Bob Sussman. In an email to various EPA officials, Sussman explained "I had a brief conversation with David Bookbinder of the Sierra Club...He reminded me of our earlier discussion on coal plant permitting and specifically highlighted mercury MACT issues at the Duke Cliffside plant in NC. Apparently the company redid its applicability analysis to show that mercury emissions were below the major source threshold and the NC permitting agency has accepted this analysis. David believes the analysis is questionable technically."<sup>190</sup> (Sierra had provided Sussman with their analyses in followup to that meeting one month before<sup>191</sup>).

Sussman goes on to wonder if they should intervene in a state regulatory affair since it might set

---

<sup>189</sup> The Obama EPA has so far issued 52 Federal Implementation Plans; the three preceding administrations issued 5 in total. See William Yeatman, "How the EPA Is Undermining Cooperative Federalism under the Clean Air Act", Competitive Enterprise Institute, September 2, 2014, <http://cei.org/content/how-epa-undermining-cooperative-federalism-under-clean-air-act>.

<sup>190</sup> Email: From: Bob Sussman, To: Beth Craig, Steve page, Richard Ossias, Adam Kushner, Bill Marnett, cc: Lisa Heinzerling, Subject: David Bookbinder – Cliffside Plant. Date: 4/3/2009.

<sup>191</sup> See Email, From: Bruce Niles, To: Bob Sussman, Richard Ossias, Beth Craig, David Bookbinder (Sierra Club), Subject: C02 BACT, and same day, Subject: Co2 BACT comments we filed on gas plants in CA. 03/03/2009 .

a precedent, asking other officials, “Are we engaged in looking at the Cliffside permits? Might we want to take a look at the MACT applicability analysis because it could set a precedent for mercury controls at other new plants?”<sup>192</sup>

Translation: Sierra’s concerned about this, maybe we should be, too? The answer apparently was yes, although EPA’s emails are heavily redacted.<sup>193</sup> Just weeks later, EPA’s A. Stanley Meiburg, Acting Regional Administrator for Region 4, which includes North Carolina, sent a letter to Dee Freeman, Secretary of the North Carolina Department of Environment and Natural Resources, expressing the exact “concerns” Sierra’s Bookbinder shared with Sussman.<sup>194</sup>

EPA produced this same email chain twice as a result of EELI requests. In one version, the first paragraph of Sussman’s email concerning his discussion with Bookbinder was redacted, and EPA released only the second paragraph. In another version, the first paragraph was viewable, while EPA redacted the second, which concerned EPA’s potential actions. It is debatable if the second paragraph is properly withheld as “deliberative” under FOIA laws, while the first plainly is not deliberative. In any event, the episode shows the tangled web EPA weaves when clinging to information in public records, leading to a culture of obfuscating what on its face is a very troubling relationship between green pressure groups and the EPA is very strong.

---

<sup>192</sup> Id.

<sup>193</sup> Email: From: Adam Kushner, To: Bob Sussman, Beth Craig, Steve Page, Richard Ossias, Bill Harnett, cc: Lisa Heinzerling, Subject: Re: David Bookbinder – Cliffside Plant. Date: 4/5/2009.

<sup>194</sup> Letter: From: A. Stanley Meilburg, To: Dee Freeman, cc: B. Keith Overcash. Date: April 30, 2009. In Appendix C.

## **EPA/Sierra Collusion on Rule Comments**

Emails also show that EPA officials actively work to give the Sierra Club a leg up in placing comments into the regulatory record, beyond what others in the public would be granted.<sup>195</sup> Marie Bergen, a regional Sierra Club employee, forwarded a petition on carbon dioxide rules to John Coequyt, who in turn forwarded them to Alex Barron and Jonathan Lubetsky at the EPA, asking if the petition could be included, even though “many of [them] were signed before the comment period officially opened. They wanted to make sure you all included them in your tally of supporters.”<sup>196</sup> EPA and activists kicked around this petition to various officials until it was submitted for comment.<sup>197</sup> This habit of including comments from the Sierra Club that were submitted before the comment period opens continues, with the NSPS rulemaking still underway as of this writing. A recent search of the record made showed 41

---

<sup>195</sup> Email, From: Marie Bergen, To: John Coequyt, Subject: Carbon Rule Comments for EPA from Change.org, 6/13/2012.

<sup>196</sup> Email, From: John Coquyt, To: Jonathan Lubetsky, Subject: Fwd: Carbon Rule Comments for EPA from Change.org, 06/20/2012.

<sup>197</sup> Email, From: Kevin Culligan, To: Alex Barron, Subject: Re:Fw: Carbon Rule Comments for EPA from [change.org](http://change.org), 06/20/2012.



comments on the NSPS rule from Sierra Club members that were written before the current rulemaking was opened in November, 2013,<sup>198</sup> but are nonetheless included in the record.<sup>199</sup>

Other examples exist of EPA officials acting unilaterally to ensure Sierra input was part of another rulemaking targeting coal-fired power, again showing favoritism and potentially violating the law beyond merely including comments before the period was open. Stephanie Kodish of the Clean Air Counsel emailed a report on behalf of Sierra Club and other green groups<sup>200</sup> to Gina McCarthy, Janet McCabe, and Phil Lorang at the EPA concerning a reduction in “regional haze” — a controversial effort by EPA usurping authorities granted the states under the Clean Air Act that at least one court has indicated is likely to fail under challenge by the states. Nearly three weeks later, Janet McCabe asked other EPA employees if it was going into the record for the BART rulemaking.<sup>201</sup> EPA’s Phil Lorang replied that he didn't see it on the

---

<sup>198</sup> Standards of Performance for Greenhouse Gas Emissions for New Stationary Sources: Electric Utility Generating Units, Available at: <http://www.regulations.gov/#!docketDetail;D=EPA-HQ-OAR-2013-0495>, Last retrieved 3/3/2014.

<sup>199</sup> *See*, Comments submitted by Sierra Club email system: W. Elton, submitted on 10/01/2013; Charles Walker, 10/31/2013; Dr. Lawrence Thomas, 10/13/2013; Ms. Betty Shore, 10/29/2013; Mr. James Mast, 10/30/2013; Ms. Robin Thompson, 10/29/2013; Joshua Rushhaupt, Sierra Club Rocky Mountain Chapter Director, 10/30/2013; Ms. Cynthia Patrick, 10/27/2013; Mrs. Margaret Weimer, 10/28/2013; Mrs. GB Tefft, 10/27/2013; Wendy Scott, 10/30/2013; Thomas van Thiel, 10/18/2013; Mr. Ned Flaherty, 10/27/2013; Mr. Richard Kiefer, 10/18/2013; Susan Matteson, 10/18/2013; Ms. Deborah Miller, 10/12/2013; Mr. Edwin Hurwitz, 10/18/2013; Ms. Shoshana Blank, 10/25/2013; Mr. Ned Flaherty, 10/07/2013; Mr. George Costich, 10/22/2013; Ms. Savannah Dominguez, 10/10/2013; Mr. James Franzen, 10/24/2013; Mr. Curt Bessette, 10/22/2013; Mr. Philip Gasper, 10/24/2013; Ms. Susan Kallman, 10/23/2013; Mrs. Dawn Olney, 10/11/2013; Mr. Steve Delapp, 10/22/2013; Mr. Tom Howell, 10/22/2013; Mr. Brendon Bass, 10/23/2013; Mr. Robert Hyer, 10/22/2013; Ms. Susan Westervelt, 10/7/2013; Ms. Marcia Geyer, 10/21/2013; Mr. Charles Carreon, 10/22/2013; Mr. Mark Va, 10/22/2013; Mr. Jake Hodie, 10/21/2013; Ms. Carol Stark, 10/22/2013; Mr. Edson Udson, 10/22/2013; Mr. Rudy Perpich, 10/22/2013; Mrs. Dorothy Funk, 10/24/2013; Mr. JP Smith, 10/22/2013; Dr. Kenneth Reiszner, 10/22/2013.

<sup>200</sup> Email, From: Stephanie Kodish, To: Gina McCarthy, Janet McCabe, Phil Lorang, Subject: Cleaning up the Haze Report, 1/31/2012.

<sup>201</sup> Email, From: Janet McCabe, To: Phil Lorang, Anna Wood, Subject:Fw: Cleaning up the Haze Report, 2/19/2012.

docket, but “It is on [EPA staffer] Martha’s To Do list to get it into the docket if Stephanie does not submit it directly.”<sup>202</sup> On another occasion, Sierra Club’s Elena Saxonhouse provided current Air Office chief Janet McCabe with Sierra’s comments on NSPS and the Two Elk power plant permit, which McCabe acknowledged and forwarded to Goffman, while encouraging Saxonhouse to make sure she formally got them on the record as well.<sup>203</sup>

Similar to this preferential treatment is the above-cited pipeline Sierra had to get its various concerns and materials directly to the Deputy Director, who then engaged the Agency to act on them.

If opponents fail to follow required process, that failure is EPA’s excuse to ignore them. But, of course, opponents are different than ideologically aligned partners. The EPA’s willingness to submit comments for the “Public Docket”<sup>204</sup> on behalf of supportive pressure groups when those same groups do not do so themselves further illustrates that EPA sees little distinction between itself and its pressure group allies.

---

<sup>202</sup> Email, From: Phil Lorang, To: Janet McCabe, Anna Wood, Martha Keating, Subject: Re: Fw: Cleaning up the Haze Report, 2/19/2012.

<sup>203</sup> Email, From: Janet McCabe, To: Elena Saxonhouse, Joe Goffman, Subject, Re: Two Elk power plant & NSPS comments, 10/01/2012.

<sup>204</sup> Id.

## EPA/Green Group Collusion on Public Hearings

Another illustrative example of the lack of separation between EPA and green pressure groups, such that they are mere extensions of each other pursuing a shared agenda, involves the siting of public hearings on regulations to get the most favorable audience possible for their agenda. Vicki Patton of the Environmental Defense Fund (EDF) emailed James Martin,<sup>205</sup> a former Senior Attorney with EDF for eight years who moved his practice in-house to the Obama EPA as Region 8 Administrator (Rocky Mountain West).<sup>206</sup> In a remarkable reverse-flow of information, Patton gave the heads up to this senior EPA official on new EPA greenhouse gas rules being proposed the next day, offering input on where EPA and apparently EDF should arrange the required field hearings.<sup>207</sup>

Patton's suggestions of where to hold these hearings were locations where the participation would be heavily skewed to pro-EPA activism,<sup>208</sup> which was too much even for Martin who realized one suggested city, San Francisco, has no coal plants and another, Seattle, only has one that is being phased out. "Choosing either may create opportunities for the industry to claim EPA is tilting the playing field."<sup>209</sup> These emails reveal no mention of concern that the

---

<sup>205</sup> Notably, she contacted Martin on his private account, the use of which later led to Martin's resignation. *See*: Press Release: Vitter: EPA Lied about Region 8 Administrator's Email Use, Senate Committee on Environment and Public Works. Available at: [http://www.epw.senate.gov/public/index.cfm?FuseAction=Minority.PressReleases&ContentRecord\\_id=4ba862dc-c7d0-158a-c18b-c30d33b30168](http://www.epw.senate.gov/public/index.cfm?FuseAction=Minority.PressReleases&ContentRecord_id=4ba862dc-c7d0-158a-c18b-c30d33b30168), last retrieved 2/3/2014.

<sup>206</sup> *See*: James Martin – LinkedIn, Available at: <http://www.linkedin.com/pub/james-martin/16/9ab/360>, Last retrieved 3/4/2014.

<sup>207</sup> Email, From: Vicki Patton, To: James Martin, Subject: Re: Questions on NSPS for GHGs, Date: March 25, 2012.

<sup>208</sup> *Id.*

<sup>209</sup> Email, From: James Martin, To: Vickie Patton, Subject: Re: Question on NSPS for GHG's 3/25/2012.

hearings actually generate real and useful (for an objective rulemaking) public input. EPA ultimately chose Denver to avoid the perception, although Martin also asks EDF, who he expects to show up in force, to “play up the RPS (Renewable Portfolio Standards) and CACJ (Clean Air Clean Jobs) here, too.”

The Sierra Club’s Coequyt emailed Joseph Goffman, asking where the EPA was planning on holding public hearings.<sup>210</sup> When Goffman replied that they hadn’t decided yet,<sup>211</sup> Coequyt suggested Seattle, Denver, Minneapolis, Boston, Philadelphia and Virginia.<sup>212</sup> The email was then forwarded to other EPA officials for their consideration.<sup>213</sup>

Ultimately, at the hearing EPA indeed held in Philadelphia, EPA also ensured that Sierra Club and the American Lung Association had booths and held a press conference in support of their agenda.<sup>214</sup> Sierra Club worked to ensure a friendly audience, bringing in buses from Boston and Pittsburgh to the hearing,<sup>215</sup> and there were also people brought in from what the emails describe as “enviro groups” from Michigan and Wisconsin, as well as coordinated attendance

---

<sup>210</sup> Email, From: John Coequyt, To: Joseph Goffman, Subject:EPA Hearings for Carbon Protection Rule, 03/28/2012.

<sup>211</sup> Email, From: Joseph Goffman, To: John Coequyt, Subject:Re: EPA Hearings for Carbon Protection Rule, 03/29/2012.

<sup>212</sup> Email, From: John Coequyt, To: Joseph Goffman, Subject:Re: EPA Hearings for Carbon Protection Rule. 03/29/2012. Also, notably, the locations suggested, at least assuming “Virginia” meant the Washington DC Suburban area (a near certainty, given that both the EPA and The Sierra Club are headquartered in the DC metro area), none of the areas suggested are near any area where there is any significant presence of the coal industry.

<sup>213</sup> Email, From: Joseph Goffman, To: Jenny Noonan, Subject:Fw: EPA Hearings for Carbon Protection Rule, 03/29/2012.

<sup>214</sup> Email, From: Steve Page, To: Gina McCarthy, Subject: Philly Public Hearing, 5/11/2011.

<sup>215</sup> Email, From: Jan Cortelyou-Lee, To: Alison Davis, Steve Page, Peter Tsirigotis, Jeffrey Clark, Jenny Noonan, Sarah Terry, Robert J Wayland, Bill Maxwell, Jackie Ashley, Kelly Rimer, Subject: Re: Chicago toxics hearing summary, 05/25/2011.

with other groups such as the NAACP and others and on which moves Sierra Club kept EPA in the loop.<sup>216</sup> In yet another public event, the EPA tried to coordinate with Sierra Club to move an event from DC to Texas, because “[Sierra contact] noted *they have* a ‘lot of people in TX who are concerned’” about the revisions (emphasis added).<sup>217</sup> There is far more discussion of this issue, but unfortunately, the email is heavily redacted, tellingly invoking the “deliberative process” exemption for EPA’s coordination with Sierra Club, as EPA does in many emails.

As with all successful back-scratching, things went both ways. While Sierra Club ensured high levels of participation from the right kind of people at field hearings, EPA ensured that Sierra Club was given easy access to hearings in Washington DC. Coequyt emailed Don Zinger at EPA, seeking authorization to set up a table on EPA property so they can “direct people as they get dropped off, give them a t-shirt and so on.”<sup>218</sup> Multiple emails show that getting authorization for Sierra Club to direct people and give away t-shirts at EPA HQ was a matter of personal interest and involvement for senior EPA officials, rather than get bound up in a low-level, impersonal administrative process.<sup>219</sup> Sierra also wanted EPA’s approval to set up a “protest” of some sort at the hearing, as if they were adversarial, which is particularly notable

---

<sup>216</sup> Email, From: Alison Davis, To: Steve Page, Peter Tsirigotis, Jeffery Clark, Jenny Noonan, Jan Cortelyou-Lee, Sara Terry, Robert J Wayland, Bill Maxwell, Jackie Ashley, Kelly Rimer, Subject: Chicago toxics hearing summary 05/24/2014.

<sup>217</sup> Email, From: Sam Napolitano, To: Joseph Goffman, Subject: Sierra Club Request for a CSAPR Technical Corrections Proposal Hearing in TX. 10/18/2011 (partially redacted).

<sup>218</sup> Email, From: John Coequyt, To: Don Zinger, Subject: Any update on the authorization, 5/21/2012.

<sup>219</sup> Email, From: Don Zinger, To: John Millett, Andrea Drinkard, Subject:Fw: Any update on authorization 5/21/2012. Email, From: John Millett, To: Scott Fraser, Subject:Fw: Any update on the authorization, 5/21/2012. From: Scott Fraiser, To: John Millett, Subject:Fw: Any update on authorization, 5/21/2012. Email, From: John Millett, To: Scott Fraser, Subject:Re:Fw: Any update on the authorization, 5/21/2012. Email, From: Scott Fraser, To: John Millett, Subject:Re:Fw: Any update on authorization, 5/21/2012. Email, From: John Millett, To: Scott Fraser, Subject:Re:Fw: Any update on authorization, 5/22/2012. This list is not exhaustive of emails that discussed the issue.

considering that Sierra Club confided to EPA allies in an email, “Word on our side is we just need you all to say it's ok. We don't need actual permits.”<sup>220</sup>

These emails reflect no suggestion that the two parties' goals might be different or that hearings were to truly be fair airings of divergent opinions; they were to be orchestrated, with allies, indeed former employers, and possible future employers.

---

<sup>220</sup> Email, From: John Coequyt, To: Joseph Goffman, Cc: Don Zinger, Subject:Re: EPA Authorization to use Outdoor Space, 5/21/2012.

## Other EPA/Green Pressure Group Political Collaboration

EPA colludes with green pressure group allies, in facially improper ways, involving members of Congress. For example, the EPA and the Sierra Club collaborated in writing a public relations document for Sen. Jeanne Shaheen (D-NH), for her participation in a “Carbon Roundtable” event<sup>221</sup> also including various EPA officials and Sierra Club.<sup>222</sup> EPA jointly wrote Sen. Shaheen's statement with Catherine Corkery,<sup>223</sup> who lobbies and works on public relations for the New Hampshire Sierra Club.

Curt Spalding, Region 1's EPA Administrator, was speaking at the same event.<sup>224</sup> A remarkably, if apparently correctly, presumptuous Sierra Club wanted to coordinate their messages to ensure compatibility with Sierra Club's goals.<sup>225</sup> The end result of this collusion is that Sierra Club helped to write press for Sen. Shaheen's office at the behest of the EPA. EPA had also responded to Corkery about getting “our press staff” involved in ensuring the release for Sen. Shaheen to be on the same page for their shared purpose.<sup>226</sup> There is more to this story, but unfortunately one lengthy email concerning these speeches was almost entirely redacted with

---

<sup>221</sup> Email, From: Dave Deegan, To: Brendan Gilfillan, John Millett, Nancy Grantham, Paula Ballentine, Subject: Action: Please Review Draft Quote on Carbon stds. 04/03/2012.

<sup>222</sup> Email, From: Dave Deegan, To: Andrea Drinkard, Brendan Gilfillan, John Millett, Nancy Grantham, Paula Ballentine, Subject: Re: Action: PleaseReview Draft Quote on Carbon Stds., 4/3/2012, From: Andrea Drinkard, To: Dave Deegan, cc: Brendan Gilfillan, John Millett, Nancy Grantham, Paula Ballentine, Subject: Re: ACTION: Please Review Draft Quote on Carbon Stds. 3/12/2012.

<sup>223</sup> Email, From: Catherine Corkery, To: Nancy Grantham, Cynthia Greene, Subject: Press release draft for tomorrow, 04/03/2012.

<sup>224</sup> Email, From: Catherine Corkery, To: Nancy Grantham, Subject:Re: Touching Base, 03/12/2012.

<sup>225</sup> Email, From: Catherine Corkery, To: Nancy Grantham, Cynthia Greene, Subject: Press release draft for tomorrow, 04/03/2012.

<sup>226</sup> Email, From: Nancy Grantham, To: Catherine Corkey, cc: Cynthia Greene, Emily Zimmerman, Dave Deegan, Paula Ballentine, Subject: Re: Press release draft for tomorrow. 04/03/2012.

only the broad claim of “deliberation” given.<sup>227</sup> Given that this was a joint effort of an agency, a lawmaker, and an outside pressure group EPA claiming that privilege here, as in many places, stretches credulity, and redactions once again appear designed to avoid embarrassment — which is not an exemption under FOIA.

As already noted with the example of sharing concerns over growing congressional opposition to the shared agenda, this collusion between green pressure groups and the EPA also included working together against various legislative actors standing in the way of their joint agenda. The Natural Resources Defense Council sent an email to Michael Goo and Alex Barron outlining public polling they had done, both nationally and in 27 different congressional districts.<sup>228</sup> Far from a generic source of information, it specifically was done in districts where the representative opposed EPA’s agenda.

The poll included questions slanted toward the EPA’s position. In Congressman Fred Upton’s district, Chairman of the House Energy and Commerce Committee having jurisdiction over energy and environmental issues,<sup>229</sup> NRDC offered options such as whether respondents “Do not want Congress to stop (The EPA) from doing its job,” referring to some unknown debate over shutting EPA down entirely or having it continue on its current regulatory path, one or the other. NRDC also pitched in to promote other groups’ attacks on Upton when it appeared he might actually seek to rein in EPA abuses.

---

<sup>227</sup> Email, From: Andrea Drinkard, To: Dave Deegan, cc: Brendan Gilfillan, John Millett, Nancy Grantham, Paula Ballentine, Subject: Re: ACTION: Please Review Draft Quote on Carbon Stds. 4/3/2014.

<sup>228</sup> From: Antonia Herzog, To: Michael Goo, Alex Barron, cc: Jamie Consuegra, Subject: the public polling 03/03/2011.

<sup>229</sup> See Congressman Fred Upton - Committee Assignments, Available at: <http://upton.house.gov/biography/committees.htm>, Last retrieved 2/18/2014.



This came when the ALA got in on the act of promoting EPA's agenda through political campaign methods. When Rep. Upton became too aggressive in questioning EPA, ALA rushed to his district to pressure him with a billboard campaign, reprehensibly implying Upton's support for more childhood respiratory problems.<sup>230</sup> ALA also ran ads in Roll Call and CQ Magazine (both of which are delivered to all House and Senate offices for free by the publishers) and other online sources concerning EPA power plant regulations, and made this known far and wide to various EPA officials.<sup>231</sup> These officials saw this as so beneficial to EPA that they made a point of bringing it to the EPA Administrator's attention.<sup>232</sup>

It does seem that ALA's public advocacy on behalf of EPA's agenda was treasured by EPA officials: the White House ultimately delegated the lead for promoting the administration's *global warming* rules to the ALA, which hosted President Obama on a call to announce one round of rules<sup>233</sup> after the White House decided to recast the erstwhile climate agenda as "public health rules". Apparently, most of those whom Gina McCarthy described as groups "we normally work with when we have a message developed" are no longer the best public partners, but images of children struggling to breathe, however tangential to whatever is being promoted, always work.

---

<sup>230</sup> See e.g., NRDC promoting same in conjunction with ALA's efforts, via Taking the Asthma Story to Fred Upton, Pete Altman's Blog, March 24, 2011. Available at: [http://switchboard.nrdc.org/blogs/paltman/taking\\_the\\_asthma\\_story\\_to\\_fre.html](http://switchboard.nrdc.org/blogs/paltman/taking_the_asthma_story_to_fre.html), last retrieved: 9/12/2014

<sup>231</sup> Email, From: Paul Billings, To: Janice Nolen, Gina McCarthy, Janet McCabe, Rob Brenner, Cc: Peter Tsirigotis, Michael Goo, David McIntosh, Lorie Schmidt, Peter Iwanowicz, Subject: Ads on Power Plant Toxics, 3/8/2011.

<sup>232</sup> Email, From: Gina McCarthy, To: Richard Windsor (Lisa Jackson), Subject:Fw: Ads on Power Plant Toxics, 3/8/2011.

<sup>233</sup> Press release, President Obama to Join American Lung Association for Telephone Briefing on EPA's Carbon Pollution Standards Proposal May 30, 2014, <http://www.lung.org/press-room/press-releases/healthy-air/Obama-ALA-Carbon-Pollution-Briefing-Statement.html>.

When ALA was displeased with EPA's performance on a PR-related issue, they felt free to deliver quite stern rebukes of EPA officials for letting them down. In one revealing exchange, EPA issued a press release concerning new CAA regulations that was sent directly to ALA's Paul Billings by EPA's John Millett.<sup>234</sup> Billings thanked Millett for sending him the release, but believed it to be incomplete, saying that, "We need to know the numbers of premature deaths avoided and asthma attacks avoided today. All you have released so far is the \$ amount of benefits."<sup>235</sup> When Millett replied that EPA didn't have that info that day, but that it would be released later,<sup>236</sup> Billings assumed the role of Millett's supervisor or client with a stern rebuke, "That is not really an acceptable answer to the public or the media - you have the \$ amount that are based on multiplying adverse health events and deaths. EPA must show its work - an(d) really needs to show it today."<sup>237</sup> Millett thanked Billings for his "concern", and told him that he'd ensure "folks know about it."<sup>238</sup> Indeed, Millett passed on Billings "concern" for EPA's communications strategy to other top EPA officials Gina McCarthy and Janet McCabe.<sup>239</sup>

The reason that Millett and other various EPA officials were so deferential to ALA's demands appears to be because EPA, the White House and other green-group allies see ALA positioned as an "innocuous" public health advocate as opposed to a lobbying force behind the

---

<sup>234</sup> Email, From: John Millett, To: Paul Billings, Subject:Fw: News Release: EPA Proposes Clean Air Standards for Harmful Soot Pollution, 6/15/2012.

<sup>235</sup> Id.

<sup>236</sup> Id.

<sup>237</sup> Id.

<sup>238</sup> Id.

<sup>239</sup> Email, From: John Millett, To: Gina McCarthy, Janet McCabe, Subject: Paul's Reaction. Date: 6/15/2012.

same agenda other green groups are promoting. In one email exchange in which Gina McCarthy and Seth Kaplan of the Conservation Law Foundation discuss an upcoming EPA press conference with ALA, Kaplan states that this looks like a “great event with just the right non-governmental voices at the podium. And it looks it will have a good innocuous name and excellent substance.”<sup>240</sup> McCarthy thanked him for the complement.<sup>241</sup>

Kaplan’s observation about ALA being “just the right” group with an “innocuous” name is quite apt, and academic observers have noticed it for some time. While groups like ALA started out as one kind of animal, with the boom in taxpayer funding for environmentalist pressure groups they soon enough became another, no different than other Washington lobbyists, seeking money from the government and corporations with interests at stake. Indeed, the ALA has received more than \$20 million in grants from the EPA over the past 10 years.<sup>242</sup> As Professor James Bennett has put it, “In effect, the ALA has mutated into a powerful lobbying organization by selling its reputation; the ALA has ‘hocked its halo’ in order to do well while purporting to do only good.”<sup>243</sup> He describes them as having made a “prototypical transition...to

---

<sup>240</sup> Email, From: Seth Kaplan, To: Gina McCarthy, Subject:Fw: Air News Release (HQ): TOMORROW: EPA, American Lung Association to Hold Press Conference to Discuss Mercury and Air Toxics Standards. 3/15/2011.

<sup>241</sup> Email, From: Gina McCarthy, To: Seth Kaplan, Subject:Re: Air News Release (HQ): TOMORROW: EPA, American Lung Association to Hold Press Conference to Discuss Mercury and Air Toxics Standards. 3/15/2011.

<sup>242</sup> Samples of US Government Grants to the Global Warming Industry, Pg. 12, By: Dennis Ambler, Science and Public Policy Institute, August 22, 2012. Available at: [http://scienceandpublicpolicy.org/originals/samples\\_of\\_us\\_government\\_grants\\_to\\_the\\_global\\_warming\\_industry.html](http://scienceandpublicpolicy.org/originals/samples_of_us_government_grants_to_the_global_warming_industry.html), last retrieved: 9/12/2014

<sup>243</sup> Pandering for Profit: The Transformation of Health Charities to Lobbyists, By: Professor James T. Bennett, George Mason University, Department of Economics, GMU Working Paper in Economics No. 11-54, Pg. 4, 12/14/2011. Available at: [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1972369](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1972369).

an organization actively engaged in lobbying and seeking funding from both government agencies and private firms in return for promoting their agenda”.

Of course, Sierra Club was also in on the game of openly political engagement in support of the Obama Administration’s EPA and making sure the EPA knew about it. Sierra Club ran an ad in Ohio supporting various anti-coal rules, and John Coequyte made sure his close associates, senior EPA officials, were made aware of their efforts.<sup>244</sup>

This recurring pattern of various green pressure groups engaging in overt political activity in support of the EPA’s agenda, with EPA leadership fully aware and apprised of it, suggests this was seen as not only proper but valued by the current leadership of the EPA as part of the process — as the McCarthy email calling for the groups “we normally work with when we have a message developed” to be rounded up makes embarrassingly obvious. The EPA leadership valued this political support so much that they bent over backwards to accommodate these groups and did everything possible to ensure that more of this support would occur.

---

<sup>244</sup> Email, From: John Coequyt, To: Michael Goo, Arvin Ganesan, Subject: Fwd: Mercury Air Toxics Ad Buy in Ohio, 1/13/2012.

## **EPA/Sierra Collaboration to Shield EPA Regulation from Congressional Review**

Similar to their efforts to shield proposed regulations, Sierra Club and EPA also colluded to protect newly published regulations from the process established by law for congressional review. The Sierra Club's Federal Representative, Lyndsay Moseley, specifically contacted David McIntosh, Associate Administrator for Congressional and Intergovernmental Relations, for help determining the vulnerability of one, asking if "the Industrial Boiler Air Toxics rule is vulnerable to a CRA (Congressional Review Act) threat, or if the Cement air toxics rule is the only air toxics rule that's vulnerable. We had previously heard that EPA planned to report this rule to Congress when it was published in the federal register."<sup>245</sup> Numerous EPA officials were responsive to their request, viewing Congress's role in the rulemaking process as a "threat" as well.

Since the effects of the Congressional Review Act have proved to be quite mild, mostly just allowing for expedited review and making it easier to bring up certain votes in Congress, it is clear that the parties feared sunlight.<sup>246</sup> The collusion on their shared agenda, a secret agenda vastly different than the Agency's public stances, was threatened by increased public scrutiny.

Incidentally, regarding the (remote) prospect of a House vote on the same rule (and litigation over the rule), other emails show current EPA Administrator Gina McCarthy's

---

<sup>245</sup> Email, From: Lyndsay Moseley, From: David McIntosh, Subject: Has EPA officially reported the Boiler air toxics rule to Congress? 4/20/2011.

<sup>246</sup> While it does allow for some expedited proceedings, repealing any regulation still requires a vote in both houses of Congress and a signature by the President, so the regulations were in no danger of being repealed. As one scholar put it, "Those familiar with administrative law scratch their heads when they hear how little the CRA accomplishes." *The Mysteries of the Congressional Review Act*, 122 Harv. L. Rev. 2162, 2166 (2009).

particular concern over the sensitivities of the pressure group Environment America's President Margie Alt. McCarthy emailed Alt at on her own initiative to keep Alt apprised about their "shared concerns" on the rule.<sup>247</sup> Being on the group's "Lobby Intel" email list McCarthy got an advance copy of the group's press release on the rule, and so took the initiative to write Alt to suggest holding the group's press release on the rule, saying "I don't want you to be embarrassed."<sup>248</sup> Again, to fully appreciate the proceedings and how they would be treated is other parties were involved, for example if this were instead a Bush EPA chief and some corporation other than a green pressure group.

---

<sup>247</sup> See Email, From: Gina McCarthy, To: "margie", Subject: Boiler Update, 10/06/2011. "I know that you have shared my concern about ensuring that we move ahead with the Boiler MACT Rule reproposal and final. So I want you to know that ..."[describes status and possible paths forward, at length]

<sup>248</sup> See Email, From: Gina McCarthy, To: "margie", Subject: Fw: [Intel] SC/EJ on air toxics. 2/216/2011.

## Conclusion

There are two principal lessons from this glimpse of transparency, mitigated by heavy-handed redaction delaying and possibly ultimately denying the public's right to know about the Obama EPA's relationship with these groups and the latter's obvious, improper influence. One lesson is found in the documents themselves, the other comes from what it took to obtain them.

The Obama administration fights tooth and nail to block transparency regarding its EPA agenda and actions. E&E Legal's principal case seeking these documents will have taken more than two years by the time it is all over, possibly quite a bit longer even, depending on how promptly the court addresses our challenges to continued withholdings. This process has included a senior FOIA official, removing the request from the usual, mechanical response process, and sitting on it. It took more than 8 months and the threat of having to argue an intolerable and embarrassing position before the court in order to get EPA to begin complying with what should be a straightforward application of the law.

This is contrary to Candidate Obama's campaign promises, as well as internal White House policy as articulated by the President himself,<sup>249</sup> but unfortunately, this is all-too typical with this EPA, as evidenced not only by this case, but by other, similar efforts. Notable among them is the discovery of the "Richard Windsor" emails from former EPA Administrator Lisa Jackson, which took well over a year with significant stonewalling,<sup>250</sup> and EPA's promise to the Competitive Enterprise Institute to satisfy another "Windsor" request at the rate of 100 records

---

<sup>249</sup> MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES  
SUBJECT: Freedom of Information Act. Available at: [http://www.whitehouse.gov/the\\_press\\_office/  
Freedom\\_of\\_Information\\_Act](http://www.whitehouse.gov/the_press_office/Freedom_of_Information_Act), last retrieved 2/4/2014.

<sup>250</sup> The EPA's "Richard Windsor" Email Scandal, Competitive Enterprise Institute. Available at: [http://  
cei.org/richard-windsor](http://cei.org/richard-windsor). Last retrieved 2/20/2014.

per month for 100 years *after which*, EPA says, it will accept appeals on the matter and consider other CEI requests pending before the Agency (obviously, CEI has challenged this, but the attitude and stonewall in the face of embarrassing disclosures outrageously flout the law).

The emails themselves reveal that there is a “revolving door” between the EPA and the various environmental pressure groups, and that senior EPA officials implement their bias and continue their close relationships with former colleagues, affording them an improper role in the regulatory and permitting processes. This report documents that the arrangement gives these green pressure groups unprecedented access and improper influence; the Obama EPA coordinates with these groups on policy, politics, public relations and all other related aspects of regulation.

This takes several forms, but mostly it comes in the full embrace and assistance of what EPA officials themselves call Sierra’s “anti-coal campaign,”<sup>251</sup> the quest to end any new coal plants and shut down existing coal plants all over America while also keeping coal in the ground, regardless of what technological or economic standards are viable.<sup>252</sup>

The “war on coal” isn’t imagined as the Obama Administration now argues despite prior lapses into candor about its reality. Political reality has made it such that this can no longer be candidly described but, despite working behind closed doors and abusing FOIA’s exemptions to withhold conversations, these emails affirm the previously acknowledged truth.

It is already clear that stonewalling, collusion, conflicts of interests, and a behind-closed-doors agenda, very different from their public agenda, is deeply ingrained at the EPA. What else

---

<sup>251</sup> From: Arvin Ganesan, To: Richard Windsor (AKA Lisa Jackson), Gina McCarthy, Bob Perciasepe, Diane Thompson, Brendan Gilfillan, Bob Sussman, Laura Vaught, Subject: Al Armendariz 6/27/2012.

<sup>252</sup> From: John Coequyt, To: Alex Barron, Subject: Numbers, 9/07/2011, 1:09pm.



there is to find remains to be seen. But given what we have already found, proponents of transparency, accountability, good government, and the rule of law should find this troubling.

Transparency, impartiality and equal opportunity to participate are not only hallmarks of good government, but also are part of the law. The EPA has failed to live up to these standards. The current regulatory agenda cannot properly come into effect but must be withdrawn; if EPA chooses to proceed anew it must do so through officials without a predetermined outcome, and who are not colluding with their previous employers and other ideologically aligned advocates. EPA is permitted to regulate, but not these people, not this way. The law is not optional, however fashionable it may be in some quarters of Washington to think otherwise. The public deserves to have confidence that the EPA is truly looking out for the public interest as the law requires, as opposed to workings toward the shared, predetermined goals of certain outside activists, other activists who have accepted political appointment to continue their campaigns but as government, and committed career government bureaucrats.

# Appendix A – Cast of Characters

## **Al Armendariz**

### Education:

PhD - 2002 Environmental Engineering, University of North Carolina

ME - 1995 Environmental Engineering, University of Florida

SB - 1993 Chemical Engineering, Massachusetts Institute of Technology

### Affiliations:

Research Assistant , Massachusetts Institute of Technology Center for Global Change Science

Chemical Engineer, Radian Corporation

Professor, Department of Environmental and Civil Engineering, Southern Methodist University

Environmental Protection Agency, Region 6 Administrator

Senior Campaign Representative, Sierra Club "Beyond Coal" campaign

### Relevant Links:

<http://www.thedallasassembly.com/files/Al%20Armendariz%20-%20bio.pdf>

<http://catee.tamu.edu/wp-content/uploads/2011/09/bio-Al-Armendariz1.pdf>

<http://pjmedia.com/tatler/2012/04/27/who-is-epa-crucifixion-chief-al-armendariz/>

<http://lyle.smu.edu/~aja/Armendariz.pdf>

<http://lyle.smu.edu/~aja/service2.htm>

<http://www.forbes.com/sites/christopherhelman/2012/04/26/epa-official-not-only-touted-crucifying-oil-companies-he-tried-it/>

<http://talkingpointsmemo.com/muckraker/another-obama-official-resigns-after-ginned-up-conservative-outrage-a-timeline>

**Controversies:**

Armendariz resigned as EPA Administrator after the Inhofe staff uncovered a video of him saying: “It was kind of like how the Romans used to conquer little villages in the Mediterranean. They’d go into a little Turkish town somewhere, they’d find the first five guys they saw, and they would crucify them. And then, you know, that town was really easy to manage for the next few years. So, that’s our general philosophy.”

After his “crucify” comments became public, Armendariz backed out of scheduled testimony before the House Energy and Commerce Committee, the day before the hearing. He apparently visited the headquarters of The Sierra Club, perhaps for a job interview.

---

**Paul Balsarak**

**Education:**

BA – Virginia Tech

**Relevant Links:**

<http://www.linkedin.com/pub/paul-balsarak/7/35/318>

**Affiliations:**

Policy Analyst at Environmental Protection Agency

**Notes/Controversies:**

Included in Barron’s “Zombie’s” email forward, apparently to examine if it would be economically viable.

**Alex Barron**

**Education:**

PhD, Ecology and Evolutionary Biology - Princeton University

**Relevant Links:**

<http://www.acs.org/content/acs/en/policy/policyfellowships/alex-barron.html>

**Affiliations:**

Senior Advisor, Office of Policy - Environmental Protection Agency

Legislative Fellow – Sen. Joe Lieberman/American Chemical Society

Visiting Lecturer – Carleton College

Staff - House Energy and Commerce Committee (Worked on Waxman/Markey bill)

---

**Joel Beauvais**

**Education:**

BA, Political Science, Yale University

JD, New York University

**Relevant Links:**

<http://www2.epa.gov/aboutepa/joel-beauvais-associate-administrator-office-policy>

**Affiliations:**

Associate Administrator for the Office of Policy – Environmental Protection Agency

Counsel – Select Committee on Energy Independence and Global Warming

Counsel – House Committee on Energy and Commerce

Clerk – Justice Sandra Day O’Connor

**Paul G. Billings**

**Education:**

BA, Bates College

**Relevant Links:**

<http://www.lung.org/press-room/press-releases/paul-g-billings-receives-nat-staff-award.html>

**Affiliations:**

American Lung Association - Vice President, National Policy & Advocacy

Director, grassroots activities - National Clean Air Coalition

Associate - FMR Group

---

**David Bookbinder**

**Education:**

BA – Princeton University

JD – University of Chicago

**Relevant Links:**

<http://www.politico.com/news/stories/0212/72581.html>

<http://elementviconsulting.com/who-we-are/>

**Affiliations:**

Attorney - Weiss, Rifkind, Wharton & Garrison

Chief Climate Counsel – The Sierra Club

Element 5 Consulting

**Controversies/Notes:**

Resigned as top Attorney at The Sierra Club in 2010 to work for the Natural Gas industry.

**Notes/Controversies:**

Bookbinder is not a supporter of Obama's coal regulations because he does not think they will work. Instead, he favors cap and trade or carbon dioxide tax.

<http://www.politico.com/story/2013/07/obamas-power-plant-plan-wont-work-94260.html>

----

**Michael J. Bradley**

**Education:**

BA – Boston College

MS, Environmental Management – University of Washington

**Relevant Links:**

<http://www.mjbradley.com/professionals/michael-j-bradley>

**Affiliations:**

Founder and President – Michael J. Bradley and Associates, Strategic Environmental Consulting  
(Clean Energy Group)

Executive Director - Northeast States for Coordinated Air Use Management (NESCAUM)

British Department of the Environment

Various State Environmental Agencies

**Alexander Cristofaro**

**Education:**

BA – Dartmouth College

MPP – Harvard University

**Relevant Links:**

[http://littlesis.org/person/47725/Alexander\\_Cristofaro](http://littlesis.org/person/47725/Alexander_Cristofaro)

**Affiliations:**

Director of the Office of Regulatory Policy and Management (ORPM) – Environmental Protection Agency

National Environmental Performance Track, Sector Strategies

Smart Growth Network - Director, Office of Business and Community Innovation

Smart Growth Network - Director, Air and Energy Policy Division

---

**John Coequyt**

**Education:**

BA - Williams College

MPP - University of Chicago

**Relevant Links:**

[http://www.politico.com/arena/bio/john\\_coequyt.html](http://www.politico.com/arena/bio/john_coequyt.html)

**Affiliations:**

International Climate Campaigner - Greenpeace USA

Director International Climate Change Programs – Sierra Club

Climate and Energy Lobbyist - Sierra Club

“Beyond Coal” campaign – Sierra Club

**Controversies and Notes:**

Author of “Pants of fire” email.

---

**Catherine Corkery**

**Education:** BA, Denison University

**Relevant Links:**

[http://action.sierraclub.org/site/PageNavigator/About\\_Us\\_Page](http://action.sierraclub.org/site/PageNavigator/About_Us_Page)

**Affiliations:**

Chapter President – New Hampshire Sierra Club

Lobbyist and Government Relations, New Hampshire Chapter - Sierra Club

Peace Corps Volunteer

**Notes/Controversies:**

Corkery was involved with writing press for Senator Shaheen at the behest of the EPA.



## **Ron Curry**

### **Education:**

Described as an “Environmental Attorney”

### **Relevant Links:**

<http://stateimpact.npr.org/texas/2012/09/21/ron-curry-appointed-new-regional-administrator-for-epa/>

<http://airalliancehouston.org/content/meet-ron-curry-new-epa-regional-administrator-dallas>

<http://thescoopblog.dallasnews.com/2012/09/obama-names-new-epa-regional-chief-and-heres-a-first-hes-not-from-texas.html/>

<http://onlyinnewmexico.blogspot.com/2009/07/ron-curry-and-obama.html>

[http://www.epw.senate.gov/public/index.cfm?](http://www.epw.senate.gov/public/index.cfm?FuseAction=Minority.PressReleases&ContentRecord_id=ead81ccc-c546-4853-db15-b765cfe89170)

[FuseAction=Minority.PressReleases&ContentRecord\\_id=ead81ccc-c546-4853-db15-b765cfe89170](http://www.epw.senate.gov/public/index.cfm?FuseAction=Minority.PressReleases&ContentRecord_id=ead81ccc-c546-4853-db15-b765cfe89170)

### **Affiliations:**

Region 6 Director – Environmental Protection Agency (replaced Al Armendariz)

### **Controversies/Notes:**

Sen .Inhofe’s press release says Curry has expressed pride in shutting down coal and has opposed safe natural gas development.

---

## **David A. Evans**

### **Education:**

Ph.D., Economics, University of Maryland, 2007

M.S., Agricultural, Resource and Consumer Economics, University of Illinois, 1999

**Relevant Links:**

<http://yosemite.epa.gov/ee/epa/eed.nsf/>

[ae920736ab481760852575a6006ab364/29fb6705d1e0fb56852575a7005e47d3!OpenDocument](http://yosemite.epa.gov/ee/epa/eed.nsf/ae920736ab481760852575a6006ab364/29fb6705d1e0fb56852575a7005e47d3!OpenDocument)

**Affiliations:**

Benefits Assessment and Methods Development Division - National Center for Environmental Economics - Environmental Protection Agency

**Notes/Controversies:**

Included in Barron's "Zombie's" email forward, apparently to examine if it would be economically viable.

---

**Arvin Ganesan**

**Education:**

BA, Economics – University of Massachusetts

MPA, Environmental Policy – George Washington University

**Relevant Links:**

<http://www.nationaljournal.com/decision-makers/energy-natural-resources/arvin-ganesan-associate-administrator-office-of-congressional-and-intergovernmental-relations-20130715>

<http://news.investors.com/ibd-editorials/122712-638555-lisa-jackson-resigns-while-inspector-general-investigates-emails.htm>

**Affiliations:**

Deputy Chief of Staff for Policy – Environmental Protection Agency

Associate Administrator for the Office of Congressional and Intergovernmental Relations –

Environmental Protection Agency

Senior Policy Adviser – Sen. Frank Lautenberg

Pew Center on Global Climate Change

Calvert Group

**Notes/Controversies:**

Apparently Ganesan confirmed to 12 members of Congress that Lisa Jackson used the Richard

Windsor email account

----

**Brendan Gilfillan**

**Relevant Links:**

<http://www.linkedin.com/pub/brendan-gilfillan/4/99a/465>

<http://online.wsj.com/news/articles/SB120847382725124603>

<http://www.northjersey.com/littleferry/>

[Spending cuts could cripple Sandy recovery in NJ officials say.html](#)

**Affiliations:**

Hillary Clinton for President, 2008

Press Secretary – Environmental Protection Agency

Press Secretary – Department of Housing and Urban Development

Communications Director - Hurricane Sandy Rebuilding Task Force

## **Joseph Goffman**

### **Education:**

BA, 1976 – Yale University

JD, 1979 – Yale Law School

### **Relevant Links:**

<http://nicholas.duke.edu/cgc/seminars/goffman-1.pdf>

[https://www.opensecrets.org/revolving/rev\\_summary.php?id=32265](https://www.opensecrets.org/revolving/rev_summary.php?id=32265)

### **Affiliations:**

Associate - Weil, Gotshal and Manges

Associate Counsel – Senate Committee on Environment and Public Works

Senior Attorney – Environmental Defense (Environmental Defense Fund) 1992-2004

Senior Counsel – Environmental Protection Agency Office of Air and Radiation

---

## **Michael Goo**

### **Education:**

BA – Vassar College

JD – Washington University School of Law

### **Relevant Links:**

<http://www.nationaljournal.com/decision-makers/energy-natural-resources/michael-goo-associate-administrator-office-of-policy-20130715>

<http://www.eenews.net/greenwire/stories/1059990330>

<http://freebeacon.com/sierra-club-pressed-epa-to-create-impossible-coal-standards/>

<http://www.nytimes.com/gwire/2009/03/06/06greenwire-nrdc-mafia-finding-homes-on-hill-in-epa-10024.html>

[https://environmentalnewsstand.com/iwpfile.html?file=oct2013%2Fepa2013\\_1897.pdf](https://environmentalnewsstand.com/iwpfile.html?file=oct2013%2Fepa2013_1897.pdf)

<http://www.politico.com/news/stories/0111/47921.html>

**Affiliations:**

Environmental Protection Agency:

- Special Assistant to the General Counsel, Clinton Administration
- Career Position, Air and Radiation Law Office
- Associate Administrator, Office of Policy, Obama Administration

Minority Counsel – House Energy and Commerce Committee

Senate Committee on the Environment and Public Works

Climate Legislative Director - Natural Resources Defense Council

Staff Director and Chief Counsel - House Select Committee on Energy Independence and Global Warming

Office of Energy Policy and Systems Analysis – Department of Energy

**Controversies/Notes:**

[http://docs.nrdc.org/globalWarming/files/glo\\_08061901a.pdf](http://docs.nrdc.org/globalWarming/files/glo_08061901a.pdf)

[http://docs.nrdc.org/globalWarming/files/glo\\_08052001a.pdf](http://docs.nrdc.org/globalWarming/files/glo_08052001a.pdf)

## **Lisa Heinzerling**

### **Education:**

AB – Princeton University

JD – University of Chicago

### **Relevant Links:**

[http://www.washingtonpost.com/politics/lisa-heinzerling/gIQAXCht9O\\_topic.html](http://www.washingtonpost.com/politics/lisa-heinzerling/gIQAXCht9O_topic.html)

<http://www.motherjones.com/environment/2013/04/former-epa-climate-adviser-rips-obama-admins-regulatory-approach>

<http://www.politico.com/news/stories/1110/44708.html>

### **Affiliations:**

Environmental Protection Administration - Assistant Administrator, Office of Policy, Economics and Innovation (left December, 2010)

Georgetown Law - Professor of Environmental and Administrative Law

Center for American Progress Action Fund - Affiliated Scholar

### **Controversies/Notes:**

Heinzerling was the driving force behind *Massachusetts v. EPA*

Heinzerling believes regulatory Czar Cass Sunstein and President Obama are anti-regulation moderates.

“I think she’s probably the farthest left and most committed of anyone on the team, with the exception of Carol Browner,” on climate change, said an industry attorney familiar with the agency, referring to the former agency administrator and President Barack Obama’s energy and climate adviser.” - From Politico

**Antonia Herzog**

**Relevant Links:**

<http://www.nrdc.org/media/2009/091106.asp>

**Affiliations:**

Assistant Director, Climate Center – Natural Resources Defense Council

Senior Program Advocate – Natural Resource Defense Council

Staff Scientist, Climate Center – Natural Resources Defense Council

---

**Lisa Jackson**

**Education:**

B.A. - Tulane University

M.Sc. - Chemical Engineering, Princeton University

**Affiliations:**

Clean Sites, Inc.

Environmental Protection Agency – Staff Engineer, Superfund Program

New Jersey's Department of Environmental Protection - assistant commissioner, 2002-2006

New Jersey's Department of Environmental Protection – Commissioner, 2006-2008

Chief of Staff – Gov. John Corzine (D-NJ), 2008-2009

Environmental Protection Agency – Administrator, 2009-2012

**Relevant Links:**

<http://blog.epa.gov/administrator/bio/>

[http://en.wikipedia.org/wiki/Lisa\\_P.\\_Jackson](http://en.wikipedia.org/wiki/Lisa_P._Jackson)

<http://www.biography.com/people/lisa-perez-jackson-5600>

<http://cei.org/richard-windsor>

**Controversies/Notes:**

Resigned in controversy after E&E Legal Attorney Christopher Horner revealed, in FOIA requests for CEI, she used a false-identity government email account in the name of Richard Windsor, apparently to avoid having her emails subject to FOIA requests.

She used her private Verizon email account to correspond on EPA-related business with aligned lobbyists, from Siemens to the president of Sierra Club.

She deleted her work-related text messages.

---

**Shannon Kenny**

**Education:**

BA, Duke University

**Relevant Links:**

<http://www.linkedin.com/pub/shannon-kenny/17/875/b20>

**Affiliations:**

Deputy Director, Sector Strategies Division, U.S. Environmental Protection Agency

Principal Deputy Associate Administrator (Acting)

Former Hill Staffer

**Notes/Controversies:**

Included in Barron's "Zombie's" email forward, apparently to examine economic issues.



## **James B. Martin**

### **Education:**

BA – Knox College

JD – Northwestern University

### **Relevant Links:**

[http://law.lclark.edu/programs/environmental\\_and\\_natural\\_resources\\_law/careers\\_and\\_alumni/grad\\_martin.php](http://law.lclark.edu/programs/environmental_and_natural_resources_law/careers_and_alumni/grad_martin.php)

<http://yosemite.epa.gov/opa/admpress.nsf/d0cf6618525a9efb85257359003fb69d/3b76ddb5caec41fa8525770c0070c955!OpenDocument>

<http://www.bwenergylaw.com/Attorneys/documents/Martin.pdf>

<https://votesmart.org/public-statement/760707/letter-to-james-b-martin-administrator-of-region-8-of-the-us-environmental-protection-agency-non-official-email-account-usage-to-conduct-official-business#.Ut7XzrROnIU>

### **Affiliations:**

Environmental Protection Agency Director Region 8

Executive Director - Colorado Department of Public Health and Environment

Executive Director - Western Resource Advocates

Director - Natural Resources Law Center at the University of Colorado School of Law

Senior Attorney and Director - Environmental Defense Fund 1995-2005

State Director and Counsel, 1986-1992 - former U.S. Representative and Senator Tim Wirth

### **Controversies/Notes:**

Martin's old boss, Senator Tim Wirth (D-CO), organized the infamous "stagecraft" hearing on

global warming in 1988 with James Hansen, admitting via PBS he intentionally had the hearing on the historically hottest day of the summer and opened the windows the night before to defeat the air conditioning. Wirth was later the chief U.S. negotiator for Kyoto Climate Conference in his role as Undersecretary for Global Affairs in the Clinton Administration. Martin was criticized by Oversight and Government Reform Committee Chairman Darrell Issa and Environment and Public Works Committee Chairman David Vitter for using a private account to conduct official business, shown in emails obtained by CEI. He later resigned because of this controversy.

---

### **Janet McCabe**

#### **Education:**

BA – Harvard University

JD – Harvard Law School

#### **Relevant Links:**

<http://www2.epa.gov/aboutepa/janet-mccabe-acting-assistant-administrator-office-air-and-radiation>

<http://thehill.com/blogs/e2-wire/e2-wire/193761-obama-to-nominate-janet-mccabe-as-top-epa-pollution-regulator>

#### **Affiliations:**

Acting Assistant Administrator for the Office of Air and Radiation – Environmental Protection Agency (nominated to permanently head the agency, but has been stalled in committee)

Executive Director of Improving Kids' Environment, Inc.

Adjunct Faculty - Indiana University School of Medicine

Assistant Commissioner - Indiana Department of Environmental Management's Office of Air  
Quality

---

## **Gina McCarthy**

### **Education:**

B.A., Social Anthropology - University of Massachusetts

M.Sc., Environmental Health Engineering and Planning Policy - Tufts University

### **Affiliations:**

Connecticut Department of Environmental Protection – Commissioner

Environmental Advisor – Massachusetts Governors Michael Dukakis, William Weld, Paul  
Cellucci, Jane Swift, Mitt Romney

Environmental Protection Agency – Assistant Administrator, 2009-2013

Environmental Protection Agency – Administrator, 2013-Present

### **Relevant Links:**

<http://www.allgov.com/news/appointments-and-resignations/administrator-of-the-environmental-protection-agency-who-is-gina-mccarthy-130330?news=849586>

[http://en.wikipedia.org/wiki/Gina\\_McCarthy](http://en.wikipedia.org/wiki/Gina_McCarthy)

<http://www2.epa.gov/aboutepa/administrator-gina-mccarthy>

## **David McIntosh**

### **Education:**

A.B., History – Harvard College

J.D. – Harvard Law School, 1998

### **Relevant Links:**

[http://www.washingtonpost.com/politics/david-mcintosh/gIQAemeZAP\\_topic.html](http://www.washingtonpost.com/politics/david-mcintosh/gIQAemeZAP_topic.html)

<http://www.linkedin.com/pub/david-gregg-mcintosh/40/b01/b73>

### **Affiliations:**

Vice President, Siemens Corp - June 2011- Present

Associate Administrator for Congressional and Intergovernmental Relations, Environmental Protection Agency: April 2009-June 2011

Senior Counsel for Climate Legislation, Environmental Protection Agency: Jan 2009-April 2009

Obama Transition Team (November 2008 to January 2009)

Legislative Assistant and Counsel, Sen. Joseph I. Lieberman: April 2006-September 2008

---

## **Lena Moffitt**

### **Education:**

BA, Environmental Biology – Columbia University

MS, Environmental Science and Management – UC Santa Barbara

### **Relevant Links:**

<https://twitter.com/LenaMDC>

<http://www.linkedin.com/pub/lena-moffitt/61/418/b55>

<http://crooksandliars.com/taxonomy/term/44525>

**Affiliations:**

Climate Advocate – Union of Concerned Scientists

Washington Representative – The Sierra Club

Deputy Legislative Director – Voices for Progress

---

**Janice Nolen**

**Education:**

MSc – Middle Tennessee State University

**Relevant Links:**

<http://www.lung.org/press-room/our-experts/janice-nolen.html>

**Affiliations:**

Assistant Vice President, National Policy and Advocacy – American Lung Association

Program Director - American Lung Association of Tennessee

---

**Vickie Patton**

**Education:**

BS, Hydrology - University of Arizona

JD - New York University School of Law

**Relevant Links:**

<http://www.edf.org/people/vickie-patton>

**Affiliations:**

Environmental Protection Agency - Office of General Counsel

Environmental Defense Fund – General Counsel

---

**Bob Perciasepe****Education:**

BS, Natural Resources – Cornell University

MPPA – Syracuse University

**Relevant Links:**

[http://en.wikipedia.org/wiki/Bob\\_Perciasepe](http://en.wikipedia.org/wiki/Bob_Perciasepe)

<http://www.nationaljournal.com/decision-makers/energy-natural-resources/bob-perciasepe-deputy-administrator-20130715>

[http://www.opensecrets.org/revolving/rev\\_summary.php?id=24591](http://www.opensecrets.org/revolving/rev_summary.php?id=24591)

**Affiliations:**

Baltimore City Planning Development – 1976-1980

Chief of Capital Planning, Baltimore City Planning Development - 1980-1986

Assistant Director for Planning, Baltimore City Planning Development - 1986-1987

Assistant Secretary of Planning and Capital Programs, Maryland Department of the Environment, 1987-1989

Deputy Secretary, Maryland Department of the Environment, 1989-1990

Secretary, Maryland Department of the Environment, 1990-1993

Assistant Administrator for Water, Environmental Protection Agency, 1993-1998

Assistant Administrator for Air and Radiation, Environmental Protection Agency, 1998-2001

Senior Vice President for Public Policy, National Audubon Society, 2001-2004

Chief Operating Officer, National Audubon Society, 2004-2009

Deputy Administrator, Environmental Protection Agency, 2009-Present

**Notes/Controversies:**

Sent around the “Worth noting” email about conflicts of interest, used private email accounts for EPA-related correspondence.

---

**Curt Spalding**

**Education:**

B.A. - Hobart College

M.P.A. - SUNY

**Relevant Links:**

<http://www2.epa.gov/aboutepa/curt-spalding-administrator-epas-new-england-region-region-1>

**Affiliations:**

Region 1 Administrator – Environmental Protection Agency

Executive Director - Save the Bay

**Notes/Controversies:**

Attended event with Sen. Shaheen where The Sierra Club helped write both speeches.

---

**Robert Sussman**

**Education:**

BA – Yale University

JD – Yale Law School

**Relevant Links:**

<http://www2.epa.gov/aboutepa/robert-m-sussman>

<http://thinkprogress.org/climate/2009/02/05/174242/robert-sussman-epa/>

**Affiliations:**

Environmental Protection Agency – Senior Policy Counsel (Deputy Administrator, Clinton Administration)

Center for American Progress – Senior Fellow

Latham & Watkins – Lobbyist

Covington & Burling – Partner

Environmental Alliance – Board Member

Environmental Institute – Board Member

-----

**Ann Weeks**

**Education:**

BS, Engineering – Boston College

SM, Technology and Policy – Massachusetts Institute of Technology

JD — North Carolina University School of Law

**Relevant Links**

<http://www.catf.us/blogs/ahead/author/aweeks/>

**Affiliations:**

Senior Counsel and Legal Director – Clean Air Task Force



## **Janet Woodka**

### **Education:**

LLM, Environmental Law – George Washington University

JD – Tulane University

MBA Work (uncompleted) - Babson College

BA – Boston College

### **Relevant Links:**

<http://www.linkedin.com/pub/janet-woodka/a/37b/16>

<https://twitter.com/JanetWoodka>

<https://www.dhs.gov/news/2009/03/31/janet-woodka-appointed-gulf-coast-rebuilding-coordinator>

[http://www.landrieu.senate.gov/?p=press\\_release&id=1967](http://www.landrieu.senate.gov/?p=press_release&id=1967)

[http://www.nola.com/news/index.ssf/2009/03/obama\\_to\\_name\\_janet\\_woodka\\_new.html](http://www.nola.com/news/index.ssf/2009/03/obama_to_name_janet_woodka_new.html)

<http://www2.epa.gov/aboutepa/about-office-regional-operations>

### **Affiliations:**

Environmental Protection Agency - Senior Advisor and Director of Regional Operations, Office of the Administrator

Federal Coordinator - Office of the Federal Coordinator for Gulf Coast Rebuilding

Director of Legislative Affairs - Federal Coordinator for Gulf Coast Rebuilding

Legislative Director - Sen. Mary Landrieu

Of Counsel, Associate - Van Ness Feldman

## **Appendix B — Cited Emails**

Cc: Mathy Stanislaus/DC/USEPA/US@EPA  
Date: 08/10/2009 10:46 AM  
Subject: Fw: ltr from environmental grps

---

Per your request see below.  
Thanks  
APD

---

Antoinette Powell Dickson  
Special Assistant  
Office of Solid Waste & Emergency Response  
U.S. Environmental Protection Agency  
Phone: (202) 566-0738; Fax: (202) 566-0207  
powell-dickson.antoINETTE@epa.gov

— Forwarded by Antoinette Powell-Dickson/DC/USEPA/US on 08/10/2009 10:44 AM —

From: Matt Straus/DC/USEPA/US  
To: Antoinette Powell-Dickson/DC/USEPA/US@EPA  
Date: 08/10/2009 10:04 AM  
Subject: Fw: ltr from environmental grps

---

Antoinette, attached is a copy of the environmental letter.

— Forwarded by Matt Straus/DC/USEPA/US on 08/10/2009 10:03 AM —

From: Mathy Stanislaus/DC/USEPA/US  
To: James Woolford/DC/USEPA/US@EPA, Matt Straus/DC/USEPA/US@EPA, Matt Hale/DC/USEPA/US@EPA  
Cc: Ellen Manges/DC/USEPA/US@EPA, Antoinette Powell-Dickson <powell-dickson.antoINETTE@epa.gov>, Ellyn Fine/DC/USEPA/US@EPA, Barry Breen/DC/USEPA/US@EPA  
Date: 08/05/2009 06:05 PM  
Subject: Fw: ltr from environmental grps

---

Jim, Matt, & Matt: Please see the issues raised in this letter. Assuming that I meet with the group - please provide background on the OSWER issues raised in this letter - sometime in the next week or so would be find.

— Forwarded by Mathy Stanislaus/DC/USEPA/US on 08/05/2009 06:01 PM —

From: Daniel O Hirsch <cbghirsch@aol.com>  
To: Mathy Stanislaus/DC/USEPA/US@EPA  
Date: 08/05/2009 01:31 PM  
Subject: ltr from environmental grps

---

Dear Assistant Administrator Stanislaus,

Please find attached a letter to you from the Center for Health, Environment & Justice; Clean Water Action; Committee to Bridge the Gap; Environment America; Food and Water Watch; Friends of the Earth; Greenpeace; Massachusetts Citizens for Safe Energy; Natural Resources Defense Council; Nuclear Information and Resource Service; Professor Richard Clapp; Public Citizen; and the Sierra Club.

The letter calls to your attention a number of troubling proposals by the prior Administration to weaken environmental protections, initiatives that remain under consideration within EPA, and requests a

Beth Craig/DC/USEPA/US  
08/10/2009 10:23 PM

To: Gina McCarthy  
cc  
bcc  
Subject: Re: ltr from environmental grps

Gina, I think we have our first meeting on this scheduled for Thursday – we will focus on drinking water for the first mtg.

Thanks, Beth

-----  
Sent by EPA Wireless E-Mail Services  
Gina McCarthy

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

From: Gina McCarthy  
Sent: 08/10/2009 07:12 PM EDT  
To: Craig.Beth@EPA.GOV  
Subject: Fw: ltr from environmental grps

Beth - Is someone working on an outline of our issues or a briefing of some kind? Many of the signatories are people I know all too well and they are emailing me separately looking to meet, I will need to respond soon.

----- Forwarded by Gina McCarthy/DC/USEPA/US on 08/10/2009 07:11 PM -----

From: Bob Sussman/DC/USEPA/US  
To: Gina McCarthy/DC/USEPA/US@EPA  
Date: 08/10/2009 12:48 PM  
Subject: Fw: ltr from environmental grps

---

Assume you saw this. Any thoughts/reactions? These issues have been simmering ever since we came to 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 08/10/2009 12:47 PM -----

From: Charles Imohiosen/DC/USEPA/US  
To: Bob Sussman <sussman.bob@epa.gov>  
Date: 08/10/2009 12:18 PM  
Subject: Fw: ltr from environmental grps

---

Letter from the enviros to Mathy, Gina, Pete S. and OGC (dated 8/5) relating to OIRA issues.

Charles Imohiosen  
Special Assistant to the Senior 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 08/10/2009 12:10 PM -----

From: Antoinette Powell-Dickson/DC/USEPA/US  
To: Charles Imohiosen/DC/USEPA/US@EPA



(b) (6) **recusals**  
**Eric Wachter** to: Richard Windsor

02/13/2009 01:45 PM

History: This message has been replied to.

A handful of cases mainly dealing (b) (6) She would be recused from (b) (6). She says she is clean other than that.

Lena Moffitt  
<Lena.Moffitt@sierraclub.org>  
05/31/2011 04:52 PM

To: Alex Barron  
cc  
bcc  
Subject: Re: Johanns and KXL

Yeah, definitely! Let me know if there's anything else I can do.

Lena Moffitt  
Washington Representative  
Sierra Club  
(202) 675-2396 (w)  
(505) 480-1551 (c)

From: Barron.Alex@epamail.epa.gov  
To: Lena Moffitt <Lena.Moffitt@sierraclub.org>  
Date: 05/31/2011 04:50 PM  
Subject: Re: Johanns and KXL

---

Do you have a copy of the letter Johanns sent to Clinton around the 12th of May?

A



Johanns letter to State 5.10.11.pdf

Richard  
Wayland/RTP/USEPA/US  
06/06/2012 05:28 PM

To: Mike Thrift  
cc: Janet McCabe, Kevin McLean, Michael Ling, Sara  
Schneeberg, Scott Mathias  
bcc:  
Subject: Re: Fw: April 12, 2012 Letter

Mike,

(b) (5) DP  
[Redacted]

Chet  
Richard A. "Chet" Wayland  
Director, Air Quality Assessment Division  
U.S. EPA Office of Air Quality Planning & Standards  
Mail Code C304-02, RTP, NC 27711  
Phone: (919) 541-4603, Cell: (919) 606-0548

Mike Thrift Had an interesting discussion with Josh... 06/06/2012 03:39:49 PM

From: Mike Thrift/DC/USEPA/US  
To: Sara Schneeberg/DC/USEPA/US@EPA  
Cc: Janet McCabe/DC/USEPA/US@EPA, Kevin McLean/DC/USEPA/US@EPA, Michael  
Ling/RTP/USEPA/US@EPA, Scott Mathias/RTP/USEPA/US@EPA, Richard  
Wayland/RTP/USEPA/US@EPA  
Date: 06/06/2012 03:39 PM  
Subject: Re: Fw: April 12, 2012 Letter

Had an interesting discussion with Josh Stebbins of Sierra Club just now.

(b) (5) DP  
[Redacted]

[Redacted]

(b) (5) DP

-----Sara Schneeberg/DC/USEPA/US wrote: -----

To: Mike Thrift/DC/USEPA/US@EPA  
From: Sara Schneeberg/DC/USEPA/US  
Date: 06/06/2012 10:10AM  
Cc: Janet McCabe/DC/USEPA/US@EPA, Kevin McLean/DC/USEPA/US@EPA, Michael  
Ling/RTP/USEPA/US@EPA, Scott Mathias/RTP/USEPA/US@EPA  
Subject: Re: Fw: April 12, 2012 Letter

(b) (5) DP

Sara Schneeberg  
USEPA Office of General Counsel  
Phone: 202/564-5592  
Fax: 202/564-5603

Mike Thrift--06/06/2012 08:58:56 AM--Uh oh. Instructions? The April 12 letter does not seem to be binding or final, as it doesn't impos

From: Mike Thrift/DC/USEPA/US  
To: Kevin McLean/DC/USEPA/US@EPA, Sara Schneeberg/DC/USEPA/US@EPA, Scott  
Mathias/RTP/USEPA/US@EPA, Michael Ling/RTP/USEPA/US@EPA, Janet  
McCabe/DC/USEPA/US@EPA  
Date: 06/06/2012 08:58 AM  
Subject: Fw: April 12, 2012 Letter



(b) (5) DPP, (b)(5) ACP

Mike Thrift  
U.S. Environmental Protection Agency  
Office of General Counsel (2344-A)  
1200 Pennsylvania Ave., NW  
Washington, D.C. 20460

-----Forwarded by Mike Thrift/DC/USEPA/US on 06/06/2012 08:55AM -----

To: Mike Thrift/DC/USEPA/US@EPA  
From: Josh Stebbins <josh.stebbins@sierraclub.org>  
Date: 06/05/2012 04:11PM  
Cc: rukeiley <rukeiley@igc.org>, Zachary Fabish <zachary.fabish@sierraclub.org>  
Subject: April 12, 2012 Letter

Mike -

I hope you are well.

Would you have time tomorrow for a quick discussion about the April 12, 2012 SO2 NAAQS implementation letter? As I mentioned at the SO2 NAAQS stakeholder meeting, NGOs would like to review with EPA whether EPA considers the letter a binding, or a final, agency action. This is something that we could perhaps resolve easily.

Thank you

Josh

--

Joshua Stebbins  
Managing Attorney  
Sierra Club  
50 F Street, NW, Eighth Floor  
Washington, DC 20001  
202 675 6273  
202 547 6009

Bob  
Perciasepe/DC/USEPA/US  
05/21/2012 09:52 AM

To: Brendan Gilfillen  
cc  
bcc  
Subject: Fw: Article

Worth noting.

Conflicts

Bob Perciasepe  
Deputy Administrator

(o) +1 202 564 4711  
(c) +1 202 [REDACTED]

----- Forwarded by Bob Perciasepe/DC/USEPA/US on 05/21/2012 09:51 AM -----

From: "Robert 'Mike' McGhee" <rmcghee2@bellsouth.net>  
To: Nancy Stoner/DC/USEPA/US@EPA, Bob Perciasepe/DC/USEPA/US@EPA  
Date: 05/21/2012 08:24 AM  
Subject: Article

#### **EPA Probes for Conflicts of Interest Should Start In Their Own Building**

(Tallahassee, FL -- May 17, 2012) Prompted by a petition from two environmental interest groups, the EPA is searching for conflicts of interest among Florida's environmental officials.

"If EPA is on the hunt for conflicts of interest they can start in their own building," said Ryan Houck, executive director of Free Market Florida. "Many of EPA's top brass have extensive ties to environmental litigation groups with a clear financial interest in the outcome of major permitting battles. Somehow, I doubt the Florida Clean Water Network or PEER will be calling for their firing."

Many of EPA's top regulators are former staffers for major environmental litigants, which frequently bring suit against the agency over permitting issues. These environmental interest groups have a direct financial stake in the outcome of litigation with the EPA, which includes their ability to request attorney's fees through the Equal Access to Justice Act. Recently, EPA has drawn fire for its "sue-and-settle" formula—a process by which environmental groups bring suit against the EPA in order to trigger a rulemaking process that results in new regulations.

"The EPA has ceased to be an impartial referee on permitting matters," said Houck. "They've strapped on pads and are on the field playing for environmental extremists. It's exactly what you'd expect from a system wherein environmental interest groups serve as de facto farm teams for EPA. It's just laughable that environmental litigants are now pointing the finger at others."

A brief list of senior EPA officials who have formerly worked at environmental interest groups that often sue the EPA:

Nancy Stoner, Interim Assistant Administrator of Water

Formerly Worked for: Natural Resources Defense Council

Glenn Paulson, Chief Scientist  
Formerly Worked for: Natural Resources Defense Council

Michael L. Goo, Associate Administrator for the Office of Policy  
Formerly Worked for: Natural Resources Defense Council

Bob Perciasepe, Deputy Administrator  
Formerly Worked for: National Audubon Society

Cynthia Giles, Assistant Administrator for Enforcement & Compliance  
Formerly Worked for: The Conservation Law Foundation's Advocacy Center

Michelle J. DePass, Asst. Administrator for the Office of International and Tribal Affairs  
Formerly Worked for: The New York City Environmental Justice Alliance

Mathy Stanislaus, Assistant Administrator for Solid Waste  
Formerly Served on the Board of: NYC Environmental Justice Alliance

Curt Spalding – Region 1 Director  
Formerly Worked for: "Save the Bay" and "Narragansett Bay Keeper"

Judith A. Enck – Region 2 Director  
Formerly Worked for: New York PIRG and Environmental Advocates of New York

Susan Hedman – Region 5 Director  
Formerly Worked for: Environmental Law and Policy Center and Center for Global Change

Karl Brooks – Region 7 Director  
Formerly Worked for: Idaho Conservation League

James B. Martin – Region 8 Director  
Formerly Worked for: Environmental Defense Fund

Jared Blumenfeld – Region 9 Director  
Formerly Worked for: Sierra Club Legal Defense Fund, the NRDC and International Fund for Animal Welfare

Free Market Florida is a free market watchdog group affiliated with the newly launched Free Market America. The organization emerged from a coalition of business and civic leaders which, in 2010, led the successful "Vote No on 4" campaign, garnering 67 percent of the vote.

 - wide.1.png

Arvin Ganesan/DC/USEPA/US

06/28/2012 09:23 AM

To Richard Windsor, "Gina McCarthy", Bob Perciasepe, Diane Thompson, Brendan Gilfillan, Bob Sussman, Laura Vaught  
cc "Janet Woodka"

bcc

Subject Re: Al Armendariz

+ janet

Janet, should have included you.

Sent from my Blackberry Wireless Device  
Richard Windsor

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

From: Richard Windsor  
Sent: 06/27/2012 03:50 PM EDT  
To: Arvin Ganesan; "Gina McCarthy" <mccarthy.gina@epa.gov>; Bob Perciasepe; Diane Thompson; Brendan Gilfillan; Bob Sussman; Laura Vaught  
Subject: Re: Al Armendariz

K. Tx.

Arvin Ganesan

*Handwritten signature*

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

From: Arvin Ganesan  
Sent: 06/27/2012 03:38 PM EDT  
To: Richard Windsor; mccarthy.gina@epa.gov; Bob Perciasepe; Diane Thompson; Brendan Gilfillan; Bob Sussman; Laura Vaught  
Subject: Al Armendariz

FYI - I just got a call from the Sierra Club. Al has accepted a job with the Sierra Club, and will run their anti-coal campaign in the Texas region. Sierra Club will NOT be making this announcement Friday afternoon, but this has the potential to spill out before then.

Thanks  
Arvin

Al McGartland/DC/USEPA/US  
08/14/2012 04:45 PM

To Alex Barron, Paul Balserak, Barry Elman, Shannon Kenny,  
DavidA Evans, Alex Marten

cc

bcc

Subject Re: RECORD 3 MILLION COMMENTS IN SUPPORT OF  
EPA'S CARBON POLLUTION STANDARD !!!!!

Woo Hoo.

Sent from my BlackBerry. Please excuse typos and brevity.

Alex Barron

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

**From:** Alex Barron

**Sent:** 08/14/2012 03:25 PM EDT

**To:** Paul Balserak; Barry Elman; Shannon Kenny; DavidA Evans; Alex Marten

**Cc:** Al McGartland

**Subject:** Fw: RECORD 3 MILLION COMMENTS IN SUPPORT OF EPA'S CARBON  
POLLUTION STANDARD !!!!!

----- Forwarded by Alex Barron/DC/USEPA/US on 08/14/2012 03:25 PM -----

From: "Herzog, Antonia" <aherzog@nrdc.org>  
To: Michael Goo/DC/USEPA/US@EPA, Alex Barron/DC/USEPA/US@EPA,  
"goffman.joe@epamail.gov" <goffman.joe@epamail.gov>, Shira Sternberg/R1/USEPA/US@EPA  
Cc: "Altman, Pete" <paltman@nrdc.org>, "Doniger, David" <ddoniger@nrdc.org>  
Date: 08/14/2012 01:26 PM  
Subject: RECORD 3 MILLION COMMENTS IN SUPPORT OF EPA'S CARBON POLLUTION STANDARD  
!!!!!!

FYI, in case you missed this. Truly remarkable. Please pass it on. Antonia

**FOR IMMEDIATE RELEASE:**

**August 14, 2012**

**RECORD 3 MILLION COMMENTS IN SUPPORT OF EPA'S CARBON  
POLLUTION STANDARD  
DEMONSTRATES AMERICANS' SUPPORT FOR CURBING CLIMATE CHANGE**

WASHINGTON, DC -- August 14, 2012: Today, a broad coalition of groups supporting clean air announced the collection of 3 million public comments in support of national standards to limit dangerous industrial carbon pollution from new power plants. Adding that this unprecedented tally reflects the strong desire of Americans for national leadership to address climate change and its impact on public health, the groups issued the following statement:

***"Three million public comments in favor of cleaning up dangerous carbon pollution is a remarkable and record-setting show of support for protecting our health from rising temperatures. This outpouring of support from across the nation is a wakeup call for policy makers to heed the public's desire to curb air pollution and climate change."***

Alex Barron/DC/USEPA/US  
07/28/2011 01:24 PM

To Al McGartland, Rob Brenner, Jim DeMocker, Lydia Wegman  
cc Nathalie Simon, Lorie Schmidt  
bcc  
Subject API ozone study

The bogus claim season is starting early on this rule. Co-benefits aren't benefits! PM isn't bad for you! Ozone isn't bad for you!

AI - Note the bit on VSL, also pls add this to the industry study pile.

Someone else can file this under: "examples of trade press largely acting as stenographer"

## **AIR POLLUTION: Oil industry pressures White House with new smog study (07/28/2011)**

**Gabriel Nelson, E&E reporter**

The cost of cleaning up smog across the country would outstrip any benefits for public health, the American Petroleum Institute says in a new [report](#) that is being taken to the White House to bolster the trade group's argument that President Obama should stop U.S. EPA from setting stricter limits on ground-level ozone.

With a final decision now under review by the Office of Management and Budget, business groups are stepping up their attacks on the update to the ozone standard, which decides what counts as clean air from coast to coast.

The American Petroleum Institute, which is the largest trade group for the oil and gas industry, says in its new report that EPA has tweaked its economic analysis to exaggerate the health benefits that would result from stricter rules that were proposed last year.

In light of his recent executive order telling agencies to get rid of rules that would do needless harm to the economy, President Obama should stick with the standards chosen under George W. Bush and wait until EPA's next scientific review of ozone wraps up in 2013, said Khary Cauthen, the group's director of federal relations.

"This is a perfect example of a rule that needs to be pulled back," Cauthen told reporters during a conference call this morning, previewing the argument his group will make during a meeting with White House officials later today.

Oil companies are worried that stricter limits would hike costs and slow down expansion throughout their supply chain, all the way from oil and gas wells to refineries and gas stations. They make their money selling fuels such as gasoline and diesel, which release the largest share of both nitrogen oxides (NOx) and volatile organic compounds, the two main chemicals that react in the air to form ozone.

Geoffrey  
Wilcox/DC/USEPA/US  
04/24/2009 10:49 AM

To OGC ARLO  
cc Nancy Ketcham-Colwill, Jim Ketcham-Colwill, Rich Damberg  
bcc  
Subject FYI on GW from NYT

Colleagues:

Well at least the polluters are consistent - they suppress their own scientists too!

G

April 24, 2009

## Industry Ignored Its Scientists on Climate

By [ANDREW C. REVKIN](#)

For more than a decade the Global Climate Coalition, a group representing industries with profits tied to fossil fuels, led an aggressive lobbying and public relations campaign against the idea that emissions of heat-trapping gases could lead to [global warming](#).

“The role of greenhouse gases in climate change is not well understood,” the coalition said in a scientific “backgrounder” provided to lawmakers and journalists through the early 1990s, adding that “scientists differ” on the issue.

But a [document filed](#) in a federal lawsuit demonstrates that even as the coalition worked to sway opinion, its own scientific and technical experts were advising that the science backing the role of greenhouse gases in global warming could not be refuted.

“The scientific basis for the Greenhouse Effect and the potential impact of human emissions of greenhouse gases such as CO<sub>2</sub> on climate is well established and cannot be denied,” the experts wrote in an internal report compiled for the coalition in 1995.

The coalition was financed by fees from large corporations and trade groups representing the oil, [coal](#) and auto industries, among others. In 1997, the year an international climate agreement that came to be known as the Kyoto Protocol was negotiated, its budget totaled \$1.68 million, according to tax records obtained by environmental groups.

Throughout the 1990s, when the coalition conducted a multimillion-dollar advertising campaign challenging the merits of an international agreement, policy makers and pundits were fiercely debating whether humans could dangerously warm the planet. Today, with general agreement on the basics of warming, the debate has largely moved on to the question of how extensively to respond to rising temperatures.

Environmentalists have long maintained that industry knew early on that the scientific evidence supported a human influence on rising temperatures, but that the evidence was ignored for the sake of companies’ fight against curbs on greenhouse gas emissions. Some environmentalists

a let

From: Lucinda Watson/R6/USEPA/US  
To: Carrie Thomas/R6/USEPA/US@EPA, Suzanne Smith/R6/USEPA/US@EPA  
Cc: Agustin Carbo-Lugo/R6/USEPA/US@EPA  
Date: 01/13/2011 12:49 PM  
Subject: Fw: FOIA requests for the NM and OK FIPs

---

For the QF/FP FOIA, did we first contact them to try to narrow the request?  
Next, did we send a letter suspending our response until they agreed to pay the estimated amount?

Of course, I cannot figure out how we would have an estimate until everyone has finished their search for responsive documents?

Bottom line - how do I answer OGC's e-mail so we sound like we know what we are doing?

◆----- Forwarded by Lucinda Watson/R6/USEPA/US on 01/13/2011 12:47 PM -----

**Re: Fw: FOIA requests for the NM and OK FIPs**

Geoffrey Wilcox to: Joe Kordzi 01/12/2011 05:22 PM

Cc: Lea Anderson, Todd Hawes, Kevin McLean, Lucinda Watson, Agustin Carbo-Lugo

---

PRIVILEGED COMMUNICATION



Joe:

Let's have a chat about this topic.

Unless something has changed, my understanding is that there are some standard protocols we usually follow in such FOIA requests.

One of the first steps is to alert the requestor that they need to narrow their request because it is overbroad, and secondarily that it will probably cost more than the amount of \$ they agreed to pay.

Unless and until they respond to that, and tell us they will pay more, we usually tell them in writing that we are suspending our response to their request until they get back to us.

Lucinda and Augustin may have more recent experience than me in dealing with such things.

If not, we may want to call one of the OGC FOIA gurus for a consultation. FOIA Exemption (b)(5) - Deliberative Process Privilege

G

Joe Kordzi---01/12/2011 04:09:20 PM---yes thanks - I've called Mr. Orkin to inform him I think the bill would exceed \$500. He hasn't resp

From: Joe Kordzi/R6/USEPA/US  
To: Lea Anderson/DC/USEPA/US@EPA  
Cc: Geoffrey Wilcox/DC/USEPA/US@EPA, Todd Hawes/RTP/USEPA/US@EPA  
Date: 01/12/2011 04:09 PM  
Subject: Re: Fw: FOIA requests for the NM and OK FIPs

yes thanks - I've called Mr. Orkin to inform him I think the bill would exceed \$500. He hasn't responded yet.

Regards,

Joe

" ... and miles to go before I sleep."  
-- Robert Frost

Lea Anderson---01/12/2011 02:13:06 PM---Joe, I assume (hopefully)  
that we are at least charging the requestor for our search time?  
Please

From: Lea Anderson/DC/USEPA/US  
To: Joe Kordzi/R6/USEPA/US@EPA  
Cc: Geoffrey Wilcox/DC/USEPA/US@EPA, Todd  
Hawes/RTP/USEPA/US@EPA  
Date: 01/12/2011 02:13 PM  
Subject: Re: Fw: FOIA requests for the NM and OK FIPs

---

Joe,  
I assume (hopefully) that we are at least charging the requestor for  
our search time? Please let me know if I should keep track of the time  
spend on the search.

thanks,  
Lea

M. Lea Anderson  
EPA Office of General Counsel  
Phone: (202) 564-5571

Joe Kordzi---01/12/2011 01:58:30 PM---Welcome to my FOIAs. I will  
separately send you some Lotus Notes buttons and instructions so you  
ca

From: Joe Kordzi/R6/USEPA/US  
To: Geoffrey Wilcox/DC/USEPA/US@EPA, Lea  
Anderson/DC/USEPA/US@EPA, Todd Hawes/RTP/USEPA/US@EPA

Date: 01/12/2011 01:58 PM

Subject: Fw: FOIA requests for the NM and OK FIPs

---

Welcome to my FOIAs. I will separately send you some Lotus Notes buttons and instructions so you can load your emails.

Regards,

Joe

" ... and miles to go before I sleep."  
-- Robert Frost

----- Forwarded by Joe Kordzi/R6/USEPA/US on 01/12/2011 12:52 PM  
-----

From: Joe Kordzi/R6/USEPA/US

To: R6 6PD-L

Cc: Lucinda Watson/R6/USEPA/US@EPA, Agustin Carbo-Lugo/R6/USEPA/US@EPA

Date: 01/04/2011 11:19 AM

Subject: FOIA requests for the NM and OK FIPs

---

Enclosed are two extensive FOIA requests. The first one is related to our just proposed NM regional haze SIP-FIP, and mainly concerns the San Juan Generating Station. The second one basically requests everything we have concerning the OK regional haze SIP-FIP which we are currently working on. [REDACTED]

[REDACTED] I looked into getting drop boxes set up for you to submit your emails, but balked at the 33 page set of instructions that accompanied it, and the lack of an easy, workable way to get those emails to the requestor, so we will do it the old fashioned way. If you have anything that is responsive, pls print it off and give it to me. If that includes documents, pls put them on a CD and name them in such a way the requestor will know which email they go with. I cannot provide guidance on what can be released. According to ORC, we should have all taken that training and are apparently on our own. I'm sorry for not starting this earlier, but I was busy with the FIPs and my efforts to get clarification/help on this didn't work out.

1. The due date for the NM FOIA was 12/30/10. This is the second FOIA on this subject from the same person. A request has been made to get an extension, but as before, the requestor has not been responsive to that request. I think much of what is requested will actually be in the docket in a day or so. However, you may have emails that are responsive.

2. The due date for the OK regional haze SIP-FIP has been extended to 1/15/11, but the requestor expected we would do a rolling submittal, that for the reasons outlined above, didn't work out. Therefore, pls also assume we are also late on this one as well. Because we have not yet proposed our decision on this action, I expect much of what is requested will not be able to be released, but that if you to decide. Here is something that may help:  
[foia.navy.mil/Exemptionb5Slides.ppt](http://foia.navy.mil/Exemptionb5Slides.ppt)

**Pls have everything to me by noon, 1/11/11. If that's not possible, pls let me know ASAP.**

[attachment "SJGS FOIA.pdf" deleted by Lea Anderson/DC/USEPA/US]  
[attachment "OK SIP-FIP FOIA.pdf" deleted by Lea Anderson/DC/USEPA/US]

Regards,

Joe

" ... and miles to go before I sleep."  
-- Robert Frost

**Re: Post has checked in** [1]

David Cohen to: Richard Windsor

02/09/2009 02:46 PM

From: David Cohen/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA,

Thanks!

Richard Windsor

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

**From:** Richard Windsor  
**Sent:** 02/09/2009 02:46 PM EST  
**To:** David Cohen  
**Cc:** "Allyn Brooks-Lasure" <  
**Subject:** Re: Post ha

Gave Allyn a quote. Downplay -

David Cohen

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

**From:** David Cohen  
**Sent:** 02/09/2009 02:35 PM EST  
**To:** Richard Windsor; Allyn LaSure  
**Subject:** Post has checked in

On if we'll pull johnson memo psd. Desset rock

Michael Goo/DC/USEPA/US  
05/18/2011 06:30 PM

To Shannon Kenny  
cc  
bcc  
Subject Re: Sierra

Yes  
Shannon Kenny

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

**From:** Shannon Kenny  
**Sent:** 05/18/2011 06:20 PM EDT  
**To:** goo.michael@epa.gov  
**Subject:** Sierra

---

-- thoughts?



**Re: wh press-office conference call today**  
Richard Windsor to: David Cohen  
Bcc: "Allyn Brooks-Lasure"

02/09/2009 11:10 AM

From: Richard Windsor/DC/USEPA/US  
To: David Cohen/DC/USEPA/US@EPA,  
Bcc: "Allyn Brooks-Lasure" <

David,

Let me know if you are uncomfortable with any of this. Lj  
David Cohen

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

**From:** David Cohen  
**Sent:** 02/09/2009 10:52 AM EST  
**To:** Richard Windsor  
**Cc:** Lisa Heinzerling; David McIntosh  
**Subject:** wh press-office conference call today

the call just ended with me informing ben labolt that we'd just received an interview request from john broder of the ny times asking for either you or lisa h.. the specific subject he wants to discuss is status and plans regarding the endangerment finding.

ben said he was aware that broder is working on a piece "springing from mass. vs. epa."

where we left things is that after he confers with his people there (some of whom also have received interview requests), he'll get back to us about how to move forward.

broder apparently has a deadline of wednesday.

**roxanne: here's the quote for post**

David Cohen to: Roxanne Smith

02/09/2009 03:46 PM

Cc: Allyn LaSure

Bcc: Richard Windsor

From: David Cohen/DC/USEPA/US

To: Roxanne Smith/DC/USEPA/US@EPA,

Cc: Allyn LaSure/DC/USEPA/US@EPA,

Bcc: Richard Windsor/DC/USEPA/US

"The Administrator is reviewing the matter as she committed to do during her confirmation process."





**Fw: PSD: recommendation for tomorrow**  
Richard Windsor to: Lisa Jackson

02/09/2009 07:32 AM

From: Richard Windsor/DC/USEPA/US  
To: "Lisa Jackson" <

Lisa Heinzerling

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

**From:** Lisa Heinzerling  
**Sent:** 02/08/2009 02:21 PM EST  
**To:** Richard Windsor  
**Cc:** David McIntosh  
**Subject:** PSD: recommendation for tomorrow

Lisa,

You have expressed a desire to signal to regional offices that you will be reconsidering the Johnson interpretive memo on PSD and that they should take this into account in making decisions about permits for coal-fired power plants.

I believe the first signal to this effect should come tomorrow. A decision on one or more plants in Nevada may come as early as Tuesday, and a signal from you tomorrow would send an appropriate message of forbearance regarding such decisions.

Lisa

**PSD memo to regions**

Lisa Heinzerling To: Richard Windsor

02/09/2009 06:25 PM

From: Lisa Heinzerling/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA,

Lisa,

Here is a first stab at the memo you asked me to write to the regions on PSD and GHGs.

I'd like to discuss this memo and the larger PSD strategy at the morning meeting tomorrow.

Thanks.

Best,  
Lisa



PSD memo to regional offices.doc

**Fw: pending items**  
Lisa Heinzerling to: Richard Windsor

02/10/2009 08:21 AM

From: Lisa Heinzerling/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA

Just realized I sent this to your personal account. Here it is again. Thanks.

— Forwarded by Lisa Heinzerling/DC/USEPA/US on 02/10/2009 08:21 AM —

**Lisa**  
Heinzerling/DC/USEPA/US  
02/10/2009 08:16 AM

To: [REDACTED] Eric Wachter/DC/USEPA/US,  
Robert Goulding/DC/USEPA/US, David  
McIntosh/DC/USEPA/US, Bob Sussman/DC/USEPA/US,  
Allyn LaSure/DC/USEPA/US

cc

Subject: pending items

Lisa,

I am attaching a memo describing items and issues which are pending and require attention. As I say in the memo, now that reinforcements have arrived and are arriving, I hope and believe the moment has come to give someone else the opportunity to address these matters.

At this morning's meeting, I will give you both a hard copy of this memo and copies of items (lists, emails, one-pagers) relevant to the items mentioned in the memo.

I realize the items are described in somewhat abbreviated form. I am happy, obviously, to discuss the matters in more detail with whoever takes them over.

Thanks.

Best,  
Lisa



memo to EPA on pending items to address.doc



**Re: no quote from Administrator Jackson ...**  
 Richard Windsor to: Lisa Heinzerling, David McIntosh  
 cc: "Allyn Brooks-Lasure"

02/09/2009 05:11 PM

From: Richard Windsor/DC/USEPA/US  
 To: Lisa Heinzerling/DC/USEPA/US@EPA, "David McIntosh" <mcintosh.david@epa.gov>,  
 cc: "Allyn Brooks-Lasure" <

Lisa Heinzerling

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

From: Lisa Heinzerling  
 Sent: 02/09/2009 05:04 PM EST  
 To: Richard Windsor  
 Subject: Fw: no quote from Administrator Jackson...

If the scenario plays out as Dave M. is suggesting it could, below, then I recommend following his advice

----- Forwarded by Lisa Heinzerling/DC/USEPA/US on 02/09/2009 05:03 PM -----



David  
 McIntosh/DC/USEPA/US  
 02/09/2009 04:59 PM

To: Lisa Heinzerling/DC/USEPA/US@EPA, Allyn  
 LaSure/DC/USEPA/US@EPA, David  
 Cohen/DC/USEPA/US@EPA

cc

Subject Re: no quote from Administrator Jackson...

One thing we should prepare for is the possibility that Senate Majority Leader Reid might, notwithstanding the lack of a quote from EPA, simply tell the Nevada press that the Johnson PSD memo is under active review at EPA and is not a closed matter.

Lisa Heinzerling .... on PSD today if press calls, we don't have an... 02/09/2009 11:19:14 AM

From: Lisa Heinzerling/DC/USEPA/US  
 To: Allyn LaSure/DC/USEPA/US@EPA, David Cohen/DC/USEPA/US@EPA, David  
 McIntosh/DC/USEPA/US@EPA  
 Date: 02/09/2009 11:19 AM  
 Subject: no quote from Administrator Jackson...

.... on PSD today

if press calls, we don't have anything to say other than what we would normally say when press calls

**information regarding PSD & GHGs**

Lisa Heinzerling -> Richard Windsor

02/10/2009 12:30 PM

cc: Robert Goulding, Eric Wachter, David McIntosh, Allyn Brooks-LaSure

to: Lisa Heinzerling/DC/USEPA/US

Richard Windsor/DC/USEPA/US@EPA,

cc: Robert Goulding/DC/USEPA/US@EPA, Eric Wachter/DC/USEPA/US@EPA, David  
McIntosh/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA

**In answer to Carol Browner's request for information on PSD permitting as it relates to GHGs:**

There are a total of 47 facilities as to which the issue of regulating GHGs in the PSD process has arisen. Thirty-one of these are coal-fired power plants. The others are a mix (power plants using various fuels other than coal, one steel plant, refineries, a coal-fired boiler). Of the 31 coal-fired power plants, 18 are new facilities. The states in which the new plants would be sited are: New York, West Virginia, Kentucky, Mississippi, South Carolina, Georgia, Illinois, Michigan, Ohio, Arizona, Texas, Montana, Utah, Wyoming, New Mexico, and Nevada. The developers of one of the Nevada coal plants announced yesterday that it was dropping its plan to build the plant.

Don Zinger/DC/USEPA/US  
08/02/2009 11:29 PM

To: craig.beth  
cc  
bcc  
Subject: Fw: Earthjustice meeting request

Beth, you might want to talk to David to learn more about this, although their note is quite clear. I am certain Gina would want to meet with them. Thanks.

-----  
Sent by EPA Wireless E-Mail Services  
David McIntosh

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

From: David McIntosh  
Sent: 08/02/2009 10:09 AM EDT  
To: Don Zinger  
Subject: Fw: Earthjustice meeting request

Hi Don. FYI, see below. Based on their meeting with me, I can tell you the topic that they're hoping to cover with Gina.

-David

----- Forwarded by David McIntosh/DC/USEPA/US on 08/02/2009 10:08 AM -----

From: Sarah Saylor <ssaylor@earthjustice.org>  
To: "polk-williams.hela@epa.gov" <polk-williams.hela@epa.gov>  
Cc: David McIntosh/DC/USEPA/US@EPA  
Date: 07/31/2009 05:12 PM  
Subject: Earthjustice meeting request

Dear Hela,

On behalf of Earthjustice and several environmental advocacy groups including Sierra Club, Environment America, National Wildlife Federation, Audubon, Environmental Integrity Project, and Natural Resources Defense Council, I am writing to request a meeting with Assistant Administrator McCarthy.

We are interested in discussing the Office of Air and Radiation's plans to move forward with regulating greenhouse gasses under the Clean Air Act, particularly with respect to stationary sources. While we are aware that the agency may not yet have any definite plans at this time, we would welcome the opportunity to share our thoughts on a path forward that is mutually beneficial. We welcome the chance to discuss how best to meet the stated goals of the administration as well as those of our members and supporters on combating climate change.

I am copying Assistant Administrator David McIntosh on this message as our request is an outgrowth of an initial meeting with him.

Best,  
Sarah

-----  
Sarah Saylor  
Senior Legislative Representative

Richard  
Wayland/RTP/USEPA/US  
06/15/2011 08:12 AM

To Janet McCabe  
cc Scott Mathias, Steve Page  
bcc  
Subject Re: Sierra Club Meeting request with Gina on SO2 modeling

I would agree (b) (5) DP

Chet  
*Richard A. "Chet" Wayland*  
Director, Air Quality Assessment Division  
U.S. EPA Office of Air Quality Planning & Standards  
Mail Code C304-02, RTP, NC 27711  
Phone: (919) 541-4603, Cell: (919) 606-0548

Janet McCabe My inclination is not to have Gina in the... 06/15/2011 01:05:15 AM

From: Janet McCabe/DC/USEPA/US  
To: OAR Invitations@EPA  
Cc: Addie Johnson/DC/USEPA/US@EPA, Steve Page/RTP/USEPA/US@EPA, Scott Mathias/RTP/USEPA/US@EPA, Richard Wayland/RTP/USEPA/US@EPA  
Date: 06/15/2011 01:05 AM  
Subject: Re: Sierra Club Meeting request with Gina on SO2 modeling

My inclination is (b) (5) DP

Steve, Scott, Chet--what do you think?

Janet McCabe  
Principal Deputy Assistant Administrator  
Office of Air and Radiation, USEPA  
Room 5426K, 1200 Pennsylvania Avenue NW  
Washington, DC 20460  
202-564-3206  
mccabe.janet@epa.gov

SO2  
modeling

-----Cindy Huang/DC/USEPA/US wrote: -----  
To: Janet McCabe/DC/USEPA/US@EPA  
From: OAR Invitations  
Sent by: Cindy Huang/DC/USEPA/US

Date: 06/14/2011 02:37PM  
Cc: Addie Johnson/DC/USEPA/US@EPA  
Subject: Sierra Club Meeting request with Gina on SO2 modeling

Hi Janet,

Here's the second one, Sierra Club wants to meet with Gina to discuss SO2 Modeling of unscrubbed coal plants. I haven't asked Gina if she wants to take the meeting yet and they are requesting in the next two weeks to meet with her. Would you like to meet with them or should I send this to OAQPS?

Thanks,  
Cindy

---

Office of Air and Radiation, Immediate Office  
U.S. Environmental Protection Agency  
OAR\_invitations@epa.gov  
202-564-7404

----- Forwarded by Cindy Huang/DC/USEPA/US on 06/14/2011 02:33 PM -----

From: Josh Stebbins <Josh.Stebbins@sierraclub.org>  
To: OAR Invitations@EPA  
Date: 06/14/2011 09:57 AM  
Subject: Sierra Club Meeting With AA McCarthy -- SO2 Modeling

Dear Cindy -

It was a pleasure to speak with you on the phone. As I explained, Sierra Club is seeking a meeting with Assistant Administrator McCarthy for several reasons.

First, I would like to make general introductions as I am the Senior Attorney for Sierra Club in Washington, replacing David Bookbinder.

Second, Sierra Club is undertaking a significant push on a national level to conduct 1 Hour SO2 modeling of unscrubbed coal plants. In this regard, we are very interested in better understanding the direction EPA is taking in developing SO2 modeling protocols. In addition, we would like to be sure that the modeling we are doing will be taken into consideration in establishing the initial attainment/nonattainment designations for the 1 Hour SO2 NAAQS standard this coming year.

As we are in the midst of the 1 Hour SO2 modeling process, it would be ideal if we could meet with Assistant Administrator McCarthy, and any EPA staff she thinks would be relevant, sometime in the next two weeks or so, if that is at all possible.

Thank you

Josh

Joshua Stebbins  
Senior Attorney



John Coequyt  
<John.Coequyt@sierraclub.org  
>

04/29/2011 02:35 PM

To: Michael Goo, Alex Barron  
cc  
bcc  
Subject: Zombie's

Michael and Alex:

Attached is a list of plants that the companies said were shelved because of uncertainty around GHG regulations. If a standard is set that these plants could meet, there is a not small chance that they company could decide to revive the proposal.

John Coequyt  
Sierra Club  
DL: 202.675.7916



C: 202.669.7060 Defected Plants - GHG - 2011.xls

John Coequyt  
<john.coequyt@sierraclub.org  
>

02/15/2013 01:43 PM

To: Alex Barron, Joseph Goffman, Michael Goo

cc

bcc

Subject: Fwd: [International-Coal] 1,200 MW White Stallion Coal Plant  
CANCELLED

FYI

View this press release online:

<http://content.sierraclub.org/press-releases/2013/02/white-stallion-coal-proposal-cancelled>

FOR IMMEDIATE RELEASE:

February 15, 2013

CONTACT:

Jenna Garland, Sierra Club, [\(404\) 607-1262 x222](tel:(404)607-1262x222)

Eva Malina, No Coal Coalition, [\(979\) 240-4416](tel:(979)240-4416)

Allison Sliva, No Coal Coalition, [\(713\) 922-5639](tel:(713)922-5639)

## **White Stallion Coal Proposal Cancelled**

### ***Local Advocates & Environmental Groups Declare Victory***

BAY CITY, TX – After years of grassroots challenges, White Stallion Energy Center developers have chosen to suspend the proposed plant. When the project was first announced, local residents joined together to question the air pollution, water consumption, and accuracy of the developers' promises. More and more Matagorda County residents joined together to oppose the plant, along with business owners, land owners, members of the medical community, and local elected officials. The Sierra Club, Public Citizen, SEED Coalition, Environmental Integrity Project, and Environmental Defense Fund join the No Coal Coalition in celebrating the cancellation of the White Stallion Energy Center.

"The White Stallion developers came to Matagorda County, thinking they could lure us into supporting a project that would suck up our water, pump mercury into our bay, and pollute our air. Brave residents asked tough questions, and realized the White Stallion plant would harm our community and our economy. This plant is cancelled because we organized to protect our families and Matagorda County," said Eva Malina, president of the No Coal Coalition, the local organization fighting the plant. "I think they thought that since we were a small rural

John Coequyt  
<John.Coequyt@sierraclub.org  
>

03/31/2011 07:12 PM

To Michael Goo  
cc "jcoequyt@sierraclub.org"  
bcc  
Subject Re: John

I talked to Michael about pushing the meeting to 4.30. We could probable actually do 4:45, but early next week would be a lot better. Can you ask him what he wants to do? It is hard to get all the experts and attorneys lined up quickly.

John Coequyt  
202.669.7060

On Mar 31, 2011, at 4:07 PM, [Goo.Michael@epamail.epa.gov](mailto:Goo.Michael@epamail.epa.gov) wrote:

Hi I am Michael's scheduling person. Michael has a mtg. w/John @ 3pm on Friday.

What's the name of your organization and do you know why (topic) they are mtg.

```
|----->
|
| Calendar
| Entry Type
|----->
```

*Other EPA parties involved closely w/ Sierra Club, collaborating*

>-----  
-----

-----+--|

```
| John
|
|
|
|
|
| Fri 04/01/2011 3:00 PM - 4:00 PM
|
|
|
|
```

John Coequyt  
<John.Coequyt@sierraclub.org  
>

04/01/2011 05:01 PM

To: Alex Barron

cc

bcc

Subject: Do you have a phone number?

John Coequyt  
Sierra Club  
DL: 202.675.7916  
C: 202.669.7060

Alex Barron/DC/USEPA/US  
04/01/2011 06:04 PM

To John Coequyt  
cc  
bcc  
Subject Re: Do you have a phone number?

202-564-3304

[REDACTED]

John Coequyt

John Coequyt Sierra Club

04/01/2011 04:59:35 PM

From: John Coequyt <John.Coequyt@sierraclub.org>  
To: Alex Barron/DC/USEPA/US@EPA  
Date: 04/01/2011 04:59 PM  
Subject: Do you have a phone number?

John Coequyt  
Sierra Club  
DL: 202.675.7916  
C: 202.669.7060

John Coequyt  
<John.Coequyt@sierraclub.org  
>

08/17/2011 11:35 AM

To Alex Barron  
cc  
bcc  
Subject Can we chat today

John Coequyt  
Sierra Club  
DL: 202.675.7916  
C: 202.669.7060

John Coequyt  
<john.coequyt@sierraclub.org>  
>

05/29/2012 07:46 PM

To: Alex Barron

cc

bcc

Subject: Re: Do you have 5mn to chat after 2pm?

No worries.

John Coequyt  
Call. 202.669.7060  
Direct. 202.675.7916

On May 29, 2012, at 7:17 PM, Alex Barron <Barron.Alex@epamail.epa.gov> wrote:

> Sorry. Crazy day.

>

> A

>

>

> ----- Original Message -----

> From: John Coequyt [john.coequyt@sierraclub.org]

> Sent: 05/29/2012 11:25 AM AST

> To: Alex Barron

> Subject: Do you have 5mn to chat after 2pm?

>

>

>

> --

> John Coequyt

> Sierra Club

> 202-669-7060

Robin Kime/DC/USEPA/US  
08/30/2012 11:36 AM

To: Alex Barron  
cc:  
bcc:  
Subject: General Discussion- 3513A

Hi

Can you join Michael for this meeting with John? Give it about 30 minutes and start calling him on his cell to discuss this?

----- Forwarded by Robin Kime/DC/USEPA/US on 08/30/2012 11:35 AM -----

**General Discussion- 3513A**

Thu 08/30/2012 1:30 PM - 2:15 PM

-----  
@: Robin Kime/DC/USEPA/US  
-----  
Robin Kime/DC/USEPA/US  
No Location Information

Required:	Alex Barron/DC/USEPA/US@EPA, john.coequyt@sierraclub.org
-----------	--

**Description**

**POC:**

[john.coequyt@sierraclub.org](mailto:john.coequyt@sierraclub.org)  
John Coequyt  
Sierra Club  
C: (202) 689-7360  
O: (202) 675-7916

**Personal Notes**



John Coequyt  
<john.coequyt@sierraclub.org  
>

06/01/2012 12:16 PM

To: Alex Barron  
cc  
bcc  
Subject: Can we talk today?

Just wanted to give you an update on SO2 NAAQS meeting.

--

John Coequyt  
Sierra Club  
202-669-7060

Arvin Ganesan/DC/USEPA/US

To: Michael Goo

10/10/2011 07:36 AM

cc

bcc

Subject: FW: Fw: Thursday

Sent with Good (www.good.com)

----- Forwarded by Arvin Ganesan/DC/USEPA/US on 10/10/2011 07:36:16 AM -----

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

From: Scott Fulton/DC/USEPA/US

To: Gina McCarthy/DC/USEPA/US@EPA, McCabe.Janet@epamail.epa.gov, "Avi Garbow" <garbow.avi@epa.gov>, Ganesan.Arvin@epamail.epa.gov, "Patricia Embrey" <Embrey.Patricia@epamail.epa.gov>

Cc: "Carla Veney" <veney.carla@epa.gov>

Sent on: 10/09/2011 10:16:34 PM

Subject: Fw: Thursday

Hi Folks - looks like we should hold Thurs at 1:00 for our session with Sierra Club. We'll want to premeet before hand. I'll set up. Gina - do you figure you will participate. or will Janet?

Cheers,

Scott

From: Sanjay Narayan [Sanjay.Narayan@sierraclub.org]

Sent: 10/08/2011 03:21 PM MST

To: Scott Fulton

Subject: Thursday

John Coequyt's schedule allows him to attend Thursday, but he would prefer 1 p.m. rather than 2. Would the schedules on your side be able to accommodate that shift?

Sanjay Narayan  
Senior Staff Attorney  
Sierra Club Environmental Law Program  
85 Second St., Second Floor  
San Francisco CA 94105  
Tel: 415.977.5769  
Fax: 415.977.5793

"John Coequyt"  
<john.coequyt@sierraclub.org  
>

08/29/2012 02:26 PM

Please respond to  
John Coequyt  
<john.coequyt@sierraclub.org>

To: Michael Goo  
cc  
bcc  
Subject: Accepted: General Discussion

"John Coequyt"  
<john.coequyt@sierraclub.org  
>

05/15/2012 07:13 AM

Please respond to  
John Coequyt  
<john.coequyt@sierraclub.org>

To Michael Goo

cc

bcc

Subject Accepted: Meeting w/Coequyt See Notes

Michael Goo/DC/USEPA/US  
05/12/2012 12:45 AM

To "John Coequyt"  
cc  
bcc  
Subject Re: Meeting Request for Next Week

Yep. Tuesday 2 to 3 or after 5. And then there is time on thursday too.

---

From: John Coequyt [john.coequyt@sierraclub.org]  
Sent: 05/11/2012 11:19 AM AST  
To: Michael Goo  
Subject: Meeting Request for Next Week

Michael:

Could Joanne and I come and chat with you and maybe Alex next week? Joanne is in town Tuesday until Thursday afternoon. Let me know what works for you. I think she would prefer to avoid Wednesday.

--

John Coequyt  
Sierra Club  
202-669-7060

John Coequyt  
<john.coequyt@sierraclub.org  
>

07/05/2012 11:52 AM

To: Alex Barron  
cc  
bcc  
Subject: I have a quick question if you have a minute

--

John Coequyt  
Sierra Club  
202-669-7060

John Coequyt  
<john.coequyt@sierraclub.org  
>

08/21/2012 04:33 PM

To Michael Goo  
cc  
bcc  
Subject Lunch friday with Welke and i?

--

John Coequyt  
Sierra Club  
202-688-7060

Michael Goo/DC/USEPA/US  
08/21/2012 04:50 PM

To "John Coequyt"  
cc  
bcc  
Subject Re: Lunch friday with Walke and i?

I've got lunch with Melanie. How bout tommerrow or thursday?

----- Original Message -----  
From: John Coequyt ([john.coequyt@sierraclub.org])  
Sent: 08/21/2012 04:33 PM AST  
To: Michael Goo  
Subject: Lunch friday with Walke and i?

--  
John Coequyt  
Sierra Club  
202-669-7060



John Coeuyt  
<john.coeuyt@sierraclub.org  
>

09/24/2012 11:11 AM

To Alex Barron  
cc  
bcc  
Subject Can we chat?

I have a modeling question for you.

Also, your voice mail is out of date. I assume you are back from your vacation.

--

John Coeuyt  
Sierra Club  
C: (202) 669-7060  
O: (202) 675-7916

John Coequet  
<john.coequet@sierraclub.org  
>

11/16/2012 02:34 PM

To Alex Barron

cc

bcc

Subject Can you give me a call when you have a minute?

I have a couple quick questions.

--

John Coequet  
Sierra Club  
c: (202) 669-7060  
o: (202) 675-7916

John Coequet  
<john.coequet@sierraclub.org  
>

01/09/2013 04:19 PM

To Michael Goo

cc

bcc

Subject Should we meet soon on SO2?

--

John Coequet  
Sierra Club  
C: (202) 669-7060  
O: (202) 675-7916

John Coequyt  
<john.coequyt@sierraclub.org  
>

02/08/2013 01:42 PM

To Michael Goo

cc

bcc

Subject Your back, we should chat.

--

John Coequyt  
Sierra Club  
C: (202) 669-7060  
O: (202) 675-7916

Joseph  
Goffman/DC/USEPA/US  
Sent by: Cynthia Browne

To  
cc  
bcc  
Subject Meeting with Sierra Club

08/29/2012 02:02 PM

**Meeting**

Date 08/30/2012  
Time 02:30:00 PM to 03:15:00 PM  
Chair Joseph Goffman  
Invitees  
Required joanne.spalding; John.Coequyt; Kevin Culligan  
Optional Amit Srivastava  
FYI  
Location ARN-OAR-Room 5428

Thanks Cynthia. We will have 3 people there:

Joanne Spalding  
John Coequyt  
Bruce Buckheit

Joanne Spalding  
415-977-5725 (o)  
510-612-4062 (c)  
Cynthia.

Thanks very much for arranging this meeting. We are available for a meeting at any time on August 29 and 30. If those dates no longer work, we can arrange to meet on the morning of August 31.

Best,

Joanne

--

**Michael Goo/DC/USEPA/US**  
Sent by: Robin Kime

05/14/2012 12:51 PM

To: Alex Barron, john.coequyt

cc

bcc

Subject: Update: Meeting w/Coequyt & Joanne- See Notes

Location: J.W. Marriott

John Coequyt  
Sierra Club  
669-7060

Robin Kime/DC/USEPA/US  
08/29/2012 02:01 PM

To john.coequyt  
cc  
bcc kime.rob  
Subject Fw: Michael

Just checking in to find out your preferred meeting spot, thanks.

----- Forwarded by Robin Kime/DC/USEPA/US on 08/29/2012 02:01 PM -----

From: Robin Kime/DC/USEPA/US  
To: John Coequyt <john.coequyt@sierraclub.org>  
Date: 08/29/2012 10:22 AM  
Subject: Re: Michael

Thanks, do you want to come to Michael's office or meet at Starbucks in the Marriott (or elsewhere)?

John Coequyt I think 1:30 makes sense for us. On Wed... 08/29/2012 10:16:47 AM

From: John Coequyt <john.coequyt@sierraclub.org>  
To: Robin Kime/DC/USEPA/US@EPA  
Date: 08/29/2012 10:16 AM  
Subject: Re: Michael

I think 1:30 makes sense for us.

On Wed, Aug 29, 2012 at 10:10 AM, Robin Kime <Kime.Robin@epamail.epa.gov> wrote:  
Oh my, me too....I though you all were having lunch with Joel at 12:30... seems I have that wrong (this is an embarrassing mistake to make, my apologies).

Starting fresh- if you'd like to meet with Michael tomorrow, he can be free at 11:00 - before your 11:30 or at 12:00 or 1:30 or 2:00.

Any chance this helps? again, my apologies for the confusion.

John Coequyt ---08/29/2012 10:06:35 AM---Thanks Robin I am a little confused. Are you inviting us to lunch with Michael and asking us to a m

From: John Coequyt <john.coequyt@sierraclub.org>  
To: Robin Kime/DC/USEPA/US@EPA  
Date: 08/29/2012 10:06 AM  
Subject: Re: Michael

Thanks Robin I am a little confused. Are you inviting us to lunch with Michael and asking us to a meeting with him at another

time? We  
have a meeting with the Air office at 11:30.

On Wed, Aug 29, 2012 at 9:56 AM, Robin Kime <  
[Kime.Robin@epamail.epa.gov](mailto:Kime.Robin@epamail.epa.gov)> wrote:

> Hi,  
>  
> You'll see Michael for lunch tomorrow at 12:30. In terms of  
meeting  
> separately - can 12:00, 1:30, or 2:00 work? Just let me know  
if I can help  
> connect you both tomorrow.  
>  
> - Robin  
>  
>  
> Robin W. Kime  
> Office of the Administrator/Office of Policy  
> Phone (202) 564-6587  
> Fax (202) 561-1688

--

John Coequyt  
Sierra Club  
C: (202) 669-7060  
O: (202) 675-7916

--

John Coequyt  
Sierra Club  
C: (202) 669-7060  
O: (202) 675-7916



John Coequet  
<John.Coequet@sierraclub.org  
>  
09/20/2011 09:37 AM

To Michael Goo, Lorie Schmidt, Shannon Kenny, Alex Barron  
cc  
bcc  
Subject NSPS green group letter.

FYI.

John Coequet  
202.669.7060

Lena Moffitt  
<Lena.Moffitt@sierraclub.org>  
07/29/2011 04:24 PM

To: Alex Barron  
cc  
bcc  
Subject: Have a second to talk NSPS?

Wanted to check in with you to see where things stand. We've been a bit out of the loop over here with John on vacation. I'll be at my desk till 5 if you have a minute.

Lena Moffitt  
Washington Representative  
Sierra Club  
(202) 675-2396 (w)  
(505) 480-1551 (c)

John Coequyt  
<john.coequyt@sierraclub.org  
>

04/10/2012 04:11 PM

To Joseph Goffman, Rohan Patel, Michael Goo, Jonathan  
Lubetsky

cc

bcc

Subject FYI. GA Power Plant Development

Hey guys:

I just wanted to give you all heads up on a development in GA that is at the intersection of MATS and NSPS. Our local folks think that the developer is expecting a check when this plant gets it's permit and after the NSPS came out he reversed course and worked to settle the lawsuit ASAP. We do not expect the plant to proceed past the permit stage. The developer is not doing press because he can't answer questions about financing and when he expects to begin construction.

[http://action.sierraclub.org/site/MessageViewer?em\\_id=234606.0](http://action.sierraclub.org/site/MessageViewer?em_id=234606.0)

## Proposed Ben Hill Coal Plant Cancelled

### *Power4Georgians in Tenuous Position on Plant Washington After Legal Agreement*

Atlanta, GA – Clean air advocates and environmental groups won a victory today when Power4Georgians (P4G), the only company trying to develop expensive new coal plants in Georgia, agreed to cancel the proposed Ben Hill coal-fired power plant. The company also agreed to comply with critical new safeguards against mercury pollution and invest \$5 million in energy efficiency and renewable projects. The Sierra Club, the Fall Line Alliance for a Clean Environment (FACE), Southern Alliance for Clean Energy (SACE), and the Ogeechee Riverkeeper, represented by the Southern Environmental Law Center and GreenLaw, successfully challenged the permit for Plant Washington issued by the Georgia Department of Environmental Protection, and the settlement agreement is pending approval by each group. If built, Power4Georgians' Plant Washington will have to meet the much more protective emission standards for mercury and other air toxins.

"Before we challenged the permit, Plant Washington was going to send forty times more mercury into our air and water each year, endangering our most vulnerable citizens," said Colleen Kiernan, Director of the Georgia Chapter of the Sierra Club. "We knew the law was on our side, we challenged Power4Georgians, and now Georgia's air, water, and people will be protected."

Michael Goo/DC/USEPA/US  
07/23/2012 06:23 PM

To "John Coequet"  
cc  
bcc  
Subject Re: Fwd: new source brief

No. Lwt me do so

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

From: John Coequet [john.coequet@sierraclub.org]  
Sent: 07/23/2012 01:09 PM AST  
To: Michael Goo  
Subject: Fwd: new source brief

Did you read this?

----- Forwarded message -----

From: John Coequet <john.coequet@sierraclub.org>  
Date: Mon, Jul 23, 2012 at 1:07 PM  
Subject: Fwd: new source brief  
To: Paul Billings <Paul.Billings@lung.org>

This appears to answer our questions.

----- Forwarded message -----

From: Sanjay Narayan <sanjay.narayan@sierraclub.org>  
Date: Mon, May 21, 2012 at 2:16 PM  
Subject: Re: new source brief  
To: John Coequet <john.coequet@sierraclub.org>

On Mon, May 21, 2012 at 11:15 AM, Sanjay Narayan  
<sanjay.narayan@sierraclub.org> wrote:

>  
>  
>  
> --  
> Sanjay Narayan  
> Senior Managing Attorney  
> Sierra Club Environmental Law Program  
> 85 Second St., 2d Floor  
> San Francisco, CA 94015  
> (415) 977-5769  
>  
>

--

*Goffman goes around "normal channels" for Sierra's GHG NSPS push*

Patricia  
Embrey/DC/USEPA/US  
09/27/2010 07:29 AM

To: Joseph Goffman  
cc: Brenner.Rob, Embrey.Patricia, Jim Ketcham-Colwill, Peter Tsirigotis, South.Pete, Elliott Zenick  
bcc:  
Subject: Re: Fw: New Source Performance Standards for GHG emissions – Response to Sierra Club et al.

Avi had asked us to work on some bullets responding to the September 15 letter. That is a work in progress. (b) (5) (C)

Joseph Goffman This may already be on its way to bein... 09/26/2010 10:34:51 PM

From: Joseph Goffman/DC/USEPA/US  
To: Embrey.Patricia@epa.gov, Peter Tsirigotis/RTP/USEPA/US@EPA, South.Pete@epa.gov, Jim Ketcham-Colwill/DC/USEPA/US@EPA  
Cc: Brenner.Rob@epa.gov  
Date: 09/26/2010 10:34 PM  
Subject: Fw: New Source Performance Standards for GHG emissions – Response to Sierra Club et al.

This may already be on its way to being handled in (the normal channels for) responding to correspondence (and, as a result, you may have seen this before). (b) (5) (C)

Thanks.

Joseph Goffman  
Senior Counsel to the Assistant Administrator  
Office of Air and Radiation  
US Environmental Protection Agency  
202 564 3201

----- Forwarded by Joseph Goffman/DC/USEPA/US on 09/26/2010 10:25 PM -----

From: Gina McCarthy/DC/USEPA/US  
To: Joseph Goffman/DC/USEPA/US@EPA, Janet McCabe/DC/USEPA/US@EPA, Tsirigotis.Peter@EPA.GOV  
Date: 09/15/2010 07:20 PM  
Subject: Fw: New Source Performance Standards for GHG emissions – Response to Sierra Club et al.

fyi

----- Forwarded by Gina McCarthy/DC/USEPA/US on 09/15/2010 07:20 PM -----

From: Russell Frye <rfrye@fryelaw.com>  
To: mccarthy.gina@epa.gov  
Date: 09/15/2010 05:46 PM  
Subject: Fw: New Source Performance Standards for GHG emissions – Response to Sierra Club et al.

Forwarding email to Hon. Lisa Jackson:

Dear Administrator Jackson:

The attached letter, from 9 national trade associations and business organizations, should have been hand-delive

Janet McCabe/DC/USEPA/US To  
Sent by: Addie Johnson cc  
12/13/2010 08:02 AM bcc  
Subject: GHG discussion

**Meeting**

Date 12/13/2010  
Time 10:00:00 AM to 11:00:00 AM  
Chair Janet McCabe  
Invitees  
Required AI Armendariz  
Optional  
FYI  
Location

Lots of back and forth on this. Here is the final schedule and travel information.

**When:** 10:00 - 12:30 CST Monday, 12/13

**Where:**

Environmental Defense Fund  
44 East Avenue, Suite 304  
Austin, Texas 78701  
512-478-5161

**Agenda Shared with Organizations :**

10:00 - 11:00: GHG discussion with Janet McCabe, OAR  
11:00 - 11:30: Update and discussion on "de-flex process"  
11:30 - 12:30: TCEQ Air Permitting Programs

There was some discussion about meeting with other entities later that day as a group. Instead, AI will be doing some solo intergovernmental meetings in the afternoon.

**Call-in information:** EDF is going to set up video conferencing, but they need some kind of technical info from us to set up the calls. Please send me the name and number for whomever EDF should call to coordinate the video call.

**Participant Organizations:** EDF, Public Citizen, EIP, Sierra Club, Air Alliance Houston, UT Environmental Law Clinic

I may receive some additional input from the organizations about specific agenda topics. If so, I'll forward it along to the group.

Please call me if you have any lingering questions.

Layla

AI Armendariz Hi Team, Hey Adam, There is interest in the e... 11/23/2010 07:41:53 PM

From: AI Armendariz/R6/USEPA/US  
To: Lawrence Starfield/R6/USEPA/US@EPA, Carl Edlund/R6/USEPA/US@EPA, John Blevins/R6/USEPA/US@EPA, Suzanne Murray/R6/USEPA/US@EPA, David Gray/R6/USEPA/US@EPA, Layla Mansuri/R6/USEPA/US@EPA, Adam Kushner/DC/USEPA/US@EPA

Al Armendariz/R6/USEPA/US  
11/14/2010 08:17 PM

To: Bob Sussman  
cc: "Larry Starfield", "Bob Perciasepe", "Janet McCabe", "Gina  
McCarthy"  
bcc:  
Subject: Re: Summit Power

Bob,

Since I am conflicted from direct discussions with Sierra Club on specific party matters, Larry has taken the lead on discussions with them on Summit.

His careful and thoughtful approach undoubtedly contributed to this outcome.

It'll be nice to someday see a full-scale CCS unit up and running.

Thanks Larry.

Al

---

Al Armendariz  
Regional Administrator  
U.S. EPA  
Region 6  
armendariz.al@epa.gov  
office: 214-665-2100  
Lawrence Starfield

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

**From:** Lawrence Starfield  
**Sent:** 11/14/2010 08:09 PM EST  
**To:** Al Armendariz; Bob Sussman  
**Subject:** Summit Power

Al and Bob,

I just learned that Sierra Club voted "not" to contest Summit Power's permit with CCS. So the project should go forward with its permit issued before the end of the calendar year.

I think this is a good result.

Larry  
Sent by EPA Wireless E-Mail Services

From: Suzanne Murray  
To: Al Armendariz  
Subject: Re: IMPORTANT - new Complaint for Infrastructure SIPs for 1997 8-hour ozone NAAQS - information needed for CD negotiation  
Date: 11/04/2010 06:37 PM

---

:)  
Suzanne Murray, Regional Counsel, R6  
▽ Al Armendariz

----- Original Message -----  
From: Al Armendariz  
Sent: 11/04/2010 07:19 PM EDT  
To: Lawrence Starfield  
Cc: "Suzanne Murray" <murray.suzanne@epa.gov>; "Layla Mansuri" <mansuri.layla@epa.gov>  
Subject: Re: IMPORTANT - new Complaint for Infrastructure SIPs for 1997 8-hour ozone NAAQS - information needed for CD



:)

---

Al Armendariz  
Regional Administrator  
U.S. EPA  
Region 6  
armendariz.al@epa.gov  
office: 214-665-2100

▽ Lawrence Starfield

----- Original Message -----  
From: Lawrence Starfield  
Sent: 11/04/2010 06:11 PM CDT  
To: Al Armendariz  
Subject: Fw: IMPORTANT - new Complaint for Infrastructure SIPs for 1997 8-hour ozone NAAQS - information needed for CD negotiation  
Al,

Although you're recused from this new case, I thought you ought to be aware of it. This could be yet another major workload for our air team.

Larry

----- Forwarded by Lawrence Starfield/R6/USEPA/US on 11/04/2010 06:11 PM -----

**Fw: IMPORTANT - new Complaint for Infrastructure SIPs for 1997 8-hour ozone NAAQS - information needed for CD negotiation**

Thomas to: Lawrence Starfield, Carl Edlund  
Diggs

11/04/2010  
06:02 PM



3rd meeting on this issue.

Hope you're doing well.

Jeremy

On Tue, Dec 8, 2009 at 10:41 PM, Jeremy Nichols  
<[jnichols@wildearthguardians.org](mailto:jnichols@wildearthguardians.org)> wrote:

Hi Al -

It is really great to hear from you, best to reach me at 303-437-7663. Let's talk soon. Take care, glad to hear things are going well, albeit overwhelming.

Jeremy

On Tue, Dec 8, 2009 at 9:30 PM, <[Armendariz.Al@epamail.epa.gov](mailto:Armendariz.Al@epamail.epa.gov)> wrote:

Hello Jeremy,  
Congratulations! You hope you are extremely proud of hitting this milestone. I was in a meeting today with Gina and I reiterated the importance of these sources to myself as well as the regions in the northeast.

Could you send me the best phone number to reach you for a private chat during daytime hours? I've been on board exactly 1 week, and my life is already crazy. But if I can grab a free 15 minutes sometime soon I'd like to call and talk politics.

Congrats again. You (and the others) make my and Gina's and all the other agency leader's jobs easier. Keep it up.

Al

--  
Jeremy Nichols  
Climate and Energy Program Director  
WildEarth Guardians  
1536 Wynkoop, Suite 301 - Denver, CO 80202  
303-573-4898 x 1303  
[www.wildearthguardians.org](http://www.wildearthguardians.org)

**From:** Jeremy Nichols  
**To:** Al Armendariz/R6/USEPA/US@EPA  
**Subject:** Re: Congrats  
**Date:** 07/23/2010 10:54 AM

---

Hi Al -

Yep, looking forward to it. My plane gets into Love Field a little before 10:30, so I'll shoot to head straight to your office. We should be able to fit in a good discussion and some good Mexican food. Talk to you then.

Jeremy

On Fri, Jul 23, 2010 at 9:16 AM, <Armendariz.Al@epamail.epa.gov> wrote:

Hi Jeremy,

How are things? I wanted to check on our plans for meeting up week from Monday, on Aug 2nd. Are we still on for lunch? If so, what if we meet at my office at 10:30, we can talk shop and catch up, and then walk over to a Mexican place nearby. I have to be back by 12 noon.

Best,

Al

---

Al Armendariz  
Regional Administrator  
U.S. EPA  
Region 6  
[armendariz.al@epa.gov](mailto:armendariz.al@epa.gov)  
mobile: 972-467-5506

---

**From:** Jeremy Nichols [[jnichols@widearthguardians.org](mailto:jnichols@widearthguardians.org)]  
**Sent:** 07/13/2010 12:43 PM CST  
**To:** Al Armendariz  
**Cc:** Joyce Runyan  
**Subject:** Re: Congrats

Lunch on the 2nd would be perfect. You name the time and place and I'll make plans to be there. Looking forward to it.

Jeremy

On Tue, Jul 13, 2010 at 12:01 PM, <Armendariz.Al@epamail.epa.gov> wrote:

Hi,

It would be great for us to catch up and have lunch or dinner or something.

Would lunch on 2nd be OK?

Al

---

Al Armendariz

Regional Administrator  
U.S. EPA  
Region 6  
[armendariz.ai@epa.gov](mailto:armendariz.ai@epa.gov)  
mobile: 972-467-5506

---

**From:** Jeremy Nichols [[jnichols@wildearthguardians.org](mailto:jnichols@wildearthguardians.org)]  
**Sent:** 07/13/2010 11:58 AM CST  
**To:** Al Armendariz  
**Subject:** Re: Congrats

Hi Al -

Just as a heads up, I am going to be in the DFW area for the August 2nd meeting on the oil and gas air regulatory review and update. Haven't firmed up plans yet, but it's probably going to be a quick trip so I can be back in Denver for the August 3rd meeting on this issue.

Hope you're doing well.

Jeremy

On Tue, Dec 8, 2009 at 10:41 PM, Jeremy Nichols  
<[jnichols@wildearthguardians.org](mailto:jnichols@wildearthguardians.org)> wrote:  
Hi Al -

It is really great to hear from you, best to reach me at 303-437-7663. Let's talk soon. Take care, glad to hear things are going well, albeit overwhelming.

Jeremy

On Tue, Dec 8, 2009 at 9:30 PM, <[Armendariz.AI@epamail.epa.gov](mailto:Armendariz.AI@epamail.epa.gov)> wrote:

Hello Jeremy,  
Congratulations! You hope you are extremely proud of hitting this milestone. I was in a meeting today with Gina and I reiterated the importance of these sources to myself as well as the regions in the northeast.

Could you send me the best phone number to reach you for a private chat during daytime hours? I've been on board exactly 1 week, and my life is already crazy. But if I can grab a free 15 minutes sometime soon I'd like to call and talk politics.

Congrats again. You (and the others) make my and Gina's and all the other agency leader's jobs easier. Keep it up.

Al

U.S. EPA  
Region 6  
[armendariz.al@epa.gov](mailto:armendariz.al@epa.gov)  
mobile: 972-467-5506

From: Jeremy Nichols [[jnichols@wildearthguardians.org](mailto:jnichols@wildearthguardians.org)]  
Sent: 07/13/2010 12:43 PM CST  
To: Al Armendariz  
Cc: Joyce Runyan  
Subject: Re: Congrats

Lunch on the 2nd would be perfect. You name the time and place and I'll make plans to be there. Looking forward to it.

Jeremy

On Tue, Jul 13, 2010 at 12:01 PM, <[Armendariz.Al@epamail.epa.gov](mailto:Armendariz.Al@epamail.epa.gov)> wrote:

Hi,

It would be great for us to catch up and have lunch or dinner or something.

Would lunch on 2nd be OK?

Al

---

Al Armendariz  
Regional Administrator  
U.S. EPA  
Region 6  
[armendariz.al@epa.gov](mailto:armendariz.al@epa.gov)  
mobile: 972-467-5506

From: Jeremy Nichols [[jnichols@wildearthguardians.org](mailto:jnichols@wildearthguardians.org)]  
Sent: 07/13/2010 11:58 AM CST  
To: Al Armendariz  
Subject: Re: Congrats

Hi Al -

Just as a heads up, I am going to be in the DFW area for the August 2nd meeting on the oil and gas air regulatory review and update. Haven't firmed up plans yet, but it's probably going to be a quick trip so I can be back in Denver for the August

From: [Jeremy Nichols](#)  
To: [Al Armendariz/R6/USEPA/US&EPA](#)  
Subject: Re: change of plans  
Date: 07/24/2010 03:04 PM

---

Hi Al -

No worries, let's shoot for meeting after the first session, I think that would work better for my schedule. I'll see you at the afternoon session. Thanks, Al.

Jeremy

On Sat, Jul 24, 2010 at 10:07 AM, <[Armendariz.Al@epamail.epa.gov](mailto:Armendariz.Al@epamail.epa.gov)> wrote:  
Hi Jeremy,

Change of plans. I was originally going to participate in the evening portion of the oil/gas MACT public meeting (6 to 10 pm), but I think it would be best for me to be there at the afternoon session (12 to 4pm).

From my office to Arlington city hall is about 30 minutes, so I'll probably have to leave my office at 11 or so.

Not sure what your plans are, but if you wish, we could leave the public meeting at 4 pm, and go somewhere nearby for an early dinner and to talk? Or maybe we could meet in Arlington a little early before the meeting.

Either way would be fine for me.

Al

-----Al Armendariz/R6/USEPA/US wrote: -----

To: "Jeremy Nichols" <[jnichols@wildearthguardians.org](mailto:jnichols@wildearthguardians.org)>  
From: Al Armendariz/R6/USEPA/US  
Date: 07/23/2010 10:16AM  
Subject: Re: Congrats

Hi Jeremy,

How are things? I wanted to check on our plans for meeting up week from Monday, on Aug 2nd. Are we still on for lunch? If so, what if we meet at my office at 10:30, we can talk shop and catch up, and then walk over to a Mexican place nearby. I have to be back by 12 noon.

Best,

Al

---

Al Armendariz  
Regional Administrator

**Arvin Ganesan/DC/USEPA/US**

06/27/2012 03:38 PM

To Richard Windsor, mccarthy.gina, Bob Perciasepe, Diane  
Thompson, Brendan Gilfillan, Bob Sussman, Laura Vaught

cc

bcc

Subject AI Armendariz

FYI - I just got a call from the Sierra Club. AI has accepted a job with the Sierra Club, and will run their anti-coal campaign in the Texas region. Sierra Club will NOT be making this announcement Friday afternoon, but this has the potential to spill out before then.

Thanks  
Arvin

John Coequyt  
<[john.coequyt@sierraclub.org](mailto:john.coequyt@sierraclub.org)>

08/16/2012 04:33 PM

To: Michael Goo, Alex Barron

cc

bcc

Subject: Fwd: [CLEAN-STRATEGY] Coal to Remain Viable, says EPA's McCarthy at COAL-GEN Keynote

Pants on fire.

John Coequyt  
Cell. 202.669.7060  
Direct. 202.675.7916

Begin forwarded message:

**From:** Lyndsay Moseley <[Lyndsay.Moseley@innog.org](mailto:Lyndsay.Moseley@innog.org)>  
**Date:** August 16, 2012 2:57:09 PM CDT  
**To:** "clean-strategy@lists.usclimatenetwork.org" <[clean-strategy@lists.usclimatenetwork.org](mailto:clean-strategy@lists.usclimatenetwork.org)>  
**Subject:** [CLEAN-STRATEGY] Coal to Remain Viable, says EPA's McCarthy at COAL-GEN Keynote  
**Reply-To:** Lyndsay Moseley <[Lyndsay.Moseley@innog.org](mailto:Lyndsay.Moseley@innog.org)>

FYI

## Coal to Remain Viable, says EPA's McCarthy at COAL-GEN Keynote

Louisville, Ky.  
Aug 15, 2012  
By Lyndsay Moseley  
Associate Editor

"Coal will continue to provide more of America's electricity than any other fuel source, producing nearly 40 percent of generation in 2035," said Gina McCarthy during the keynote session of COAL-GEN in Louisville, Ky. on Aug. 15. McCarthy, assistant administrator for the Environmental Protection Agency's (EPA's) Office of Air and Radiation, remained positive about the future of coal as it transforms into a cleaner source of generation in order to comply with several proposed or finalized EPA regulations.

The other keynote speakers who spoke on the future of coal generation were John Voyles Jr., vice president of transmission and generation, Louisville Gas & Electric; Pierre Gauthier, president & CEO, Alstom U.S. and Canada; and Greg Graves, president & CEO, Sierra Club's Environmental Engineering Co.

The Electric Power Research Institute estimates that the coal-fired power industry will invest \$275 billion in retrofits through 2035. The need for upgrades is driven by several EPA regulations, including the Mercury and Air Toxics Standards (MATS), the Cross State Air Pollution Rule (CSAPR) and the proposed New Source Performance Standard for greenhouse gases.

The proposed greenhouse gas standard has been met with heated debate among power generators, who would have to install carbon capture and storage (CCS) technology in order to reach compliance. The EPA has received over 2 million comments from the industry as a result of the proposed rule-making. McCarthy said,

"While it's a significant economic lift, (the proposed standard) will provide investment for new technologies," McCarthy said. "CCS is technologically viable."

However, Gauthier said that technology to comply with the proposed carbon limit "is not waiting in the wings

Alex Barron/DC/USEPA/US  
03/28/2012 07:47 AM

To: Michael Goo  
cc  
bcc  
Subject: Re: Will EPA's greenhouse regs wipe out coal?

*Will EPA's greenhouse...*

A

**From:** Michael Goo  
**Sent:** 03/28/2012 06:43 AM EDT  
**To:** barron.alex@epa.gov  
**Subject:** Fw: Will EPA's greenhouse regs wipe out coal?

So there it is "small amounts of generation in 2030."

**From:** POLITICO Pro [politicoemail@politicopro.com]  
**Sent:** 03/28/2012 06:19 AM AST  
**To:** Michael Goo  
**Subject:** Will EPA's greenhouse regs wipe out coal?

**Will EPA's greenhouse regs wipe out coal?**

By Erica Martinson  
3/28/12 6:16 AM EDT

Nothing to see here, the EPA said Tuesday as it downplayed the impact of its proposed climate change regulations for new power plants.

The agency says it's just riding the wave of the energy market, where natural gas is already pulling market share from coal. And the EPA is banking on gas's low price to mollify an otherwise rough transition for the nation's energy market into an era of reduced greenhouse gas pollution.

But opponents say the rule will strike a death blow to the coal industry.

The rule requires new coal-fired power plants to capture and sequester their carbon dioxide emissions, cutting CO2 emissions to the level of a combined-cycle natural gas-fired power plant.

Unlike natural gas, carbon capture and sequestration is quite costly.

The rule will chart a path to a cleaner and more diverse energy system, said Environmental Defense Fund attorney Megan Ceronky. It also "sends an incredibly strong message," she said.



*EPA takes no notice of 1st copy kills*

Robin Kime/DC/USEPA/US

To Verna Irving

04/29/2011 03:51 PM

cc

bcc

Subject May I please have 1 copy of this email and tab 1 of the attachments, 3 hole punched? Thanks!

----- Forwarded by Robin Kime/DC/USEPA/US on 04/29/2011 03:50 PM -----

From: John Coequyt <John.Coequyt@sierraclub.org>  
 To: Michael Goo/DC/USEPA/US@EPA, Alex Barron/DC/USEPA/US@EPA  
 Date: 04/29/2011 02:35 PM  
 Subject: Zombie's

Michael and Alex:

Attached is a list of plants that the companies said were shelved because of uncertainty around GHG regulations. If a standard is set that these plants could meet, there is a not small chance that they company could decide to revive the proposal.

John Coequyt  
 Sierra Club  
 DL: 202.675.7916



C: 202.669.7060 Defeated Plants - GHG - 2011.xls

John Coequyt  
<John.Coequyt@sierraclub.org  
>

08/17/2011 04:51 PM

To: Alex Barron

cc

bcc

Subject: Check this out

<http://www.sierraclub.org/environmentallaw/coal/plantlist.aspx>

John Coequyt  
Sierra Club  
DL: 202.675.7916  
C: 202.669.7060

John Coequyt  
<John.Coequyt@sierraclub.org  
>

09/07/2011 12:04 PM

To Alex Barron

cc

bcc

Subject You are looking at this, right?

<http://www.sierraclub.org/environmentallaw/coal/plantlist.aspx>

John Coequyt  
Sierra Club  
DL: 202.675.7916  
C: 202.669.7060

Alex Barron/DC/USEPA/US            To John Coequyt  
09/07/2011 02:28 PM                cc  
   bcc  
Subject Re: Numbers

Do you know the percentage for plants that already have a permit?

John Coequyt      Those were not for "permitted plants", b...      09/07/2011 01:32:43 PM

From: John Coequyt <John.Coequyt@sierraclub.org>  
To: Alex Barron/DC/USEPA/US@EPA  
Date: 09/07/2011 01:32 PM  
Subject: Re: Numbers

Those were not for "permitted plants", but we are very worried that as many as a third of the ones that are in the permitting process - but for which construction has not commenced - will get built, e.g. up to 15-20 additional coal plants.

John Coequyt  
Sierra Club  
DL: 202.675.7916  
C: 202.669.7060

-----Barron.Alex@epamail.epa.gov wrote: -----  
To: John Coequyt <John.Coequyt@sierraclub.org>  
From: Barron.Alex@epamail.epa.gov  
Date: 09/07/2011 01:10PM  
Subject: Re: Numbers

Is this for permitted facilities?

From: John Coequyt <John.Coequyt@sierraclub.org>  
To: Alex Barron/DC/USEPA/US@EPA  
Date: 09/07/2011 01:09 PM  
Subject: Numbers

Here is the official word from the Beyond Coal Campaign. You can cite us for internal use for sure.

153 defeated / 26 progressing (under construction or construction complete). We are projecting at least 70 percent success rate on the remaining 69 projects (likely higher)

John Coequyt  
Sierra Club  
DL: 202.675.7916  
C: 202.669.7060

**Alex Barron/DC/USEPA/US**  
04/29/2011 07:51 PM

To: Shannon Kenny, Paul Balsarak, Al McGartland, DavidA  
Evans  
cc  
bcc  
Subject: Fw: Zombie's

----- Forwarded by Alex Barron/DC/USEPA/US on 04/29/2011 03:44 PM -----

From: John Coequyt <John.Coequyt@sierraclub.org>  
To: Michael Goo/DC/USEPA/US@EPA, Alex Barron/DC/USEPA/US@EPA  
Date: 04/29/2011 02:35 PM  
Subject: Zombie's

Michael and Alex:

Attached is a list of plants that the companies said were shelved because of uncertainty around GHG regulations. If a standard is set that these plants could meet, there is a not small chance that they company could decide to revive the proposal.

John Coequyt  
Sierra Club  
DL: 202.675.7916



C: 202.669.7060 Defeated Plants - GHG - 2011.xls

**Michael Goo/DC/USEPA/US**  
Sent by: Robin Kime

05/14/2012 12:51 PM

To: Alex Barron, john.coequyt

cc

bcc

Subject: Update: Meeting w/Coequyt & Joanne- See Notes

Location: J.W. Marriott

John Coequyt  
Sierra Club  
669-7060

John Coequyt  
<john.coequyt@sierraclub.org  
>

02/08/2013 01:42 PM

To Michael Goo

cc

bcc

Subject Your back, we should chat.

--

John Coequyt  
Sierra Club  
C: (202) 669-7060  
O: (202) 675-7916

Michael Goo/DC/USEPA/US

01/10/2013 07:26 AM

To Robin Kime

cc

bcc

Subject Fw: Should we meet soon on SO2?

----- Forwarded by Michael Goo/DC/USEPA/US on 01/10/2013 07:26 AM -----

From: Michael Goo/DC/USEPA/US  
To: "John Coequyt" <john.coequyt@sierraclub.org>  
Date: 01/09/2013 05:11 PM  
Subject: Re: Should we meet soon on SO2?

---

Yeah lemme do that.

----- Original Message -----  
From: John Coequyt [john.coequyt@sierraclub.org]  
Sent: 01/09/2013 04:34 PM EST  
To: Michael Goo  
Subject: Re: Should we meet soon on SO2?

Can you set something up for us with Bob P. Maybe next week?

On Wed, Jan 9, 2013 at 4:30 PM, <Goo.Michael@epamail.epa.gov> wrote:  
> Yeah. I think there is a briefing for Bob p soon from Janet and company

>  
>  
> ----- Original Message -----  
> From: John Coequyt [john.coequyt@sierraclub.org]  
> Sent: 01/09/2013 04:19 PM EST  
> To: Michael Goo  
> Subject: Should we meet soon on SO2?

>  
>  
>  
> --  
> John Coequyt  
> Sierra Club  
> C: (202) 669-7060  
> O: (202) 675-7916

--  
John Coequyt  
Sierra Club  
C: (202) 669-7060  
O: (202) 675-7916



**John Coequyt**  
<[john.coequyt@sierraclub.org](mailto:john.coequyt@sierraclub.org)>

02/07/2013 09:38 AM

To Michael Goo

cc

bcc

Subject You having fun in Sweden?

No fun around here these days. Seems to only get worse at EPA.

--

John Coequyt  
Sierra Club  
C: (202) 669-7060  
O: (202) 675-7916

Michael Goo/DC/USEPA/US

08/21/2012 04:50 PM

To "John Coequyt"

cc

bcc

Subject Re: Lunch friday with Walke and i?

I've got lunch with Melanie. How bout tommorrow or thursday?

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

From: John Coequyt [john.coequyt@sierraclub.org]

Sent: 08/21/2012 04:33 PM AST

To: Michael Goo

Subject: Lunch friday with Walke and i?

--

John Coequyt

Sierra Club

202-669-7060

John Coequyt  
<john.coequyt@sierraclub.org  
>

08/21/2012 04:33 PM

To Michael Goo

cc

bcc

Subject Lunch friday with Walke and i?

--

John Coequyt  
Sierra Club  
202-669-7060

John Coequyt  
<[john.coequyt@sierraclub.org](mailto:john.coequyt@sierraclub.org)>

01/19/2012 01:47 PM

To Arvin Ganesan, Michael Goo

cc

bcc

Subject Fwd: Probably not news to you...

Wtf.

John Coequyt  
Cell. 202.669.7060  
Direct. 202.675.7916

Begin forwarded message:

**From:** Dalal Aboulhosn <[dalal.aboulhosn@sierraclub.org](mailto:dalal.aboulhosn@sierraclub.org)>  
**Date:** January 19, 2012 1:46:41 PM EST  
**To:** John Coequyt <[john.coequyt@sierraclub.org](mailto:john.coequyt@sierraclub.org)>, Terry McGuire <[Terry.McGuire@sierraclub.org](mailto:Terry.McGuire@sierraclub.org)>, [melinda.pierce@sierraclub.org](mailto:melinda.pierce@sierraclub.org)  
**Subject: Probably not news to you...**

Thought I pass it along anyways

## **EPA won't promise final power plant carbon rules before 2012 elections**

<http://thehill.com/blogs/e2-wire/e2-wire/205081-epa-wont-promise-final-power-plant-carbon-rules-before-2012-elections>

--

*Dalal Anne Aboulhosn*  
*Washington Representative*  
*Sierra Club*  
202.675.6278  
[dalal.aboulhosn@sierraclub.org](mailto:dalal.aboulhosn@sierraclub.org)  
[www.sierraclub.org](http://www.sierraclub.org)

Lena Moffitt  
<Lena.Moffitt@sierraclub.org>  
07/29/2011 04:24 PM

To: Alex Barron  
cc  
bcc  
Subject: Have a second to talk NSPS?

Wanted to check in with you to see where things stand. We've been a bit out of the loop over here with John on vacation. I'll be at my desk till 5 if you have a minute.

Lena Moffitt  
Washington Representative  
Sierra Club  
(202) 675-2396 (w)  
(505) 480-1551 (c)

John Coequyt  
<[john.coequyt@sierraclub.org](mailto:john.coequyt@sierraclub.org)>

11/29/2012 02:39 PM

To: Michael Goo, Arvin Ganesan, Alex Barron, Joseph Goffman,  
Joel Beauvais

cc

bcc

Subject: Fwd: Update on White Stallion plant ("transitional source")

FYI:

----- Forwarded message -----

From: Elena Saxonhouse <[elena.saxonhouse@sierraclub.org](mailto:elena.saxonhouse@sierraclub.org)>

Date: Thu, Nov 29, 2012 at 1:23 PM

Subject: Update on White Stallion plant ("transitional source")

To: "Doniger, David" <[ddoniger@nrdc.org](mailto:ddoniger@nrdc.org)>, Joanne Spalding <[joanne.spalding@sierraclub.org](mailto:joanne.spalding@sierraclub.org)>, Megan Ceronsky <[mceronsky@edf.org](mailto:mceronsky@edf.org)>, Ann Weeks <[aweeks@catf.us](mailto:aweeks@catf.us)>, John Coequyt <[john.coequyt@sierraclub.org](mailto:john.coequyt@sierraclub.org)>

This project is even closer to dead -- ERCOT (grid operator) lists the White Stallion interconnection request as "cancelled" in its latest planning report.

See page 4 of attached and explanation from ERCOT below.

FROM ERCOT:

Dr. Reed,

The XX designation indicates the project has been cancelled. A PL and IA status indicates Public Letter and Interconnection Agreement, respectively. The project was cancelled due to timeline constraints; in order for a project to progress to completion, certain milestones must be achieved. In this case, the developer could not finalize an Interconnection Agreement within the allotted six months after completion of studies. Studies are conducted to gauge the system impact of that project for a particular point in time. If that timeline is not met, the studies become stale and no longer indicative of the state of the grid. A project may be restarted, but it must again go through all the steps that are required for any new project.

Our Planning Guides located at: <http://www.ercot.com/mktrules/guides/planning/current> will describe the criteria we use for managing projects (Section 5).

I hope this answers your questions.

--

John Coequyt

Sierra Club

C: (202) 669-7060

O: (202) 675-7916

Joseph  
Goffman/DC/USEPA/US  
Sent by: Cynthia Browne

08/29/2012 02:02 PM

To  
cc  
bcc  
Subject Meeting with Sierra Club

**Meeting**

Date 08/30/2012  
Time 02:30:00 PM to 03:15:00 PM  
Chair Joseph Goffman  
Invitees  
Required joanne.spalding; John.Coequyt; Kevin Culligan  
Optional Amit Srivastava  
FYI  
Location ARN-OAR-Room 5428

Thanks Cynthia. We will have 3 people there:

Joanne Spalding  
John Coequyt  
Bruce Buckheit

Joanne Spalding  
415-977-5725 (o)  
510-612-4062 (c)  
Cynthia.

Thanks very much for arranging this meeting. We are available for a meeting at any time on August 29 and 30. If those dates no longer work, we can arrange to meet on the morning of August 31.

Best,

Joanne

--

John Coequyt  
<john.coequyt@sierraclub.org  
>

07/05/2012 11:49 AM

To Alex Barron, Alexandra Teitz, Arvin Ganesan, Shannon  
Kenny, Lorie Schmidt, John Walke, Jessica Maher  
cc Michael Goo

bcc

Subject Check out the photo of Michael and Debbie

[http://www.washingtonpost.com/local/dc-thunderstorms-knock-out-power-across-region-leaving-2-dead/2012/06/30/gJQAsw5jDW\\_gallery.html#photo=10](http://www.washingtonpost.com/local/dc-thunderstorms-knock-out-power-across-region-leaving-2-dead/2012/06/30/gJQAsw5jDW_gallery.html#photo=10)

It's photo 10 if it doesn't pop up correctly

--

John Coequyt  
Sierra Club  
202-669-7060



**John Coequyt**  
<[john.coequyt@sierraclub.org](mailto:john.coequyt@sierraclub.org)>

07/20/2012 02:41 PM

To Arvin Ganesan, Michael Goo, Lorie Schmidt

cc

bcc

Subject EPA Wins...

What's going on. All I get from Politicio Pro is an endless stream of EPA winning suits....

--

John Coequyt  
Sierra Club  
202-669-7060

Michael Goo/DC/USEPA/US

09/13/2012 02:50 PM

To "John Coequyt"

cc

bcc

Subject Re: Fwd: MATS New Source Case: Held in Abeyance

Yep

---

**From:** John Coequyt [john.coequyt@sierraclub.org]  
**Sent:** 09/13/2012 02:12 PM AST  
**To:** Michael Goo  
**Subject:** Fwd: MATS New Source Case: Held in Abeyance

Thank god.

John Coequyt  
Cell. 202.669.7060  
Direct. 202.675.7916

Begin forwarded message:

**From:** Sanjay Narayan <[sanjay.narayan@sierraclub.org](mailto:sanjay.narayan@sierraclub.org)>  
**Date:** September 13, 2012 1:56:50 PM EDT  
**To:** Bruce Nilles <[bruce.nilles@sierraclub.org](mailto:bruce.nilles@sierraclub.org)>, John Coequyt <[john.coequyt@sierraclub.org](mailto:john.coequyt@sierraclub.org)>, Pat Gallagher <[pat.gallagher@sierraclub.org](mailto:pat.gallagher@sierraclub.org)>, Mary Anne Hitt <[maryanne.hitt@sierraclub.org](mailto:maryanne.hitt@sierraclub.org)>  
**Subject:** MATS New Source Case: Held in Abeyance

The court granted EPA's motion to hold the challenge to the new-source MATS in abeyance. Assuming EPA's follows its plan to propose standards in Nov-Dec, and finalize next spring, the case won't be heard until next summer. This is mostly good news, in that it should make the standards easier to defend. But the post-election timing increases the risk a bit.

Also, the order was signed by Kavanaugh, Griffin (the two who just re-wrote the Clean Air Act to vacate CSAPR) and Tatel (very good). Unclear whether that's the merits panel or just the current motions duty-group -- but if it's the merits panel, that would be bad.

--

I check e-mail infrequently. For urgent matters, please call me at the number below.

Sanjay Narayan  
Senior Managing Attorney  
Sierra Club Environmental Law Program  
85 Second St., 2d Floor  
San Francisco, CA 94015  
(415) 977-5769

John Coequyt  
<[john.coequyt@sierraclub.org](mailto:john.coequyt@sierraclub.org)>

02/23/2012 03:47 PM

To Arvin Ganesan, Michael Goo

cc

bcc

Subject Block EPA power plant limits, 221 House members urge OMB

This is not good.

----- Forwarded message -----

From: **POLITICO Pro Whiteboard** <[proalerts@politicopro.com](mailto:proalerts@politicopro.com)>

Date: Thu, Feb 23, 2012 at 3:29 PM

Subject: Block EPA power plant limits, 221 House members urge OMB

To: [maggie.kao@sierraclub.org](mailto:maggie.kao@sierraclub.org)

2/23/12 3:27 PM EST

In a [letter](#), 221 House members today pressed the White House Office of Management and Budget to stop the EPA's planned greenhouse gas limits for new and modified power plants. They said jobs could go overseas and electricity rates could rise if the administration forces "a transition to commercially unproven technologies" like carbon capture and sequestration.

=====  
**This email alert has been sent for the exclusive use of POLITICO Pro subscriber Maggie Kao. Forwarding or reproducing the alert without the express, written permission of POLITICO Pro is a violation of federal law and the POLITICO Pro subscription agreement. Copyright© 2012 by POLITICO LLC. To subscribe to POLITICO Pro, please go to [www.politicopro.com](http://www.politicopro.com).**

=====  
To change your alerts or unsubscribe:

<https://www.politicopro.com/member/?webaction=viewAlerts>

--

Maggie Kao  
National Press Secretary  
Sierra Club  
[202-675-2384](tel:202-675-2384) o  
[919-360-0308](tel:919-360-0308) m  
[maggie.kao@sierraclub.org](mailto:maggie.kao@sierraclub.org)

John Coequyt  
<[john.coequyt@sierraclub.org](mailto:john.coequyt@sierraclub.org)>

05/25/2012 10:56 AM

To: Michael Goo, Arvin Ganesan, Joseph Goffman, Alexandra Teitz, Alex Barron, Lorie Schmidt, Jonathan Lubetsky, Shannon Kenny

cc

bcc

Subject: Fwd: Big Day in DC – EPA Hearing Summary and Thank You!

FYI. Here is the news from the hearings.

John Coequyt  
Cell. 202.669.7060  
Direct. 202.675.7916

Begin forwarded message:

**From:** Lauren Randall <[lauren.randall@sierraclub.org](mailto:lauren.randall@sierraclub.org)>  
**Date:** May 25, 2012 10:38:10 AM EDT  
**To:** [matto@saveoureenvironment.org](mailto:matto@saveoureenvironment.org)  
**Cc:** Phillip Ellis <[phillip.ellis@sierraclub.org](mailto:phillip.ellis@sierraclub.org)>. Eitan Bencuya <[Eitan.Bencuya@sierraclub.org](mailto:Eitan.Bencuya@sierraclub.org)>. Anneli Berube <[anneli.berube@sierraclub.org](mailto:anneli.berube@sierraclub.org)>. Tom Valtin <[tom.valtin@sierraclub.org](mailto:tom.valtin@sierraclub.org)>. Rachele Huennekens <[rachele.huennekens@sierraclub.org](mailto:rachele.huennekens@sierraclub.org)>. Allison Chin <[achin@gmail.com](mailto:achin@gmail.com)>. John Coequyt <[john.coequyt@sierraclub.org](mailto:john.coequyt@sierraclub.org)>. Tiffany Gibson <[Tiffany.Gibson@sierraclub.org](mailto:Tiffany.Gibson@sierraclub.org)>. Eileen Levandoski <[eileen.levandoski@sierraclub.org](mailto:eileen.levandoski@sierraclub.org)>. Melissa Stephens <[melissa.stephens@sierraclub.org](mailto:melissa.stephens@sierraclub.org)>. Bob Bingaman <[Bob.Bingaman@sierraclub.org](mailto:Bob.Bingaman@sierraclub.org)>. Melinda Pierce <[Melinda.Pierce@sierraclub.org](mailto:Melinda.Pierce@sierraclub.org)>. Christine Guhl <[christine.guhl@sierraclub.org](mailto:christine.guhl@sierraclub.org)>. Glen Besa <[Glen.Besa@sierraclub.org](mailto:Glen.Besa@sierraclub.org)>. Kate Pollard <[kate.pollard@sierraclub.org](mailto:kate.pollard@sierraclub.org)>. Nicole Ghio <[Nicole.Ghio@sierraclub.org](mailto:Nicole.Ghio@sierraclub.org)>. Oliver Bernstein <[oliver.bernstein@sierraclub.org](mailto:oliver.bernstein@sierraclub.org)>. Seth Long <[seth.long@sierraclub.org](mailto:seth.long@sierraclub.org)>. Marie Bergen <[marie.bergen@sierraclub.org](mailto:marie.bergen@sierraclub.org)>. Mary Anne Hitt <[maryanne.hitt@sierraclub.org](mailto:maryanne.hitt@sierraclub.org)>. Lawson LeGate <[Lawson.Legate@sierraclub.org](mailto:Lawson.Legate@sierraclub.org)>. Claire Gardner <[clairegardner2009@gmail.com](mailto:clairegardner2009@gmail.com)>. Gwyn Jones <[gwyn.jones@sierraclub.org](mailto:gwyn.jones@sierraclub.org)>. Michelle Rosier <[michelle.rosier@sierraclub.org](mailto:michelle.rosier@sierraclub.org)>. Randy Downs <[Randy.Downs@sierraclub.org](mailto:Randy.Downs@sierraclub.org)>. Taylor Kelly <[Tkelly@gmail.com](mailto:Tkelly@gmail.com)>. Jessica Hodge <[jessica.hodge@sierraclub.org](mailto:jessica.hodge@sierraclub.org)>  
**Subject:** Re: Big Day in DC — EPA Hearing Summary and Thank You!

Well done, everyone! Here are the clips I've seen come through so far:

**Politico's Morning Energy**, *"Carbon rule focus of EPA hearings"*

**E&E**, *"A 4-page transcript is on proposed emissions rules at EPA public hearings"*

John Coequyt  
<[john.coequyt@sierraclub.org](mailto:john.coequyt@sierraclub.org)>

12/14/2012 02:15 PM

To: Michael Goo

cc

bcc

Subject: Fwd: Should someone from SC listen to this? I cannot. Fwd: [CLEAN] Webinar: NRDC Presents: Closing the Power Plan Carbon Pollution Loophole, 12.17.2012

----- Forwarded message -----

From: Mary Ailne Hitt <[maryanne.hitt@sierraclub.org](mailto:maryanne.hitt@sierraclub.org)>

Date: Fri, Dec 14, 2012 at 10:25 AM

Subject: Should someone from SC listen to this? I cannot. Fwd: [CLEAN] Webinar: NRDC Presents: Closing the Power Plan Carbon Pollution Loophole, 12.17.2012

To: Melinda Pierce <[Melinda.Pierce@sierraclub.org](mailto:Melinda.Pierce@sierraclub.org)>, John Coequyt <[John.Coequyt@sierraclub.org](mailto:John.Coequyt@sierraclub.org)>

----- Forwarded message -----

From: JP Leous <[jleous@climatenetwork.org](mailto:jleous@climatenetwork.org)>

Date: Fri, Dec 14, 2012 at 10:18 AM

Subject: [CLEAN] Webinar: NRDC Presents: Closing the Power Plan Carbon Pollution Loophole, 12.17.2012

To: CLEAN listserv <[clean@lists.usclimatenetwork.org](mailto:clean@lists.usclimatenetwork.org)>, uscan-talk <[uscan-talk@lists.usclimatenetwork.org](mailto:uscan-talk@lists.usclimatenetwork.org)>, Clean-strategy <[clean-strategy@lists.usclimatenetwork.org](mailto:clean-strategy@lists.usclimatenetwork.org)>

Hi all. Just a friendly reminder to not miss this great event and RSVP today!

04/14/2011 12:45 PM

Please respond to  
lisajackson@verizon.net

To: Alisha Johnson, Brendan Gilfillan, Michael Moats, Seth Oster, Adora Andy, David McIntosh, Michael Goo, Gina McCarthy

cc  
bcc

Subject: Fw: TIME's Bryan Walsh on his Sierra Club-sponsored mercury test

This is cool amplification. Can we tweet this? Tx.

Sent from my Verizon Wireless BlackBerry

From: Michael Brune <Michael.Brune@sierraclub.org>

Date: Wed, 13 Apr 2011 19:13:27 -0700

To:

Subject: Fw: TIME's Bryan Walsh on his Sierra Club-sponsored mercury test

Greetings from Puerto Rico! Thought you might like this...

Michael Brune  
Executive Director  
Sierra Club  
415-977-5662

Follow on Facebook and Twitter

[www.sierraclub.org](http://www.sierraclub.org)

----- Forwarded by Michael Brune@Sierraclub on 04/13/2011 07:11 PM -----

From: David Graham-Caso <david.grahamcaso@sierraclub.org>

To: "#Coal" <#Coal@sierraclub.org>, "#Communications-Air" <#Communications-Air@sierraclub.org>

Date: 04/12/2011 05:08 PM

Subject: TIME's Bryan Walsh on his Sierra Club-sponsored mercury test

Sent by: david.grahamcaso@apps.sierraclub.org

<http://www.time.com/time/health/article/0,8599,2061935,00.html?iid=nyesfbu>

GOING GREEN

**How My Mercury Level Hit Double the Safety Limit**

Bob  
Perciasepe/DC/USEPA/US  
Sent by: Teri Porterfield

To  
cc  
bcc  
Subject Deputy Administrator's Meeting with Enviro - receipt of  
500,000 comments

04/23/2012 05:34 PM

### Meeting

Date 04/24/2012  
Time 12:30:00 PM to 01:00:00 PM  
Chair Bob Perciasepe

Invitees  
Required Dru Ealons  
Optional

FYI Denise Anderson; Nena Shaw  
Location Outside Ariel Rios

At 12:30 you are scheduled to meet - approx 24 individuals representing environmental groups (Sierra Club, League of Conservation Voters, EDF, NRDC, Enviro America, National Wildlife Federation) who will gather outside Ariel Rios and deliver 500,000 comments (roughly 12-15 flash drives loaded with spreadsheets, cover letters, etc) supporting strong industrial carbon pollution standards applicable to the rule: Standards for GHG Emissions for New Stationary Sources....

As each group hands over their comments, they would like to take a photo with you (individually) with the Ariel Rios building in the background - there will also be large photo shot with everyone. The purpose is to create a photo-op and narrative beat for the comment-gathering efforts on the issue. Groups will use materials from the event to communicate with supporters and recruit additional comment-signers via newsletters, emails and social media. POC: Dru Ealons - she will come get you.

Hi Teri,

Attached are the details. Let me know if you need anything else.

Best,

Dru



Bob P comment delivery event - Speaker Request Form.docx

Dru Ealons  
Director  
Office of Public Engagement  
Office of the Administrator  
US Environmental Protection Agency  
202.564.7818 (direct)  
202.573.3063 (cell)  
ealons.dru@epa.gov

Gina McCarthy/DQ/USEPA/US

To: "Bob Strag"  
cc: "Don Zinger", "Steve Page"  
bcc:

04/29/2010 02:00 PM

Subject: Fw: Oil Burning

Both - can you ask Alan to have the RCC contact with AIA (Paul's initials below) per Bob P's request. We should probably refer out to all NGOs we normally work with when we have a message developed.

*M.D.*

From: Bob Perlesepe  
Sent: 04/29/2010 01:48 PM EDT  
To: Gina McCarthy  
Subject: Fw: Oil Burning

Gina,

This from Paul.  
I told him you would follow up.  
Bob Perlesepe  
Office of the Administrator  
(o)202 861 4711  
(c) [REDACTED]

*Air  
Cover*

From: Paul Billings [mailto:PBillings@lungusa.org]  
Sent: 04/29/2010 01:45 PM AST  
To: Bob Perlesepe  
Subject: Oil Burning

Thanks for sharing the information with me last night.  
If asked, here is what we are saying to the media and the public

- The American Lung Association is deeply concerned about the health threats presented by air emissions from the Gulf Coast oil spill and subsequent burning.
- These emissions could lead to adverse health effects, especially for children, older adults, and people with chronic lung disease, heart diseases and diabetes. However, it can even harm healthy adults. Health effects can include coughing, wheezing and shortness of breath, as well as more serious effects that could be life-threatening, such as asthma attacks and heart attacks.
- We offer the following guidance to Gulf Coast residents to protect your lung health.
  - o Identify how local authorities will notify you during a disaster and how you will get information, whether through local radio, TV or NOAA Weather Radio stations or channels.
  - o Children, older adults and individuals with lung disease or other chronic conditions are particularly at risk. If you or a family member are in one of these groups, be sure to prepare with your doctor or health care provider steps you can take if the air quality worsens in your area. Check with your doctor or healthcare provider if you are experiencing breathing



John Coequyt  
<John.Coequyt@sierraclub.org  
>  
09/20/2011 09:37 AM

To Michael Goo, Lorie Schmidt, Shannon Kenny, Alex Barron  
cc  
bcc  
Subject NSPS green group letter.

FYI.

John Coequyt  
202.669.7060

Lena Moffitt  
<Lena.Moffitt@sierraclub.org>  
07/29/2011 04:24 PM

To: Alex Barron  
cc  
bcc  
Subject: Have a second to talk NSPS?

Wanted to check in with you to see where things stand. We've been a bit out of the loop over here with John on vacation. I'll be at my desk till 5 if you have a minute.

Lena Moffitt  
Washington Representative  
Sierra Club  
(202) 675-2396 (w)  
(505) 480-1551 (c)

John Coequyt  
<john.coequyt@sierraclub.org  
>

04/10/2012 04:11 PM

To Joseph Goffman, Rohan Patel, Michael Goo, Jonathan  
Lubetsky

cc

bcc

Subject FYI. GA Power Plant Development

Hey guys:

I just wanted to give you all heads up on a development in GA that is at the intersection of MATS and NSPS. Our local folks think that the developer is expecting a check when this plant gets it's permit and after the NSPS came out he reversed course and worked to settle the lawsuit ASAP. We do not expect the plant to proceed past the permit stage. The developer is not doing press because he can't answer questions about financing and when he expects to begin construction.

[http://action.sierraclub.org/site/MessageViewer?em\\_id=234606.0](http://action.sierraclub.org/site/MessageViewer?em_id=234606.0)

## Proposed Ben Hill Coal Plant Cancelled

### *Power4Georgians in Tenuous Position on Plant Washington After Legal Agreement*

Atlanta, GA – Clean air advocates and environmental groups won a victory today when Power4Georgians (P4G), the only company trying to develop expensive new coal plants in Georgia, agreed to cancel the proposed Ben Hill coal-fired power plant. The company also agreed to comply with critical new safeguards against mercury pollution and invest \$5 million in energy efficiency and renewable projects. The Sierra Club, the Fall Line Alliance for a Clean Environment (FACE), Southern Alliance for Clean Energy (SACE), and the Ogeechee Riverkeeper, represented by the Southern Environmental Law Center and GreenLaw, successfully challenged the permit for Plant Washington issued by the Georgia Department of Environmental Protection, and the settlement agreement is pending approval by each group. If built, Power4Georgians' Plant Washington will have to meet the much more protective emission standards for mercury and other air toxins.

"Before we challenged the permit, Plant Washington was going to send forty times more mercury into our air and water each year, endangering our most vulnerable citizens," said Colleen Kiernan, Director of the Georgia Chapter of the Sierra Club. "We knew the law was on our side, we challenged Power4Georgians, and now Georgia's air, water, and people will be protected."

Steve Page/RTP/USEPA/US

04/27/2010 08:14 AM

To: Gina McCarthy

cc: Peter Tsigotis

bcc:

Subject: Re: NSPS

We will get you an updated list this morning  
Gina McCarthy

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

From: Gina McCarthy

Sent: 04/27/2010 07:58 AM EDT

To: Page.Steve@Epa.GOV; Tsigotis.Peter@EPA.GOV

Co: Janet McCabe; Joseph Goffman

Subject: NSPS

Janet, Joe and I are mtg with the Administrator et al at 4:00 to talk more BACT and NSPS. I can't seem to put my hands on a short list of the NSPS petitions and court actions that involve GHGs, along with timelines. Do you have a list like that? If you do, can we work with Patricia to update this so I can characterize appropriately the legal issues and ost recent conversations with Sierra Club and others now that GHGs will be regulated in January?

John Coequyt  
<john.coequyt@sierraclub.org  
>

01/13/2012 09:38 AM

To Michael Goo

cc

bcc

Subject NSPS Meeting with Green Group and Gina

Can you go. Sadly it's at 10am.

--

John Coequyt  
Sierra Club  
202-669-7060



**OAR Invitations**  
Sent by: Cynthia Browne  
05/31/2011 02:31 PM

To: Gina McCarthy  
cc: Amit Srivastava, Don Zinger, Julia Miller  
bcc:  
Subject: Dinner, Sierra Club

**Meeting**

Date: 06/09/2011  
Time: 07:30:00 PM to 09:00:00 PM  
Chair: OAR Invitations  
Invitees:  
Required: Gina McCarthy  
Optional: Amit Srivastava; Don Zinger; Julia Miller  
FYI  
Location: Metropolitan Club, 1700 H Street,  
NW, Washington, DC

Steve Page/RTP/USEPA/US  
Sent by: Lala Alston

10/02/2012 02:14 PM

To: Gina McCarthy

cc

bcc

Subject: Accepted: Meeting with Sierra Club, EDF, and NRDC

[attachment "GHG issues in Big Stone.doc" deleted by Gina McCarthy/DC/USEPA/US]

Beth Craig Dear Patricia, Is it possible for you all to... 08/05/2009 08:39:09 AM

From: Beth Craig/DC/USEPA/US
To: Patricia Embrey/DC/USEPA/US@EPA
Cc: Jeffrey Clark/RTP/USEPA/US@EPA
Date: 08/05/2009 08:39 AM

Subject: Fw: Clean Air Act Title V Petition - Big Stone

Dear Patricia,

Is it possible for you all to put together a short summary of the arguments that the Sierra Club made on why GHG are currently regulated under the CAA? Gina would like to get a copy. It is the Issue#3]section of the attached.

Thanks, Beth

----- Forwarded by Beth Craig/DC/USEPA/US on 08/05/2009 08:36 AM -----

From: Carol Rushin/R8/USEPA/US
To: Steve Tuber/P2/R8/USEPA/US@EPA, Debrah Thomas/P2/R8/USEPA/US@EPA, videtich.callie@epa.gov, Robert Ward/RC/R8/USEPA/US@EPA, ornstein.peter@epa.gov
Cc: Beth Craig, gaydosh.mike@epa.gov
Date: 08/04/2009 08:41 AM
Subject: Fw: Clean Air Act Title V Petition - Big Stone

Carol Rushin
Acting Regional Administrator
USEPA Region 8
1595 Wynkoop Street
Denver, Colorado 80202-1129
Phone: 303.312.6308
FAX: 303.312.6882

----- Forwarded by Carol Rushin/R8/USEPA/US on 08/04/2009 06:40 AM -----

George Hays
<georgehays@mindspring.com>
08/03/2009 08:37 PM

To: LisaP Jackson/DC/USEPA/US@EPA, Carol Rushin/R8/USEPA/US@EPA, DENRINTERNET@state.sd.us, TGraumann@otpc.com, cwmadsen@bgpw.com
cc: "Thomas Welk" <tjwelk@bgpw.com>, Callie Videtich/P2/R8/USEPA/US@EPA, Christopher Ajayi/R8/USEPA/US@EPA, Sara Leumann/RC/R8/USEPA/US@EPA, Brian.Gustafson@state.sd.us, Roxanne.Giedd@state.sd.us, Carl Dady/R8/USEPA/US@EPA
Subject: Clean Air Act Title V Petition - Big Stone



Rob Brenner/DC/USEPA/US  
10/27/2010 09:25 PM

To: Gina McCarthy  
cc  
bcc  
Subject: Re: Fw: Draft Permit for Summit Power

I'll find out--I'm assuming you want someone from their national office. If you want someone from Texas, just send me back a note.

Gina McCarthy Rob - Who is the Sierra Club person th... 10/27/2010 09:07:29 PM

From: Gina McCarthy/DC/USEPA/US  
To: Brenner.Rob@EPA.GOV  
Date: 10/27/2010 09:07 PM  
Subject: Fw: Draft Permit for Summit Power

Rob - Who is the Sierra Club person that I need to speak with to get a sense of what they think of the Summit proposal?

----- Forwarded by Gina McCarthy/DC/USEPA/US on 10/27/2010 09:05 PM -----

From: Anna Wood/DC/USEPA/US  
To: Gina McCarthy/DC/USEPA/US@EPA  
Cc: Janet McCabe/DC/USEPA/US@EPA, Steve Page/RTP/USEPA/US@EPA  
Date: 10/27/2010 06:48 PM  
Subject: Re: Draft Permit for Summit Power

Hi Gina, to follow-up on your earlier request below, we checked in with Region 6 on the referenced permit. Please note the following:

The initial PSD permit application was submitted to Texas in April 2010. In talking with Region 6, the Region expects the draft PSD permit package from Texas within 30 days, which starts the PSD public comment period. A public hearing and permit appeal to the TCEQ is uncertain, but possible. Once the permit has gone through TCEQ's contested case hearing process (which would include any contested case hearing proceedings that goes to their administrative law judges) the permit would be final upon approval by the a majority of the commissioners. The permit is then subject to appeal in the state court and could be overturned by the State court system. With the upcoming required public notice and participation process required under Texas law, R 6 does not expect the Texas PSD permit to be issued and in effect before Jan. 2.

The Region also intends to carefully review the modeling when submitted. The proposed source is close to I-20. A potential issue is NO2 one- hour standard modeling , we will not know until we get the modeling.

Texas is a SIP approved program. As a result and as noted above, permit appeals go through the Texas administrative/court process for contested PSD permits instead of the EAB. We talked with Kristi Smith of OGC and she said the effective date of the Texas permit is a matter of state law.

Richard  
Wayland/RTP/USEPA/US  
06/06/2012 05:28 PM

To: Mike Thrift  
cc: Janet McCabe, Kevin McLean, Michael Ling, Sara  
Schneeberg, Scott Mathias  
bcc:  
Subject: Re: Fw: April 12, 2012 Letter

Mike,

(b) (5) DP  
[Redacted]

Chet  
Richard A. "Chet" Wayland  
Director, Air Quality Assessment Division  
U.S. EPA Office of Air Quality Planning & Standards  
Mail Code C304-02, RTP, NC 27711  
Phone: (919) 541-4603, Cell: (919) 606-0548

Mike Thrift Had an interesting discussion with Josh... 06/06/2012 03:39:49 PM

From: Mike Thrift/DC/USEPA/US  
To: Sara Schneeberg/DC/USEPA/US@EPA  
Cc: Janet McCabe/DC/USEPA/US@EPA, Kevin McLean/DC/USEPA/US@EPA, Michael  
Ling/RTP/USEPA/US@EPA, Scott Mathias/RTP/USEPA/US@EPA, Richard  
Wayland/RTP/USEPA/US@EPA  
Date: 06/06/2012 03:39 PM  
Subject: Re: Fw: April 12, 2012 Letter

Had an interesting discussion with Josh Stebbins of Sierra Club just now.

(b) (5) DP  
[Redacted]

[Redacted]

[Redacted]

(b) (5) DP

-----Sara Schneeberg/DC/USEPA/US wrote: -----

To: Mike Thrift/DC/USEPA/US@EPA

From: Sara Schneeberg/DC/USEPA/US

Date: 06/06/2012 10:10AM

Cc: Janet McCabe/DC/USEPA/US@EPA, Kevin McLean/DC/USEPA/US@EPA, Michael  
Ling/RTP/USEPA/US@EPA, Scott Mathias/RTP/USEPA/US@EPA

Subject: Re: Fw: April 12, 2012 Letter

(b) (5) DP

Sara Schneeberg  
USEPA Office of General Counsel  
Phone: 202/564-5592  
Fax: 202/564-5603

Mike Thrift--06/06/2012 08:58:56 AM--Uh oh. Instructions? The April 12 letter does not seem to be binding or final, as it doesn't impos

From: Mike Thrift/DC/USEPA/US

To: Kevin McLean/DC/USEPA/US@EPA, Sara Schneeberg/DC/USEPA/US@EPA, Scott  
Mathias/RTP/USEPA/US@EPA, Michael Ling/RTP/USEPA/US@EPA, Janet  
McCabe/DC/USEPA/US@EPA

Date: 06/06/2012 08:58 AM

Subject: Fw: April 12, 2012 Letter

(b) (5) DPP, (b)(5) ACP

Mike Thrift  
U.S. Environmental Protection Agency  
Office of General Counsel (2344-A)  
1200 Pennsylvania Ave., NW  
Washington, D.C. 20460

-----Forwarded by Mike Thrift/DC/USEPA/US on 06/06/2012 08:55AM -----

To: Mike Thrift/DC/USEPA/US@EPA  
From: Josh Stebbins <josh.stebbins@sierraclub.org>  
Date: 06/05/2012 04:11PM  
Cc: rukeiley <rukeiley@igc.org>, Zachary Fabish <zachary.fabish@sierraclub.org>  
Subject: April 12, 2012 Letter

Mike -

I hope you are well.

Would you have time tomorrow for a quick discussion about the April 12, 2012 SO2 NAAQS implementation letter? As I mentioned at the SO2 NAAQS stakeholder meeting, NGOs would like to review with EPA whether EPA considers the letter a binding, or a final, agency action. This is something that we could perhaps resolve easily.

Thank you

Josh

--

Joshua Stebbins  
Managing Attorney  
Sierra Club  
50 F Street, NW, Eighth Floor  
Washington, DC 20001  
202 675 6273  
202 547 6009

Michael Goo/DC/USEPA/US  
07/23/2012 06:23 PM

To "John Coequet"  
cc  
bcc  
Subject Re: Fwd: new source brief

No. Lwt me do so

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

From: John Coequet [john.coequet@sierraclub.org]  
Sent: 07/23/2012 01:09 PM AST  
To: Michael Goo  
Subject: Fwd: new source brief

Did you read this?

----- Forwarded message -----

From: John Coequet <john.coequet@sierraclub.org>  
Date: Mon, Jul 23, 2012 at 1:07 PM  
Subject: Fwd: new source brief  
To: Paul Billings <Paul.Billings@lung.org>

This appears to answer our questions.

----- Forwarded message -----

From: Sanjay Narayan <sanjay.narayan@sierraclub.org>  
Date: Mon, May 21, 2012 at 2:16 PM  
Subject: Re: new source brief  
To: John Coequet <john.coequet@sierraclub.org>

On Mon, May 21, 2012 at 11:15 AM, Sanjay Narayan  
<sanjay.narayan@sierraclub.org> wrote:

>  
>  
>  
> --  
> Sanjay Narayan  
> Senior Managing Attorney  
> Sierra Club Environmental Law Program  
> 85 Second St., 2d Floor  
> San Francisco, CA 94015  
> (415) 977-5769  
>  
>

--

John Coequyt  
<john.coequyt@sierraclub.org  
>

01/09/2012 05:33 PM

To Michael Goo  
cc  
bcc  
Subject Letter

--

John Coequyt  
Sierra Club  
202-669-7060



**Alex Barron/DC/USEPA/US**

04/15/2011 02:41 PM

To Shannon Kenny

cc

bcc

Subject Re: Can one of you make 3 copies of the paper we got on mrv of EE and variations in heat rate

The sierra club thing. about 5 pages?

Shannon Kenny any idea what it looks like? Shannon... 04/15/2011 02:30:11 PM

From: Shannon Kenny/DC/USEPA/US  
 To: Alex Barron/DC/USEPA/US@EPA  
 Date: 04/15/2011 02:30 PM  
 Subject: Re: Can one of you make 3 copies of the paper we got on mrv of EE and variations in heat rate

any idea what it looks like?

Shannon Kenny  
 U.S. Environmental Protection Agency  
 202-566-2964

Alex Barron Goo wants to give one to kevin and I thi... 04/15/2011 01:41:50 PM

From: Alex Barron/DC/USEPA/US  
 To: "Paul Balserak" <Balserak.Paul@epamail.epa.gov>, "Shannon Kenny" <Kenny.shannon@epa.gov>  
 Date: 04/15/2011 01:41 PM  
 Subject: Can one of you make 3 copies of the paper we got on mrv of EE and variations in heat rate

Goo wants to give one to kevin and I think he stole mine.

A

Lena Moffitt  
<Lena.Moffitt@sierraclub.org>  
09/29/2011 11:09 AM

To Michael Goo, genesan.arvin, Alex Barron  
cc John.Coequyt  
bcc  
Subject Nice to see you

Michael, Arvin, and Alex,  
Thanks so much for taking the time to meet with us on Keystone XL yesterday. I know this is a tough issue, but please do let me know if I can be helpful in any way - particularly in further identifying those opportunities for EPA to engage that don't involve "throwing your body across the tracks," as Michael put it. Happy to chat about this any time.  
Thank you!

Lena Moffitt  
Washington Representative  
Sierra Club  
(202) 675-2396 (w)  
(505) 480-1551 (c)



Gina McCarthy/DC/USEPA/US

To: Bob Perciasepe

02/09/2011 09:10 PM

cc

bcc

Subject: Re: Sierra Club

Sure

Bob Perciasepe

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

From: Bob Perciasepe

Sent: 02/09/2011 09:09 PM EST

To: Gina McCarthy; "Bob Perciasepe" <perciasepe.bob@epa.gov>

Subject: Re: Sierra Club

Yes we should call. Let's discuss in morning and one of us will call.

Bob Perciasepe

Deputy Administrator

(o)202 564 4711

(c) [REDACTED]

Gina McCarthy

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

From: Gina McCarthy

Sent: 02/09/2011 09:05 PM EST

To: "Bob Perciasepe" <perciasepe.bob@epa.gov>

Subject: Sierra Club

Bob - (b) (5) d7  
[REDACTED]

**Bob Sussman/DC/USEPA/US**  
03/24/2009 12:26 PM

To: Beth Craig  
cc: Steve Page  
bcc:  
Subject: Re: Power Plant Information

Thanks Beth. yes, we should definitely have a follow-up discussion.

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

Beth Craig

Dear Bob, Attached for your review is f...

03/23/2009 04:39:44 PM

From: Beth Craig/DC/USEPA/US  
To: Bob Sussman/DC/USEPA/US@EPA  
Cc: page.steve  
Date: 03/23/2009 04:39 PM  
Subject: Power Plant Information

Dear Bob,

Attached for your review is follow up information from our meeting with the Sierra Club on power plant permitting. We have attached background information on the process which has been used in the past to comment on permits. We also provided a short summary description on each of the permits.

Looking forward to having a discussion about this document and next steps. Thanks, Beth

[attachment "power plants march 23rd.doc" deleted by Bob Sussman/DC/USEPA/US]

**Bob Sussman/DC/USEPA/US**  
Sent by: Georgia Bednar

02/27/2009 11:04 AM

To Beth Craig, bruce.nilles, david.bookbinder, Richard Ossias,  
Steve Page

cc

bcc

Subject Coal Plant Permits

**Meeting**

Date 03/02/2009

Time 04:00:00 PM to 04:45:00 PM

Chair Bob Sussman

Invitees

Required Beth Craig; bruce.nilles; david.bookbinder; Richard Ossias; Steve Page

Optional

FYI

Location 3407 ARN

Meeting: Coal Plant Permits

Time: 4 - 5 PM (ET)

Date: Monday, March 2, 2009

Location: 3407 ARN

EPA Attendees:

Bob Sussman

Steve Page

Richard Ossias

Sierra Club Attendees:

David Bookbinder

Bruce Nilles

Bob Sussman/DC/USEPA/US  
04/08/2009 09:07 AM

To Adam Kushner, Beth Craig, Steve Page, Richard Ossias, Bill Harnett  
cc Lisa Heinzerling  
bcc  
Subject Re: David Bookbinder-- Cliffside Plant

Great  
Adam Kushner

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

From: Adam Kushner  
Sent: 04/08/2009 11:45 AM EDT  
To: Bob Sussman; Beth Craig; Steve Page; Richard Ossias; Bill Harnett  
Cc: Lisa Heinzerling  
Subject: Re: David Bookbinder-- Cliffside Plant

Bob: (b) (5) DP, (b) (5) ACP  
[Redacted]  
Adam

Adam Kushner  
Director  
Office of Civil Enforcement USEPA  
202-564-7979

Sent by EPA Wireless E-Mail Services  
Bob Sussman

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

From: Bob Sussman  
Sent: 04/03/2009 06:05 PM EDT  
To: Beth Craig; Steve Page; Richard Ossias; Adam Kushner; Bill Harnett  
Cc: Lisa Heinzerling  
Subject: David Bookbinder-- Cliffside Plant

I had a brief conversation today with David Bookbinder of the Sierra Club, who was meeting with us on another matter. (b) (5) DP  
[Redacted]

Are we engaged in looking at the Cliffside permits? Might we want to take a look at the MACT applicability analysis because it could set a precedent for mercury controls at other new plants?

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

Michael Goo/DC/USEPA/US  
12/06/2012 06:53 AM

To "Bob Perciasepe", "Teri Porterfield"  
cc  
bcc  
Subject Fw: Meeting with Bob Perciasepe

Hi Bob and Teri. As I mentioned to Bob, I'm passing along this request from the head of the Sierra Club to meet with Bob. My understanding is that the Administrator suggested Mike Brune get in touch. If it doesn't work out this time, I believe Mike Brune comes to town pretty frequently. Teri I will reply to the Sierra Club rep (John Coequyt) and Cc you so you are directly in touch with him. His contact info is below. Thanks very much.

From: John Coequyt [john.coequyt@sierraclub.org]  
Sent: 12/05/2012 10:27 AM EST  
To: Michael Goo  
Subject: Meeting with Bob Perciasepe

Michael:

I am trying to set up a meeting between Mike Brune (Sierra Club ED) and Bob Perciasepe Friday the 14th between 9 and 11:30. I know it's a short window and if it doesn't work we will just try next time. Can you help get this request to the right person.

--

John Coequyt  
Sierra Club  
C: (202) 669-7060  
O: (202) 675-7916

**Bruce.Nilles@sierraclub.org**  
03/03/2009 12:03 PM

To Beth Craig, Richard Ossias, Bob Sussman  
cc David.Bookbinder  
bcc  
Subject Co2 BACT

Dear Bob, Beth and Rich,

Thank you very much for taking the time to meet with David and me yesterday. At the meeting I mentioned the recent application filed in KY that included a co2 BACT analysis. I have attached that analysis for the ERORA Cash Creek IGCC project. This analysis includes CCS. It also finds natural gas is BACT for many of the auxiliary equipment. It does not, however, include analysis about efficiency - that is are there things they can do to increase the efficiency of the gasifiers etc to reduce fuel use, as well as assessment of non-fossil fuels, e.g. biomass, including biomass blending.

Warm regards,

Bruce Nilles, Director  
Beyond Coal Campaign  
Sierra Club  
408 C Street NE  
Washington, DC 20002  
T: 202.675.7905  
C: 608.712.9725  
E: bruce.nilles@sierraclub.org



W: [www.sierraclub.org/coalCO2 BACT Analysis.pdf](http://www.sierraclub.org/coalCO2 BACT Analysis.pdf)



Fwd: Question on NSPS for GHGs  
James Martin to: Jim Martin

02/01/2013 01:45 PM

History: This message has been forwarded.

Begin forwarded message:

From: James Martin <jamesbmartin@me.com>  
Date: March 25, 2012 3:51:31 PM  
To: Vickie Patton <vpatton@edf.org>  
Subject: Re: Question on NSPS for GHGs

Good question. San Fran and Seattle would be friendlier forums but CA has no coal plants and WA is phasing out its one plant. Choosing either may create opportunities for the industry to claim EPA is tilting the playing field. Denver would not have that problem plus it is centrally located and pretty easy to get to. So I would have started out by suggesting the other two but end up proposing Denver.

Plus you could play up the RPS and CACJ here, too. The gas industry has way more presence here, too. One last point in its favor - it will make Roy Palmer nervous!

For what it's worth.

Jim

Sent from my iPhone

On Mar 25, 2012, at 3:19 PM, Vickie Patton <vpatton@edf.org> wrote:

Confidential

Hi Jim, EPA may propose NSPS for greenhouse gases for new power plants within next few days (if President decides to go forward with this). There are discussions about potential public hearing venues in the West and some have asked for our confidential input. What do you think makes sense — Denver, Seattle or San Francisco?

This e-mail and any attachments may contain confidential and privileged information. If you are not the intended recipient, please notify the sender immediately by return e-mail. Delete this e-mail and do not disseminate, copy, use, or otherwise rely on any information contained in this information. If you are the intended recipient, it is unclassified and may be shared.

Jenny  
Noonan/RTP/USEPA/US  
03/30/2012 03:45 PM

To: Joseph Goffman  
cc  
bcc  
Subject: Re: Fw: EPA Hearings for Carbon Protection Rule

Thanks.

\*\*\*\*\*

Jenny Noonan  
Policy Analysis and Communications  
EPA's Office of Air Quality Planning and Standards  
919/541-0193 (w)  
919/358-9562 (c)

Joseph Goffman    Suggestions from the Sierra Club. Jos...    03/29/2012 12:59:07 PM

From: Joseph Goffman/DC/USEPA/US  
To: Jenny Noonan/RTP/USEPA/US@EPA  
Date: 03/29/2012 12:59 PM  
Subject: Fw: EPA Hearings for Carbon Protection Rule

Suggestions from the Sierra Club.

Joseph Goffman  
Senior Counsel to the Assistant Administrator  
Office of Air and Radiation  
US Environmental Protection Agency  
202 564 3201

----- Forwarded by Joseph Goffman/DC/USEPA/US on 03/29/2012 12:58 PM -----

From: John Coequyt <john.coequyt@sierraclub.org>  
To: Joseph Goffman/DC/USEPA/US@EPA  
Date: 03/29/2012 12:57 PM  
Subject: Re: EPA Hearings for Carbon Protection Rule

Here is our list FYI.

Seattle. Denver. Minneapolis. Boston. Philly. and Virginia

On Thu, Mar 29, 2012 at 10:38 AM, Joseph Goffman <Goffman.Joseph@epamail.epa.gov> wrote:

Haven't chosen cities yet. so please call if you want to discuss. Thanks.

From: John Coequyt [john.coequyt@sierraclub.org]  
Sent: 03/28/2012 02:22 PM AST  
To: Joseph Goffman  
Subject: EPA Hearings for Carbon Protection Rule



Joe:

Do you happen to know where there might be hearings. We have ideas if you are still thinking about it. Who is in charge of this kind of decision?

--

John Coequyt  
Sierra Club  
202-669-7060

--

John Coequyt  
Sierra Club  
202-669-7060

**Janet McCabe/DC/USEPA/US**

10/01/2012 02:03 PM

To Elena Saxonhouse

cc Joanne Spalding, Joseph Goffman

bcc

Subject Re: Two Elk power plant &amp; NSPS comments

Thanks, Elena. I'm including my colleague Joe Goffman on this note by way of forwarding your comments to him. But you should, as you indicate you are, be sure to submit your comments to the docket as well.

Janet McCabe  
Principal Deputy Assistant Administrator  
Office of Air and Radiation, USEPA  
Room 5426K, 1200 Pennsylvania Avenue NW  
Washington, DC 20460  
202-564-3206  
mccabe.janet@epa.gov

Elena Saxonhouse

Hi Janet, I am hoping you could for...

10/01/2012 01:36:58 PM

From: Elena Saxonhouse <elena.saxonhouse@sierraclub.org>  
To: Janet McCabe/DC/USEPA/US@EPA  
Cc: Joanne Spalding <joanne.spalding@sierraclub.org>  
Date: 10/01/2012 01:36 PM  
Subject: Two Elk power plant & NSPS comments

Hi Janet,

I am hoping you could forward these comments to whomever on your staff is sorting out the facts about potential transitional sources. North American Power Group/Two Elk submitted comments that contained a number of errors or misleading statements, so we wanted to respond to them. (I started working on this plant for Sierra Club almost four years ago, so for better or worse I am intimately familiar with its history.) We are also working on getting these filed to the rulemaking docket, along with the attachments- which I am not including here since there are 15 of them. If I should direct this to someone else, please let me know. Thanks very much,

Elena

Elena Saxonhouse  
Staff Attorney  
Sierra Club  
85 Second Street, 2nd Floor  
San Francisco, CA 94105  
[415-977-5765](tel:415-977-5765)



Response to Two Elk Comments on NSPS - FINAL.pdf

Steve Page/RTP/USEPA/US  
05/11/2011 12:00 PM

To Gina McCarthy  
cc  
bcc  
Subject Philly Public Hearing

Gina,

This is the info you requested. Attached is a signup sheet.

On Tuesday, May 24<sup>th</sup>, the Office of Air will hold a public hearing on the proposed Power Plant Mercury and Air Toxics Standards in Philadelphia, Pa. We will hold the hearing at the Westin Philadelphia at Liberty Place (99 South 17<sup>th</sup> Street) in the Georgian Room. It will begin at 9 am and continue through 8 pm or later to assure that we hear from all interested speakers. Breaks are planned from 12:30 – 2 pm and 5 – 6:30 pm.

As of May 11<sup>th</sup>, we have 58 speakers registered to testify.

We also expect the Sierra Club, and American Lung Association to set up information tables outside of the hearing room. They will likely also host a press event.



Philadelphia Public Hearing 051011.doc

*Collaborate  
on 'hearings'  
(PR)  
push*

Steve Page/RTP/USEPA/US  
05/25/2011 08:06 AM

To: Gina McCarthy  
cc  
bcc  
Subject: Phila. Hearing

Jan Cortelyou-Lee

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

From: Jan Cortelyou-Lee  
Sent: 05/25/2011 08:05 AM EDT  
To: Alison Davis; Steve Page; Peter Tsirigotis; Jeffrey Clark; Jenny Noonan; Sara Terry; Robertj Wayland; Bill Maxwell; Jackie Ashley; Kelly Rimer  
Subject: Re: Chicago toxics hearing summary  
For Philly we had 110 speakers. Maybe 250 attending. Philly Inquirer bna public radio abc and the ap were here on the press side. Sierra brought in buses from dc pittsburgh and boston.  
Alison Davis

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

From: Alison Davis  
Sent: 05/24/2011 11:36 PM EDT  
To: Steve Page; Peter Tsirigotis; Jeffrey Clark; Jenny Noonan; Jan Cortelyou-Lee; Sara Terry; Robertj Wayland; Bill Maxwell; Jackie Ashley; Kelly Rimer  
Subject: Chicago toxics hearing summary  
Roughly 300 people in attendance, 123 speakers. Faith groups, NAACP, enviros (including busloads from Michigan and Wisconsin), a few industry reps, private citizens.

Press: Wisconsin Public Radio, BNA, NBC, In These Times magazine, Chicago Trib (photog only), the Chicagoist. Enviro filmed throughout the day.  
Please pardon the typos! Sent from EPA wireless device.

---

Alison Davis  
US EPA, Office of Air Quality Planning & Standards  
919-541-7587

Steve Page/RTP/USEPA/US  
05/25/2011 08:06 AM

To: Gina McCarthy  
cc  
bcc  
Subject: Phila. Hearing

Jan Cortelyou-Lee

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

From: Jan Cortelyou-Lee  
Sent: 05/25/2011 08:05 AM EDT  
To: Alison Davis; Steve Page; Peter Tsirigotis; Jeffrey Clark; Jenny Noonan; Sara Terry; Robertj Wayland; Bill Maxwell; Jackie Ashley; Kelly Rimer  
Subject: Re: Chicago toxics hearing summary  
For Philly we had 110 speakers. Maybe 250 attending. Philly Inquirer bna public radio abc and the ap were here on the press side. Sierra brought in buses from dc pittsburgh and boston.  
Alison Davis

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

From: Alison Davis  
Sent: 05/24/2011 11:36 PM EDT  
To: Steve Page; Peter Tsirigotis; Jeffrey Clark; Jenny Noonan; Jan Cortelyou-Lee; Sara Terry; Robertj Wayland; Bill Maxwell; Jackie Ashley; Kelly Rimer  
Subject: Chicago toxics hearing summary  
Roughly 300 people in attendance, 123 speakers. Faith groups, NAACP, enviros (including busloads from Michigan and Wisconsin), a few industry reps, private citizens.

Press: Wisconsin Public Radio, BNA, NBC, In These Times magazine, Chicago Trib (photog only), the Chicagoist. Enviros filmed throughout the day.  
Please pardon the typos! Sent from EPA wireless device.

---

Alison Davis  
US EPA, Office of Air Quality Planning & Standards  
919-541-7587

Sam  
Napolitano/DC/USEPA/US  
10/18/2011 05:34 PM

To Joseph Goffman  
cc  
bcc  
Subject Sierra Club Request for a CSAPR Technical Corrections  
Proposal Hearing in TX

Elena Saxon-House from the Sierra Club (based in San Francisco) called Gabrielle Stevens today leaving a VM. She asked if anyone had yet requested a public hearing (they have and its now set for L St on October 28th). She asked if EPA would consider holding the public hearing in a different location from DC, for instance TX. She noted that they have a "lot of people in TX who are concerned" about the revisions.

(5) DP  
[REDACTED]

Notably we received requests to hold the hearing in Washington, per the FR notice, and we are aware that several speakers have made travel plans to be here (e.g., Florida), so at this time we are only planning to hold the hearing here.

Had checked in with Sarah and she thought I should check in with you on this.

John Millett/DC/USEPA/US  
05/22/2012 05:02 PM

To Scott Fraser  
cc  
bcc  
Subject Re: Fw: Any update on the authorization

This person is still calling us -- shall I refer him to Kevin?

---

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

Scott Fraser Kevin Myers is the Security Specialist th... 05/21/2012 06:09:39 PM

From: Scott Fraser/DC/USEPA/US  
To: John Millett/DC/USEPA/US@EPA  
Date: 05/21/2012 06:09 PM  
Subject: Re: Fw: Any update on the authorization

---

[REDACTED]

I'd suggest getting him involved. I'll pass info along to Dru as well to see if she has talked with Sierra Club (I was out since last Thurs).

**Scott W. Fraser**

Office of Public Engagement  
Office of the Administrator | U.S. Environmental Protection Agency | Tel 202-566-2126 |  
[fraser.scott@epa.gov](mailto:fraser.scott@epa.gov)

John Millett Yeah, probably lost in all those meeting... 05/21/2012 06:05:44 PM

From: John Millett/DC/USEPA/US  
To: Scott Fraser/DC/USEPA/US@EPA  
Date: 05/21/2012 06:05 PM  
Subject: Re: Fw: Any update on the authorization

---

Yeah, probably lost in all those meeting updates this am. -- Joe Goffman flagged it for her last week or over the weekend. Sierra club needs to set up a table somewhere near HQ for the hearing on Thurs. So facilities/security?

John Millett

EPA Office of Air and Radiation Communications  
Desk: 202/564-2903  
Cell: 202/510-1822

Scott Fraser

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

**From:** Scott Fraser  
**Sent:** 05/21/2012 06:00 PM EDT  
**To:** John Millett  
**Subject:** Re: Fw: Any update on the authorization

Sorry, first time seeing this and I'm not sure what the authorization issue is from the info below. Has Dru been looped in?

**Scott W. Fraser**

Office of Public Engagement  
Office of the Administrator | U.S. Environmental Protection Agency | Tel 202-566-2126 |  
[fraser.scott@epa.gov](mailto:fraser.scott@epa.gov)

John Millett      Hi Scott -- have you had a chance to loo...      05/21/2012 05:38:16 PM

**From:** John Millett/DC/USEPA/US  
**To:** Scott Fraser/DC/USEPA/US@EPA  
**Date:** 05/21/2012 05:38 PM  
**Subject:** Fw: Any update on the authorization

---

Hi Scott -- have you had a chance to look into this or pass it along? -- should've mentioned it to you earlier today . . .

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

----- Forwarded by John Millett/DC/USEPA/US on 05/21/2012 05:37 PM -----

**From:** Don Zinger/DC/USEPA/US  
**To:** John Millett/DC/USEPA/US@EPA, Andrea Drinkard/DC/USEPA/US@EPA  
**Date:** 05/21/2012 05:31 PM  
**Subject:** Fw: Any update on the authorization

---

John,  
Have you heard anything? Can we tell this guy who he needs to talk to?

----- Forwarded by Don Zinger/DC/USEPA/US on 05/21/2012 05:30 PM -----



From: John Coequyt <john.coequyt@sierraclub.org>  
To: Don Zinger/DC/USEPA/US@EPA  
Date: 05/21/2012 05:22 PM  
Subject: Any update on the authorization

---

Don:

So we really don't need much here. We really just need somebody at EPA to say it's ok for us to put up a table to direct people as they get dropped off, give them a t-shirt and so on.

--

John Coequyt  
Sierra Club  
202-669-7060

John Millett/DC/USEPA/US  
05/21/2012 11:06 AM

To Scott Fraser  
cc Andrea Drinkard  
bcc

Subject Fw: EPA Authorization to use Outdoor Space

Hi Scott -- Joe Goffman forwarded this to Dru last week -- Sierra is saying they haven't heard back on this -- planning a demonstration of some sort around the power plant GHG hearing on thurs . . .

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

--- Forwarded by John Millett/DC/USEPA/US on 05/21/2012 11:04 AM ---

From: Don Zinger/DC/USEPA/US  
To: John Millett/DC/USEPA/US@EPA, Andrea Drinkard/DC/USEPA/US@EPA  
Date: 05/21/2012 10:59 AM  
Subject: Fw: EPA Authorization to use Outdoor Space

---

**Let's discuss**

--- Forwarded by Don Zinger/DC/USEPA/US on 05/21/2012 10:58 AM ---

From: John Coequyt <john.coequyt@sierraclub.org>  
To: Joseph Goffman/DC/USEPA/US@EPA  
Cc: Don Zinger/DC/USEPA/US@EPA  
Date: 05/21/2012 10:55 AM  
Subject: Re: EPA Authorization to use Outdoor Space

---

Thanks. Word on our side is we just need you all to say it's ok. We don't need actual permits.

On Mon, May 21, 2012 at 10:51 AM, Joseph Goffman <Goffman.Joseph@epamail.epa.gov> wrote:

> Don is going to pitch in on this.

>

>

> ----- Original Message -----

> From: John Coequyt [john.coequyt@sierraclub.org]

> Sent: 05/21/2012 10:31 AM AST

> To: Joseph Goffman

> Subject: EPA Authorization to use Outdoor Space

>

>

>

> Joe:

>

> We are going to be in a bind if we don't get authorization to use that  
> outdoor space soon. Any update?

>

> --  
> John Coequyt  
> Sierra Club  
> 202-669-7060

--  
John Coequyt  
Sierra Club  
202-669-7060

Andrea  
Drinkard/DC/USEPA/US  
04/03/2012 11:07 AM

To: Dave Deegan  
cc: Brendan Gilfillan, John Millett, Nancy Grantham, Paula Ballentine  
bcc:  
Subject: Re: ACTION: Please Review Draft Quote on Carbon Stds.

My only concern with the quote is (b) (5) DP

[Redacted]

[Redacted]

Andrea Drinkard  
U.S. Environmental Protection Agency  
Office of Air and Radiation  
Email: drinkard.andrea@epa.gov  
Phone: 202.564.1601  
Cell: 202.236.7765

Dave Deegan + Andrea, since John is out 04/03/2012 11:00:56 AM

From: Dave Deegan/R1/USEPA/US  
To: Andrea Drinkard/DC/USEPA/US@EPA  
Cc: Brendan Gilfillan/DC/USEPA/US@EPA, John Millett/DC/USEPA/US@EPA, Nancy Grantham/R1/USEPA/US@EPA, Paula Ballentine/R1/USEPA/US@EPA  
Date: 04/03/2012 11:00 AM  
Subject: Re: ACTION: Please Review Draft Quote on Carbon Stds.

+ Andrea, since John is out

Dave Deegan Hi Brendan & John - Senator Shaheen'... 04/03/2012 10:59:57 AM

From: Dave Deegan/R1/USEPA/US  
To: Brendan Gilfillan/DC/USEPA/US@EPA, John Millett/DC/USEPA/US@EPA  
Cc: Nancy Grantham/R1/USEPA/US@EPA, Paula Ballentine/R1/USEPA/US@EPA  
Date: 04/03/2012 10:59 AM  
Subject: ACTION: Please Review Draft Quote on Carbon Stds.

Hi Brendan & John -

Senator Shaheen's office is putting out a PR in support of a Carbon Roundtable event - they would like (and Curt would like to provide) a quote. I've drafted the following adaptation of the LPJ quote in last week's announcement. Please let us know if this is ok or if you have an alternative or other input.

Thanks,  
Dave





-----  
David Deegan  
Office of Public Affairs  
U.S. EPA - New England Region  
(617) 918-1017 (office)  
(617) 594-7068 (cell)  
deegan.dave@epa.gov  
<http://www.epa.gov/region1/newsevents>  
Follow EPA New England on Twitter: [www.twitter.com/EPANewEngland](http://www.twitter.com/EPANewEngland)

**\*\* Help Save Paper \*\* Don't Print This Email Unless Necessary \*\***

----- Forwarded by Dave Deegan/R1/USEPA/US on 04/03/2012 10:49 AM -----

From: Nancy Grantham/R1/USEPA/US  
To: Catherine Corkery <[catherine.corkery@sierraclub.org](mailto:catherine.corkery@sierraclub.org)>  
Cc: Cynthia Greene/R1/USEPA/US@EPA, Emily Zimmerman/R1/USEPA/US@EPA, Dave Deegan/R1/USEPA/US@EPA, Paula Ballentine/R1/USEPA/US@EPA  
Date: 04/03/2012 10:35 AM  
Subject: Re: Press release draft for tomorrow

looping our press staff who will provide a quote (paula and dave – please coordinate quote millett and brendan . .thanks ng)

Catherine Corkery      Hi Nancy and Cynthia, I do not have...      04/03/2012 10:14:19 AM

From: Catherine Corkery <[catherine.corkery@sierraclub.org](mailto:catherine.corkery@sierraclub.org)>  
To: Nancy Grantham/R1/USEPA/US@EPA, Cynthia Greene/R1/USEPA/US@EPA  
Date: 04/03/2012 10:14 AM  
Subject: Press release draft for tomorrow

Hi Nancy and Cynthia,  
I do not have the quotation for the Senator yet and she will have edits they said BUT  
could you look this over and send a quotation for CS?

thanks,  
Cathy

--

Catherine M. Corkery  
Chapter Director  
Field Organizer

New Hampshire Sierra Club  
40 North Main Street 2 nd Floor  
Concord, NH 03301  
Office: 603-224-8222  
Cell: 603-491-1929  
[catherine.corkery@sierraclub.org](mailto:catherine.corkery@sierraclub.org)  
[www.nhsierraclub.org](http://www.nhsierraclub.org)

**DONATE TO NH CHAPTER TODAY**

Arvin Ganesan/DC/USEPA/US

To Nancy Grantham

03/14/2012 06:11 PM

cc Brendan Gilfillan, John Millett, Laura Vaught

bcc

Subject Re: Please let us know your thoughts .. Fw: Touching Base

Sounds good. Thanks.

Nancy Grantham we are inclined to do this .. this is the...

03/14/2012 02:31:04 PM

From: Nancy Grantham/R1/USEPA/US  
To: John Millett/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Laura Vaught/DC/USEPA/US@EPA  
Date: 03/14/2012 02:31 PM  
Subject: Please let us know your thoughts .. Fw: Touching Base

---

we are inclined to do this .. this is the same group that we did a round table with and did a mats event with ... thanks ng

----- Forwarded by Nancy Grantham/R1/USEPA/US on 03/14/2012 02:28 PM -----

From: Catherine Corkery <catherine.corkery@sierraclub.org>  
To: Nancy Grantham/R1/USEPA/US@EPA  
Date: 03/12/2012 10:24 AM  
Subject: Re: Touching Base

---

We are working with Sen Shaheen's office to have a round table discussion about carbon solutions such as energy savings programs and projects that will help NH move ahead and would like for Mr Spalding to talk about the carbon ruling that requires the EPA to regulate carbon. We want the context to be the good work of the EPA and the benefits: jobs and pollution reductions. The Senator is working on her schedule to be the key note speaker. She will talk about the concerns of continuing without a carbon rule and the opportunities NH would be able to explore with one, highlighting local businesses addressing the issues. It would be a great venue for Mr. Spalding to highlight the meaningful environmental and health improvements to American lives with the introduction of the Clean Air Act as well as the mission of the EPA to continue doing so. April 4 and 5th are prospective dates at this time but at this point there is some flexibility. Please let me know immediately what more you need.

Cathy

On Mon, Mar 12, 2012 at 7:00 AM, Nancy Grantham <[Grantham.Nancy@epamail.epa.gov](mailto:Grantham.Nancy@epamail.epa.gov)> wrote:

Hi Cathy,

Sorry for the delay in getting back to you.

If you could, it would great if you can send me an email describing what you would like to do in early April in NH -- that way I can coordinate messaging with our air offices here and at HQ.

thanks

nancy grandiem

--

Catherine M. Corkery  
Chapter Director  
Field Organizer  
New Hampshire Sierra Club  
40 North Main Street 2 nd Floor  
Concord, NH 03301  
Office: 603-224-8222  
Cell: 603-491-1929  
[catherine.corkery@sierraclub.org](mailto:catherine.corkery@sierraclub.org)  
[www.nhsierraclub.org](http://www.nhsierraclub.org)

**Go Green with the Manchester Monarchs on Sunday, March 25<sup>th</sup> at 3PM and a portion of your ticket will go to NH Sierra Club!!**



Alex Barron/DC/USEPA/US  
03/03/2011 04:33 PM

To Shannon Kenny, Bicky Corman  
cc  
bcc  
Subject Fw: the public polling

----- Forwarded by Alex Barron/DC/USEPA/US on 03/03/2011 04:33 PM -----

From: "Herzog, Antonia" <aherzog@nrdc.org>  
To: Michael Goo/DC/USEPA/US@EPA, Alex Barron/DC/USEPA/US@EPA  
Cc: "Consuegra, Jamie" <jconsuegra@nrdc.org>  
Date: 03/03/2011 03:14 PM  
Subject: the public polling

---

Hi Michael and Alex,

Great seeing you guys today. Here is the info on the public polling (National and 27 congressional districts) that has been done on public attitudes toward EPA in the last month. Please share with your colleagues whose emails I don't have.

- **Strong Opposition Nationally and in 19 Key Districts to House Votes to Block Public Health Protections (Feb 18-28)**  
Public Policy Polling, conducted for NRDC, released 20 new polls to probe how Americans nationally and in 19 key districts feel about votes to block the EPA's work to protect public health.  
[http://switchboard.nrdc.org/blogs/paltman/strong\\_opposition\\_nationally\\_a.html](http://switchboard.nrdc.org/blogs/paltman/strong_opposition_nationally_a.html)
- **Congress: Can You Hear America Now On Clean Air and EPA (Feb 7-14)**  
A [new American Lung Association poll](#) conducted by Democratic polling firm Greenberg Quinlan Rosner and GOP pollster Ayres McHenry examining the American public's views on protecting public health from pollution offers the most robust findings on where Americans are at on the issue: a bipartisan cross section want the EPA to be able to do its job protecting public health from pollution and oppose efforts to derail the EPA.  
[http://switchboard.nrdc.org/blogs/paltman/congress\\_can\\_you\\_hear\\_america.html](http://switchboard.nrdc.org/blogs/paltman/congress_can_you_hear_america.html)
- **Constituents in Upton's and 8 Other House Districts: Let EPA Do its Job! (Feb 4-5)**  
Public Policy Polling, conducted for NRDC, survey showing that voters in Chairman Upton's district are not at all behind him, and the voters in eight other districts we looked at aren't either.  
[http://switchboard.nrdc.org/blogs/paltman/voters\\_in\\_uptons\\_and\\_other\\_hou.html](http://switchboard.nrdc.org/blogs/paltman/voters_in_uptons_and_other_hou.html)
- **Americans Oppose Upton and Gingrich-style Attacks on Pollution Safeguards (Jan 27-30)**  
Public opinion polling released by the Opinion Research Corporation finds that

Gina McCarthy/DC/USEPA/US

To Richard Windsor

cc

03/08/2011 10:28 AM

bcc

Subject Fw: Ads on Power Plant Toxics

FYI

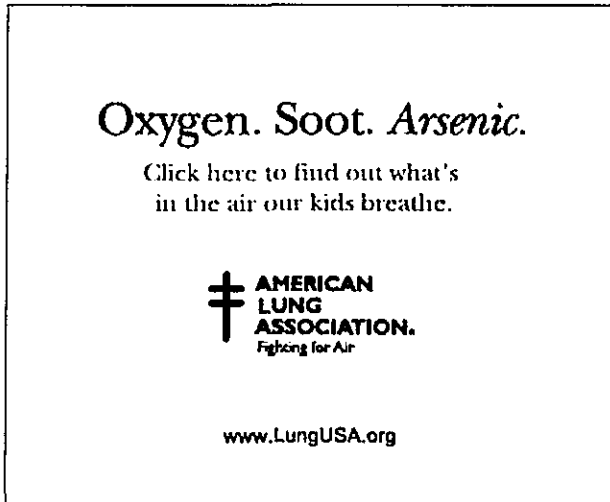
— Forwarded by Gina McCarthy/DC/USEPA/US on 03/08/2011 10:28 AM —

From: Paul Billings <PBillings@lungusa.org>  
To: Janice Nolen <JNolen@lungusa.org>, Gina McCarthy/DC/USEPA/US@EPA, Janet McCabe/DC/USEPA/US@EPA, Rob Brenner/DC/USEPA/US@EPA  
Cc: Peter Tsigotis/RTP/USEPA/US@EPA, Michael Goo/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA, Lorie Schmidt/DC/USEPA/US@EPA, Peter Iwanowicz <PIwanowicz@lungusa.org>  
Date: 03/08/2011 07:57 AM  
Subject: Ads on Power Plant Toxics

---

Attached find our print ad from today's Roll Call it also running in CQ Daily this week

Below is an online version that is running this week as well



Paul Billings  
202-785-3355

**From:** Janice Nolen  
**Sent:** Monday, March 07, 2011 8:20 PM  
**To:** 'McCarthy.Gina@epamail.epa.gov'; 'mccabe.janet@epa.gov'; 'Brenner.Rob@epamail.epa.gov'  
**Cc:** 'Tsigotis.Peter@epamail.epa.gov'; 'Goo.Michael@epamail.epa.gov';

John Millett/DC/USEPA/US  
06/15/2012 11:19 AM

To Paul Billings  
cc  
bcc  
Subject RE: News Release: EPA Proposes Clean Air Standards for  
Harmful Soot Pollution

Thanks, Paul -- I understand the concern; I'll make sure folks know about it.

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

Paul Billings That is not really an acceptable answer... 06/15/2012 11:17:10 AM

From: Paul Billings <Paul.Billings@lung.org>  
To: John Millett/DC/USEPA/US@EPA  
Date: 06/15/2012 11:17 AM  
Subject: RE: News Release: EPA Proposes Clean Air Standards for Harmful Soot Pollution

---

That is not really an acceptable answer to the public or the media – you have the \$ amounts that are based on multiplying adverse health events and deaths.  
EPA must show its work – an really needs to show it today.

**NOTE new email [Paul.Billings@Lung.org](mailto:Paul.Billings@Lung.org) - please update your contacts**

Paul G. Billings  
Vice President National Policy & Advocacy  
American Lung Association  
1301 Pennsylvania Ave NW Suite 800  
Washington, DC 20004-1725  
Phone: 202-785-3355 x 3988  
Fax: 202 -452-1805

**From:** John Millett [mailto:Millett.John@epamail.epa.gov]  
**Sent:** Friday, June 15, 2012 11:15 AM  
**To:** Paul Billings  
**Subject:** RE: News Release: EPA Proposes Clean Air Standards for Harmful Soot Pollution

Of course – but unfortunately, we won't have those numbers today. The RIA has those figures, but it is not yet complete. It will be posted soon and be available for review before and during the comment period.

~~~~~  
John Millett

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

Paul Billings ---06/15/2012 11:05:18 AM---Thanks got it FYI

From: Paul Billings <[Paul.Billings@lung.org](mailto:Paul.Billings@lung.org)>  
To: John Millett/DC/USEPA/US@EPA  
Date: 06/15/2012 11:05 AM  
Subject: RE: News Release: EPA Proposes Clean Air Standards for Harmful Soot Pollution

Thanks got it  
FYI

We need to know the numbers of premature deaths avoided and asthma attacks avoided today  
All you have released so far is \$ amounts of benefits.

**NOTE new email [Paul.Billings@Lung.org](mailto:Paul.Billings@Lung.org) - please update your contacts**

Paul G. Billings  
Vice President National Policy & Advocacy  
American Lung Association  
1301 Pennsylvania Ave NW Suite 800  
Washington, DC 20004-1725  
Phone: 202-785-3355 x 3988  
Fax: 202 -452-1805

**From:** John Millett [<mailto:Millett.John@epamail.epa.gov>]  
**Sent:** Friday, June 15, 2012 11:04 AM  
**To:** Paul Billings  
**Subject:** Fw: News Release: EPA Proposes Clean Air Standards for Harmful Soot Pollution

The release is out –

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

----- Forwarded by John Millett/DC/USEPA/US on 06/15/2012 11:00 AM -----

From: "U.S. EPA" <[usaepa@govdelivery.com](mailto:usaepa@govdelivery.com)>  
To: John Millett/DC/USEPA/US@EPA

Date: 06/15/2012 10:57 AM  
Subject: News Release: EPA Proposes Clean Air Standards for Harmful Soot Pollution

**CONTACTS:**

**Enesta Jones (News Media Only)**

[jones.enesta@epa.gov](mailto:jones.enesta@epa.gov)  
202-564-7873  
202-564-4355

Scott Fraser  
[fraser.scott@epa.gov](mailto:fraser.scott@epa.gov)  
202-564-2126

**FOR IMMEDIATE RELEASE**

June 15, 2012

## **EPA Proposes Clean Air Standards for Harmful Soot Pollution**

### ***99 percent of U.S. counties projected to meet proposed standards without any additional actions***

**WASHINGTON** – In response to a court order, the U.S. Environmental Protection Agency (EPA) today proposed updates to its national air quality standards for harmful fine particle pollution, including soot (known as PM2.5). These microscopic particles can penetrate deep into the lungs and have been linked to a wide range of serious health effects, including premature death, heart attacks, and strokes, as well as acute bronchitis and aggravated asthma among children. A federal court ruling required EPA to update the standard based on best available science. Today's proposal, which meets that requirement, builds on smart steps already taken by the EPA to slash dangerous pollution in communities across the country. Thanks to these steps, 99 percent of U.S. counties are projected to meet the proposed standard without any additional action.

EPA's proposal would strengthen the annual health standard for harmful fine particle pollution (PM2.5) to a level within a range of 13 micrograms per cubic meter to 12 micrograms per cubic meter. The current annual standard is 15 micrograms per cubic meter. The proposed changes, which are consistent with the advice from the agency's independent science advisors, are based on an extensive body of scientific evidence that includes thousands of studies – including many large studies which show negative health impacts at lower levels than previously understood. By proposing a range, the agency will collect input from the public as well as a number of stakeholders, including industry and public health groups, to help determine the most appropriate final standard to protect public health. It is important to note that the proposal has zero effect on the existing daily standard for fine particles or the existing daily standard for coarse particles (PM10), both of which would remain unchanged.

Thanks to recent Clean Air Act rules that have and will dramatically cut pollution, 99 percent of U.S. counties are projected to meet the proposed standards without undertaking any further actions to reduce emissions.

Meanwhile, because reductions in fine particle pollution have direct health benefits including decreased mortality rates, fewer incidents of heart attacks, strokes, and childhood asthma, these standards have major economic benefits with comparatively low costs. Depending on the final level of the standard, estimated benefits will range from \$88 million a year, with estimated costs of implementation as low as \$2.9 million, to \$5.9 billion in annual benefits with a cost of \$69 million – a return ranging from \$30 to \$86 for every dollar invested in pollution control. While EPA cannot consider costs in selecting a standard under the Clean Air Act, those costs are estimated as part of the careful

analysis undertaken for all significant regulations, as required by Executive Order 13563 issued by President Obama in January 2011.

The Clean Air Act requires EPA to review its standards for particle pollution every five years to determine whether the standards should be revised. The law requires the agency to ensure the standards are "requisite to protect public health with an adequate margin of safety" and "requisite to protect the public welfare." A federal court ordered EPA sign the proposed particle pollution standards by June 14, 2012, because the agency did not meet its five-year legal deadline for reviewing the standards.

EPA will accept public comment for 63 days after the proposed standards are published in the Federal Register. The agency will hold two public hearings; one in Sacramento, CA. and one in Philadelphia, PA. Details on the hearings will be announced shortly. EPA will issue the final standards by December 14, 2012.

Map showing counties in attainment in 2020: <http://epa.gov/pm/2012/map.pdf>

More information: <http://www.epa.gov/pm>

R107

You can view or update your subscriptions or e-mail address at any time on your [Subscriber Preferences Page](#). All you will need is your e-mail address. If you have any questions or problems e-mail [support@govdelivery.com](mailto:support@govdelivery.com) for assistance.

This service is provided to you at no charge by [U.S. Environmental Protection Agency](#).

·  
·  
·

This email was sent to [millett.ohn@epa.gov](mailto:millett.ohn@epa.gov) using GovDelivery, on behalf of: U.S. Environmental Protection Agency · 1200 Pennsylvania Avenue NW · Washington DC 20460 · 202-564-4355

John Coequyt  
<[john.coequyt@sierraclub.org](mailto:john.coequyt@sierraclub.org)>

06/20/2012 02:38 PM

To: Alex Barron

cc

bcc

Subject: Re: Fwd: Carbon Rule Comments for EPA from Change.org

Thanks for your help

On Wed, Jun 20, 2012 at 2:37 PM, Alex Barron <[Barron.Alex@epamail.epa.gov](mailto:Barron.Alex@epamail.epa.gov)> wrote:

You may also want to talk to someone at the docket office:

[201-566-174](#)

[1](#)

They are the  
pros and  
masters of  
such details.

More info is

at:

<http://www.epa.gov/air/docket.html>

John Coequyt ---06/20/2012 01:41:48 PM---Jonathan and Alex: Can you help out here. Attached are the petition's from Change.Org, many

From: John Coequyt <[john.coequyt@sierraclub.org](mailto:john.coequyt@sierraclub.org)>  
To: Jonathan Lubetsky/DC/USEPA/US@EPA, Alex Barron/DC/USEPA/US@EPA  
Date: 06/20/2012 01:41 PM  
Subject: Fwd: Carbon Rule Comments for EPA from Change.org

Jonathan and Alex:

Can you help out here. Attached are the petition's from Change.Org, many of which were signed before the comment period officially opened. They want to make sure you all include them in your tally of supporters. Who do I need to give these to.

----- Forwarded message -----

From: Marie Bergen <[marie@change.org](mailto:marie@change.org)>  
Date: Wed, Jun 13, 2012 at 4:45 PM  
Subject: Carbon Rule Comments for EPA from Change.org

Alex Barron/DC/USEPA/US  
06/20/2012 02:19 PM

To: Kevin Culligan  
cc  
bcc  
Subject: Re: How to submit comments -

These are apparently large csv files with lots of names so they are hoping for a human to talk to about the best format, etc.

A

Kevin Culligan [http://epa.gov/carbonpollutionstandard/...](http://epa.gov/carbonpollutionstandard/) 06/20/2012 01:54:18 PM

From: Kevin Culligan/DC/USEPA/US  
To: Alex Barron/DC/USEPA/US@EPA  
Date: 06/20/2012 01:54 PM  
Subject: How to submit comments -

<http://epa.gov/carbonpollutionstandard/pdfs/howtocomment.pdf>

Alex Barron Would be handy. Thx. From: Kevin Cui... 06/20/2012 01:51:42 PM

From: Alex Barron/DC/USEPA/US  
To: Kevin Culligan/DC/USEPA/US@EPA  
Date: 06/20/2012 01:51 PM  
Subject: Re: Fw: Carbon Rule Comments for EPA from Change.org

Would be handy. Thx.

Kevin Culligan I assume you are telling them they need... 06/20/2012 01:51:00 PM

From: Kevin Culligan/DC/USEPA/US  
To: Alex Barron/DC/USEPA/US@EPA  
Date: 06/20/2012 01:51 PM  
Subject: Re: Fw: Carbon Rule Comments for EPA from Change.org

I assume you are telling them they need to submit them to the docket? Can get you the info if you need it.

Alex Barron fyi ----- Forwarded by Alex Barron/DC/... 06/20/2012 01:45:27 PM

From: Alex Barron/DC/USEPA/US  
To: Kevin Culligan/DC/USEPA/US@EPA  
Date: 06/20/2012 01:45 PM  
Subject: Fw: Carbon Rule Comments for EPA from Change.org

fyi

----- Forwarded by Alex Barron/DC/USEPA/US on 06/20/2012 01:44 PM -----

From: John Coequyt <[john.coequyt@sierraclub.org](mailto:john.coequyt@sierraclub.org)>  
To: Jonathan Lubetsky/DC/USEPA/US@EPA, Alex Barron/DC/USEPA/US@EPA  
Date: 06/20/2012 01:41 PM  
Subject: Fwd: Carbon Rule Comments for EPA from Change.org

Jonathan and Alex:



Alex Barron/DC/USEPA/US  
06/20/2012 02:10 PM

To John Coequyt  
cc Jonathan Lubetsky  
bcc  
Subject Re: Fwd: Carbon Rule Comments for EPA from Change.org

Does this contain what you need?

<http://epa.gov/carbonpollutionstandard/pdfs/howtocomment.pdf>

John Coequyt Jonathan and Alex: Can you help out h... 06/20/2012 01:41:48 PM

From: John Coequyt <[john.coequyt@sierraclub.org](mailto:john.coequyt@sierraclub.org)>  
To: Jonathan Lubetsky/DC/USEPA/US@EPA, Alex Barron/DC/USEPA/US@EPA  
Date: 06/20/2012 01:41 PM  
Subject: Fwd: Carbon Rule Comments for EPA from Change.org

Jonathan and Alex:

Can you help out here. Attached are the petition's from Change.Org, many of which were signed before the comment period officially opened. They want to make sure you all include them in your tally of supporters. Who do I need to give these to.

----- Forwarded message -----

From: Marie Bergen <[marie.bergen@sierraclub.org](mailto:marie.bergen@sierraclub.org)>  
Date: Wed, Jun 13, 2012 at 4:45 PM  
Subject: Carbon Rule Comments for EPA from Change.org  
To: John Coequyt <[john.coequyt@sierraclub.org](mailto:john.coequyt@sierraclub.org)>

Hey John,

Here are the comments to send to the EPA on Carbon. Please let me know if you receive them.

Thanks!

*[Faint, mostly illegible text]*  
[www.sierraclub.org](http://www.sierraclub.org)  
[415-9775875](tel:415-9775875)

*Full of  
(Friends w/  
Signatures)*

--  
John Coequyt  
Sierra Club  
[415-977-7000](tel:415-977-7000)

To: John Coequyt <[john.coequyt@sierraclub.org](mailto:john.coequyt@sierraclub.org)>

Hey John.

Here are the comments to send to the EPA on Carbon. Please let me know if you receive them.

Thanks!

--

John Coequyt  
Executive Director, Change.org  
1111 17th St  
415-977-7060

--

John Coequyt

Sierra Club

[202-669-7060](tel:202-669-7060)

[attachment "2012-06-05\_changeorg\_signatures96028\_Tell the EPA- Set limits for Big Coal and corporate polluters.csv" deleted by Alex Barron/DC/USEPA/US] [attachment "2012-06-05\_changeorg\_signatures124289\_Tell the EPA- Put limits on life-threatening carbon pollution.csv" deleted by Alex Barron/DC/USEPA/US]

--

John Coequyt

Sierra Club

202-669-7060

John Coequyt  
<john.coequyt@sierraclub.org>

01/13/2012 05:45 PM

To: Michael Goo, Arvin Ganesan

cc

bcc

Subject: Fwd: Mercury Air Toxics Ad Buy in Ohio

John Coequyt  
Cell. 202.669.7060  
Direct. 202.675.7916

Begin forwarded message:

**From:** Terry McGuire <[terry.mcguire@sierraclub.org](mailto:terry.mcguire@sierraclub.org)>  
**Date:** January 13, 2012 4:56:56 PM EST  
**To:** "#Lobby-DC" <[lobby-dc-list@sierraclub.org](mailto:lobby-dc-list@sierraclub.org)>  
**Subject:** Mercury Air Toxics Ad Buy in Ohio

ICYMI

## **New Sierra Club ad praises Obama for EPA mercury rule**

Jennifer Yachnin, E&E reporter

Published: Thursday, January 12, 2012

The Sierra Club launched its largest television ad buy in recent history today, saturating the airwaves in Ohio with a spot praising U.S. EPA's new mercury standards for coal- and oil-burning power plants and its effort to halt cross-state air pollution.

The ad also aims to discourage Congress from passing legislation to weaken the standards, which have drawn criticism from power utilities. No individual lawmakers are named.

In the 30-second spot, which will air in the Cleveland, Cincinnati and Columbus markets through Tuesday, viewers are shown images of smoke stacks and children with nebulizer masks.

"With lobbyists and their friends in Congress railing against air pollution standards, it's time to clear the air. The less we have of this, the less she'll have of this," the narrator states, as an image of a young girl with a nebulizer is shown.

John Coequyt  
<[john.coequyt@sierraclub.org](mailto:john.coequyt@sierraclub.org)>

06/20/2012 02:38 PM

To: Alex Barron

cc

bcc

Subject: Re: Fwd: Carbon Rule Comments for EPA from Change.org

Thanks for your help

On Wed, Jun 20, 2012 at 2:37 PM, Alex Barron <[Barron.Alex@epamail.epa.gov](mailto:Barron.Alex@epamail.epa.gov)> wrote:

You may also want to talk to someone at the docket office:

[201-566-174](#)

1

They are the  
pros and  
masters of  
such details.

More info is  
at:

<http://www.epa.gov/air/docket.html>

John Coequyt ---06/20/2012 01:41:48 PM---Jonathan and Alex: Can you help out here. Attached are the petition's from Change.Org, many

From: John Coequyt <[john.coequyt@sierraclub.org](mailto:john.coequyt@sierraclub.org)>  
To: Jonathan Lubetsky/DC/USEPA/US@EPA, Alex Barron/DC/USEPA/US@EPA  
Date: 06/20/2012 01:41 PM  
Subject: Fwd: Carbon Rule Comments for EPA from Change.org

Jonathan and Alex:

Can you help out here. Attached are the petition's from Change.Org, many of which were signed before the comment period officially opened. They want to make sure you all include them in your tally of supporters. Who do I need to give these to.

----- Forwarded message -----

From: Marie Bergen <[marie@change.org](mailto:marie@change.org)>  
Date: Wed, Jun 13, 2012 at 4:45 PM  
Subject: Carbon Rule Comments for EPA from Change.org

Phil Lorang/RTP/USEPA/US  
02/19/2012 03:15 PM

To Janet McCabe  
cc Anna Wood, Martha Keating  
bcc  
Subject Re: Fw: Cleaning up the Haze Report

I don't see it in the docket yet, but I do know it is on Martha's To Do list to get it into the docket if Stephanie does not submit it directly. There are about 200 public comments in the docket so far, although some may be duplicates posted in error.

Phil Lorang, Senior Policy Advisor  
Air Quality Policy Division, OAQPS, EPA  
919-541-5463

Janet McCabe From: Janet McCabe/DC/USEPA/US T... 02/19/2012 02:37:04 PM

From: Janet McCabe/DC/USEPA/US  
To: Phil Lorang/RTP/USEPA/US@EPA, Anna Wood/RTP/USEPA/US@EPA  
Date: 02/19/2012 02:37 PM  
Subject: Fw: Cleaning up the Haze Report

Phil--I assume this is going in the docket for the Better than BART rulemaking? It lays out the group's comments on the better than BART rule...

Janet McCabe  
Principal Deputy Assistant Administrator  
Office of Air and Radiation, USEPA  
Room 5426K, 1200 Pennsylvania Avenue NW  
Washington, DC 20460  
202-564-3206  
mccabe.janet@epa.gov

-----Forwarded by Janet McCabe/DC/USEPA/US on 02/19/2012 02:34PM -----  
To: Gina McCarthy/DC/USEPA/US@EPA, Janet McCabe/DC/USEPA/US@EPA, Phil Lorang/RTP/USEPA/US@EPA  
From: Stephanie Kodish <skodish@npca.org>  
Date: 01/31/2012 09:35AM  
Subject: Cleaning up the Haze Report

*(See attached file: Cleaning up the Haze Report.pdf)*

Dear Gina, Janet, Phil:

Attached please find the report, "Cleaning up the Haze: Protecting People and America's Treasured Places." It is being released today by the Appalachian Mountain Club, Clean Air Task Force, Earthjustice, Midwest Environmental Defense Center, Minnesota Center for Environmental Advocacy, National Parks

To: Joel Beauvais/DC/USEPA/US@EPA, Shannon Kenny/DC/USEPA/US@EPA, "Nicole Owens" <Owens.Nicole@epamail.epa.gov>, "Alexander Cristofaro" <Cristofaro.Alexander@epamail.epa.gov>  
Date: 04/21/2011 10:01 AM  
Subject: Re: Has EPA officially reported the Boiler air toxics rule to Congress?

Alex and nicole- can you help?

A

Joel Beauvais

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

From: Joel Beauvais  
Sent: 04/21/2011 09:57 AM EDT  
To: Shannon Kenny; Alex Barron  
Subject: Fw: Has EPA officially reported the Boiler air toxics rule to Congress?

Is OP the office responsible for reporting final rules to Congress? Do you guys know the answer to this question?

----- Forwarded by Joel Beauvais/DC/USEPA/US on 04/21/2011 09:56 AM -----

From: David McIntosh/DC/USEPA/US  
To: Joel Beauvais/DC/USEPA/US@EPA, Janet McCabe/DC/USEPA/US@EPA  
Cc: Lorie Schmidt/DC/USEPA/US@EPA  
Date: 04/21/2011 09:43 AM  
Subject: Fw: Has EPA officially reported the Boiler air toxics rule to Congress?

Hi Joel and Janet. Do we have a specific date when, it is EPA's position, the Agency reported the final boiler air toxics rule to Congress for Congressional Review Act purposes?

----- Forwarded by David McIntosh/DC/USEPA/US on 04/21/2011 09:42 AM -----

From: Lyndsay Moseley <Lyndsay.Moseley@sierraclub.org>  
To: David McIntosh/DC/USEPA/US@EPA  
Date: 04/20/2011 05:28 PM  
Subject: Has EPA officially reported the Boiler air toxics rule to Congress?

Hi David:

I'm trying to track down whether the Industrial Boiler air toxics rule is vulnerable to a CRA threat, or if the Cement air toxics rule is the only air toxics rule that's vulnerable. We had previously heard that EPA planned to report the rule to Congress when it was published in the federal register. Can you confirm if/when the rule was reported to Congress? Thank you in advance for your assistance.

Lyndsay Moseley  
Federal Policy Representative  
Sierra Club  
408 C St. NE  
Washington, DC 20002  
tel: 202-548-4531  
fax: 202-547-6009

Gina McCarthy/DC/USEPA/US

To margie

10/06/2011 10:43 AM

cc

bcc

Subject Boiler Update

I know you have shared my concern about ensuring that we move ahead with the Boiler MACT Rule reproposal and final. So I wanted you to know that Jim Pew filed a notice on the 4th on behalf of the Sierra Club, opposing EPA's recent request for oral argument in the Boiler Rule stay case. He asserted that oral argument would delay resolution of the case and thus prejudice his client. This notice essentially frees the judge to make a decision to deny our motion for oral argument if he does, he will be free to make his decision on the stay itself anytime now. And, as I am sure you have heard, the House vote on boilers appears now to be slipping to next week.

Just a few things to think about.....



**Re: a good report**  
Lisa Heinzerling to: Richard Windsor

02/27/2009 02:02 PM

From: Lisa Heinzerling/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA,

You're a good boss.

I do realize that. I pinch myself all the time.

Richard Windsor You are at the forefront of progressive national p... 02/27/2009 01:11:21 PM

From: Richard Windsor/DC/USEPA/US  
To: Lisa Heinzerling/DC/USEPA/US@EPA  
Date: 02/27/2009 01:11 PM  
Subject: Re: a good report

You are at the forefront of progressive national policy on one of the critical issues of our time. Do you realize that?

Lisa Heinzerling

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

**From:** Lisa Heinzerling  
**Sent:** 02/27/2009 12:05 PM EST  
**To:** Richard Windsor  
**Cc:** David McIntosh  
**Subject:** a good report



To be continued....





**Re: a good report**   
**Richard Windsor** to: Lisa Heinzerling

02/27/2009 01:11 PM

From: Richard Windsor/DC/USEPA/US  
To: Lisa Heinzerling/DC/USEPA/US@EPA,

You are at the forefront of progressive national policy on one of the critical issues of our time. Do you realize that?

Lisa Heinzerling

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

**From:** Lisa Heinzerling  
**Sent:** 02/27/2009 12:05 PM EST  
**To:** Richard Windsor  
**Cc:** David McIntosh  
**Subject:** a good report

Our auto task force subgroup meeting went very well.

(b) (5)

[Redacted content]

[Redacted content]

To be continued....



**a good report**

**Lisa Heinzerling** to: Richard Windsor

Cc: David McIntosh

02/27/2009 12:06 PM

From: Lisa Heinzerling/DC/USEPA/US  
To: Richard Windsor/DC/USEPA/US@EPA,  
Cc: David McIntosh/DC/USEPA/US@EPA

History: This message has been replied to.

Our auto task force subgroup meeting went very well. The purpose of the meeting was to hear from EPA and DOT on our plans for mobile sources; (b) (5)

[Redacted content]

[Redacted content]

To be continued....

## **Appendix C - Other non-Public Documents**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

AMERICAN TRADITION INSTITUTE )  
2020 Pennsylvania Avenue, N.W. )  
#186 )  
Washington, D.C. 20006 )

Plaintiff, )

v. )

Case No. CV: 13-112

UNITED STATES ENVIRONMENTAL )  
PROTECTION AGENCY )  
1200 Pennsylvania Avenue, N.W. )  
Ariel Rios Building )  
Washington, D.C. 20460 )

Defendant. )

**COMPLAINT FOR DECLARATORY RELIEF AND  
RELIEF IN THE FORM OF MANDAMUS**

Plaintiff AMERICAN TRADITION INSTITUTE (“ATI”) for its complaint against Defendant UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (“EPA” or “the Agency”), alleges as follows:

- 1) This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, to compel production under two distinct requests for certain EPA records reflecting discussions with and about two environmental activist groups dedicated in substantial part to influencing EPA policy, and which work closely with EPA toward that end.
- 2) In two separate FOIA requests initiated in April 2012, ATI sought certain described records from five identified offices within EPA, to, from or discussing the American Lung Association (or ALA) in one request and Sierra Club (“Sierra”) in the other.

- 3) These two groups are the subject of heightened public interest for their close relationships with Defendant. ALA presents a “prototypical transition...to an organization actively engaged in lobbying and seeking funding from both government agencies and private firms in return for promoting their agenda”,<sup>1</sup> lobbies and litigates<sup>2</sup> for greater authority for EPA, runs billboard campaigns against politicians who challenge EPA,<sup>3</sup> and has received \$20,405,655 from EPA in the last 10 years for its programs.<sup>4</sup> Sierra Club employs a similar model and has close working relationships with senior Agency officials.<sup>5</sup>
- 4) For nearly ten months and despite several entreaties by Plaintiff Defendant EPA has produced no responsive records, and no substantive response to Plaintiff’s requests,

---

<sup>1</sup> Bennett, James T., *Pandering for Profit: The Transformation of Health Charities to Lobbyists* (December 14, 2011). GMU Working Paper in Economics No. 11-54. Available at SSRN: <http://ssrn.com/abstract=1972369> or <http://dx.doi.org/10.2139/ssrn.1972369>, published in the *Virginia Economic Journal*, Volume 17, 2012, pp. 33-64. Bennett is a George Mason University “Eminent Scholar” holding, *inter alia*, the William P. Snavely Chair of Political Economy and Public Policy.

<sup>2</sup> See, e.g., American Lung Association, “American Lung Association Joins Suit Against EPA over Pollution Standards”, Press Release, February 14, 2012, <http://www.longislandpress.com/2012/02/14/american-lung-association-joins-suit-against-epa-over-pollution-standards/>.

<sup>3</sup> See, e.g., Amanda Carey, “American Lung Association plasters Rep. Upton’s district with provocative ad,” *Daily Caller*, March 23, 2011, <http://dailycaller.com/2011/03/23/american-lung-association-plasters-rep-uptions-district-with-provocative-ad/>.

<sup>4</sup> Dennis Ambler, “Samples of US Government Grants to the Global Warming Industry,” Science and Public Policy Institute, Washington, DC, August 22, 2012 [http://scienceandpublicpolicy.org/images/stories/papers/originals/sample\\_grants.pdf](http://scienceandpublicpolicy.org/images/stories/papers/originals/sample_grants.pdf) citing to EPA data at [http://yosemite.epa.gov/oarm/igms\\_egf.nsf/Reports/Non-Profit+Grants?OpenView](http://yosemite.epa.gov/oarm/igms_egf.nsf/Reports/Non-Profit+Grants?OpenView).

<sup>5</sup> For example, in 2012 Sierra promptly hired Defendant’s Region 6 Administrator Al Armendariz expressly to continue his work against a particular domestic industry (coal), after he left EPA when videotaped acknowledging he informing his EPA staff of his “philosophy of enforcement”, “It was kind of like how the Romans used to, you know, conquer villages in the Mediterranean. They’d go in to a little Turkish town somewhere, they’d find the first five guys they saw, and they’d crucify them. And then, you know, that town was really easy to manage for the next few years.” See, e.g., Broder, John M., “E.P.A. Official in Texas Quits Over ‘Crucify’ Video”, *New York Times*, May 1, 2012, [http://www.nytimes.com/2012/05/01/us/politics/epa-official-in-texas-resigns-over-crucify-comments.html?\\_r=0](http://www.nytimes.com/2012/05/01/us/politics/epa-official-in-texas-resigns-over-crucify-comments.html?_r=0), which also links to the videotaped remarks, viewed January 18, 2013.

but only non-responsive and circular replies to Plaintiff's numerous attempts to obtain cooperation, thereby obstructing the FOIA process.

- 5) A FOIA specialist with Defendant EPA informed Plaintiff that a superior official with Defendant removed both requests from the two FOIA officers originally assigned to handle them, instructing these officers to perform no work on the requests.
- 6) Defendant EPA denied Plaintiff's requests for fee waivers despite FOIA's fee waiver provisions being designed to ensure public interest groups whose work is largely derived from obtaining records from government are not barred from accessing public records, and despite routinely providing waivers for requests of far less public interest.
- 7) Defendant further frustrated Plaintiff's requests by insisting that Plaintiff agree to fee estimates before Defendant would conduct its search, while also refusing to provide estimated fees for Plaintiff to agree to or appeal.
- 8) By this EPA has created a *cul de sac* for Plaintiff, whereby Defendant refuses to take steps toward complying with the Act or provide a substantive response.
- 9) Defendant EPA agreed with Plaintiff's administrative appeal of Defendant's failure to produce responsive records, yet after four more months continues to provide no substantive response to Plaintiff's requests.
- 10) As such, and in the face of revelations about organized and systemic abuses by senior federal employees to hide from the public their activities and their relationships, EPA has constructively denied ATI's requests and its appeal, leaving ATI no recourse but this lawsuit asking this Court to compel EPA to produce responsive records.

**PARTIES**

- 11) Plaintiff ATI is a public policy research and educational institute in Washington, D.C., dedicated to advancing responsible regulation and in particular economically sustainable environmental policy. ATI's programs include a specific transparency initiative seeking public records relating to environmental policy and how policymakers use public resources.
- 12) Defendant EPA is a federal agency headquartered in Washington, DC whose stated mission is to "protect human health and the environment."

**JURISDICTION AND VENUE**

- 13) This Court has jurisdiction pursuant to 5 U.S.C. § 552(a)(4)(B) because this action is brought in the District of Columbia, and under 28 U.S.C. § 1331 because the resolution of disputes under FOIA presents a federal question.
- 14) Venue is proper in this Court under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e) because Plaintiff resides in the District of Columbia, and defendant is an agency of the United States.

**FACTUAL BACKGROUND**

- 15) This lawsuit seeks to compel EPA to respond fully and completely to two separate FOIA requests dated April 2, 2012. The requests sought records relating to dealings of five particular EPA offices with the groups Sierra Club and American Lung Association, with which EPA works collaboratively including on legal and policy matters, and financially supports.

- 16) EPA acknowledged Plaintiff's requests separately with adapted form letters, each assigning tracking numbers and promising that the same two specified offices had been assigned each request. Neither letter provided any initial determination on ATI's requests to have its fees waived or substantially reduced.
- 17) EPA has since chosen to treat these distinct requests together.
- 18) After three months of no further response, no ruling on ATI's requests to have its fees waived or reduced, or any substantive response indicating that EPA was in fact processing ATI's requests, Plaintiff counsel who was also the requester contacted Defendant EPA by telephone on July 5, 2012 to obtain a status update.
- 19) At that time EPA's FOIA specialist who was assigned one of Plaintiff's requests, HQ-FOI-01058-12 ["ALA"], informed Plaintiff that both FOIA specialists originally assigned the requests had had them taken away by their supervisor with an instruction to take no action on the requests.
- 20) After one more week of no response from Defendant, on July 11, 2012 Plaintiff filed an administrative appeal arguing that by these actions and by its inaction the Agency had constructively denied Plaintiff's requests.
- 21) After four weeks, by letter dated August 8, 2012 Defendant responded to Plaintiff's appeal, agreeing that the Agency had in fact not responded to Plaintiff's request or requests for fee waiver. Defendant asserted that EPA would respond within five days to Plaintiff's requests for fee waivers.
- 22) By letter dated August 7, 2012, Defendant denied both of Plaintiff's requests for fee waiver for information about the Agency's relationship with these two groups.



- 23) Plaintiff appealed the denial of its requests for fee waiver on August 29, 2012.
- 24) As regards Plaintiff's request for responsive records, instead of Defendant EPA stating it would produce records subject to legitimate exemptions, nearly six months ago Defendant replied to Plaintiff's appeal stating that Plaintiff would receive an update on the status of EPA processing its requests. It has provided no updates, no substantive response indicating it is processing and plans to comply with Plaintiff's requests, and has ignored Plaintiff's correspondence seeking to prompt action.
- 25) Transparency in government is the subject of high-profile promises from the president and attorney general of the United States, both arguing forcefully that "that FOIA 'should be administered with a clear presumption: In the face of doubt, openness prevails'" (See, e.g., Attorney General Eric Holder, OIP Guidance, "President Obama's FOIA Memorandum and Attorney General Holder's FOIA Guidelines, Creating a 'New Era of Open Government,'" <http://www.justice.gov/oip/foiapost/2009foiapost8.htm>. This and a related guidance elaborate on President Obama's memorandum for the heads of executive departments and agencies, January 20, 2009, [http://www.whitehouse.gov/the\\_press\\_office/Freedom\\_of\\_Information\\_Act](http://www.whitehouse.gov/the_press_office/Freedom_of_Information_Act).)

**Plaintiff's FOIA Request HQ-FOI-0152-12 Seeking Certain  
Specified Emails to, from or discussing Sierra Club**

- 26) On April 2, 2012, Plaintiff requested "copies of any email sent from or to (including as cc:)" five identified EPA offices "and containing the word 'Sierra' in either the body, subject line or any domain name in the email."
- 27) EPA acknowledged this request by letter dated April 2, 2012, and assigned it tracking number HQ-FOI-0152-12.

**Plaintiff's FOIA Request HQ-FOI-0158-12 Seeking Certain Specified Records to, from or discussing American Lung Association**

28) On April 2, 2012, by a separate document Plaintiff requested “copies of any email sent from or to (including as cc:)” five identified EPA offices “and anyone with ‘Lung’ in their e-mail domain (this includes but is not limited to “Lung.org” or ‘LungUSA.org’”).

29) EPA acknowledged this request by letter dated April 3, 2012, and assigned it tracking number HQ-FOI-0158-12.

30) As part of both Requests, ATI wrote, in pertinent part:

“please provide copies of all records meeting the description which follows and which were sent or received by or are in the possession of staff working now or during the period covered by this Request in or for the following five Offices at EPA HQ:

**Office of Associate Administrator for Policy,  
Office of Associate Administrator for External Affairs and Environmental  
Education,  
Office of Associate Administrator for Air and Radiation  
Office of the Deputy Administrator, and/or  
Office of the Assistant Administrator for Air and Radiation**

... Documents responsive to this Request will have been dated, sent or received by the identified EPA HQ offices between January 21, 2009 and the date EPA performs the relevant, respective search(es) in response to this Request, inclusive.”

**Defendant's Response to Both FOIA Requests**

31) EPA acknowledged both requests by separate form letters, each excerpting the respective request, framing its scope, and stating that another office within the Agency was assigned the responsibility of processing Plaintiff's requests. (“Your request has been forwarded to the Office of the Administrator (AO) and the Office of

Air and Radiation (OAR) for processing” [HQ-FOI-0152-12], and “Your request has been forwarded to AO OAR for processing” [HQ-FOI-0158-12] [*gap in text and acronyms in lieu of office names are in the original*]). These letters were signed by Larry Gottesman, National FOIA Officer.

32) EPA did not thereafter provide ATI the initial determinations on its requests for fee waiver until after ATI appealed this functional refusal to process ATI’s requests.

**Other Proceedings Below: Telephone Contact**

33) On July 5, 2012 ATI counsel and requester called the telephone number listed in the form acknowledging HQ-FOI-01058-12 [“ALA”], answered by the EPA FOIA specialist assigned that request (“Vivian”). While on the telephone “Vivian” looked into this inaction at ATI’s request, explained the history as reflected in her file and in her memory, and informed ATI counsel of affirmative steps taken by the Agency to remove the requests from the normal handling procedure.

34) Specifically, Defendant’s FOIA specialist informed Plaintiff’s counsel that the supervisor of both assigned specialists, Larry F. Gottesman,<sup>6</sup> instructed them to take no action on the requests. Gottesman is the National FOIA Officer who first assigned the requests to “AO” and OAR” and to these two FOIA specialists.

35) During the same conversation this FOIA officer expressed surprise that the promised followup had not occurred, stating that the lack of promised action troubled her

---

<sup>6</sup> Mr. Gottesman is “the U.S. Environmental Protection Agency’s (EPA’s) Freedom of Information Officer,” a senior position entailing, e.g., testimony to Congress on Agency fulfillment of its statutory duties under FOIA, See, e.g., [http://epa.gov/ocir/hearings/testimony/111\\_2009\\_2010/2010\\_0318\\_lfg.pdf](http://epa.gov/ocir/hearings/testimony/111_2009_2010/2010_0318_lfg.pdf).

“because this is my file” in that technically she was still assigned to carry out EPA’s obligations as to the request.

- 36) Plaintiff’s counsel attested to this discussion in an affidavit filed with ATI’s administrative appeals of EPA’s refusal to process these requests (affidavit is an appendix to ATI’s administrative appeal, Ex. 1, attached).
- 37) Mr. Gottesman in fact took no action on the requests and EPA provided no further substantive response indicating an intention to process the requests. EPA did not seek an extension to respond to Plaintiff’s requests. EPA did not otherwise notify ATI of reasons it must delay responding to ATI’s requests for records and for fee waivers. EPA provided no responsive records.

**Plaintiff’s Administrative Appeal**

- 38) One week after this telephone conversation with EPA, by electronic mail on July 11, 2012, Plaintiff ATI filed its administrative appeal of EPA’s constructive denial of these requests and requests for fee waivers, specifically challenging EPA’s failure or refusal to provide substantive responses.
- 39) As part of this appeal Plaintiff’s undersigned counsel Horner attested, by affidavit, to the above-described conversation with EPA’s FOIA specialist.
- 40) In this appeal ATI plainly stated it was appealing EPA’s refusal to provide the requested information. (*See, e.g.*, ATI statement it was appealing EPA’s “‘adverse determination’ in its election to not respond to two Requests”, as presented in the telephone call with “Vivian” (administrative appeal, p. 1); *see also*, “Alternately, we appeal EPA’s failure to timely respond and to thereby constructively deny those

Requests” (Id.); *and see* ATI citing to EPA’s failure to seek an extension of time to produce responsive records (Id., p. 4), and that EPA “sat on the requests” by not producing responsive information as required (appeal, p. 5). *See also*, “EPA has denied ATI’s requests” (Id., p. 6), and , “EPA’s Determination To Not Provide Requested Information Should Be Reversed” (Id., p. 8).

41) As such, ATI plainly appealed EPA’s refusal or otherwise failure to provide responsive records as required, either by affirmative or constructive denial.

**Defendant’s Response to Plaintiff’s Administrative Appeal**

42) EPA replied to this appeal by letter dated August 8, 2012, granting Plaintiff’s appeal of the Agency’s failure to respond to ATI’s requests for fee waiver, promising that determinations would come within five days.

43) EPA’s reply also granted Plaintiff’s appeal “insofar as EPA has not responded to your request”, not promising production of responsive records subject to legitimate withholdings but an update on the status of Plaintiff’s requests.

**A. Defendant’s Response Denying Plaintiff’s Request for Fee Waiver**

44) By letter dated August 7, 2012, Defendant denied both requests for fee waiver, stating Plaintiff had failed to demonstrate how information revealing the Agency’s relationship with these two groups, one of which it funds substantially and the other with which it works closely in other ways, would significantly increase the public’s understanding of government operations or activities.

45) Both fee waiver request denials also remain incomplete in that the Agency has to date continued its refusal to provide any estimate of fees to appeal, while nonetheless

repeating the caution that Plaintiff that “[EPA] will be unable to process your request until they receive your written assurance of payment.”

46) Defendant thereby reiterated an impossible condition for processing Plaintiff’s requests of Plaintiff first accepting EPA’s cost estimates which Defendant still will not provide.

47) By letter dated October 4, 2012, Defendant denied Plaintiff’s requests to have its fees waived or substantially reduced as provided for in FOIA when “disclosure of the [requested] information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government.” 5 U.S.C. § 552(a)(4)(A)(iii).

48) By letter dated and sent by electronic mail October 12, 2012, Plaintiff informed Defendant of precedent post-Congress’ 2007 amendments to FOIA establishing that, by failing to respond substantively to Plaintiff’s requests within the statutory period of time, Defendant waived its ability to seek fees.

49) Defendant did not respond to this letter.

**B. Defendant’s Response to Plaintiff’s Appeal for Failure to Produce Records**

50) By its letter dated August 8, 2012, EPA acknowledged that ATI’s appeal was of the Agency’s refusal to provide responsive records. *See*, “I am responding to your July 11, 2012 Freedom of Information Act (‘FOIA’) appeals. You appealed your constructive denial and delay in processing your FOIA Requests HQ-FOI-01052-12 and HQ-FOI-01058-12”.

51) Nonetheless, EPA stated only that “EPA’s FOIA office will also update you on the status of processing your request to date”, neither ruling on the appeal, ordering EPA to produce the withheld information, nor stating that EPA would produce the requested information.

**Plaintiff’s Request for a Substantive Response, and Defendant’s Reply**

52) By letter dated and sent by electronic mail December 19, 2012, Plaintiff wrote Plaintiff again seeking to prompt action, stating, inter alia, “although these requests are now more than eight months old, EPA has produced neither a single responsive record nor a substantive response. We request the Agency comply with its obligations under FOIA by one of two steps. We also inform EPA of our intention to protect and pursue our appellate rights if EPA does not elect one of the following two courses prescribed under FOIA within twenty additional working days from this letter.”

53) Plaintiff requested that Defendant “produce responsive, described records and detailed, Vaughn-style indexes describing any legitimately claimed FOIA exemptions applicable to withheld information sufficient to allow a reasonable determination of the validity of those withholdings. Alternately, EPA may elect to begin its required compliance with FOIA by providing a substantive response.”

54) Defendant did not respond to this letter.

**LEGAL ARGUMENTS**

**Defendant EPA Owed and Has Failed to Provide Plaintiff a Meaningful, Productive Response to its Requests, and to its Appeal**

55) FOIA provides that a requesting party is entitled to a substantive agency response within twenty working days, affirming the agency is processing the request and

intends to comply. It must rise to the level of indicating “that the agency is exercising due diligence in responding to the request...Upon any determination by an agency to comply with a request for records, the records shall be made promptly available to such person making such request.” (5 U.S.C. § 552(a)(6)(C)(i)) Alternately, the agency must cite “exceptional circumstances” and request, and make the case for, an extension that is necessary and proper to the specific request. See also *Open America v. Watergate Special Prosecution Force*, 547 F.2d 605 (D.C. Cir. 1976).

- 56) The courts have deemed a substantive agency response to mean the agency must begin to process the request. See, e.g., *Oglesby v. U.S. Dep’t of Army*, 920 F.2d 57. Examples include informing a requester that it assigned the request(s) to the simple, normal or complex processing tracks and giving notice that it is reviewing some quantity of records with an eye toward production on some estimated schedule. See generally, *Citizens for Responsibility and Ethics in Washington v. Federal Election Commission*, 839 F. Supp. 2d 17, 25 (D.D.C. 2011). Alternately, a complying agency will obtain an appropriate extension in the event of unusual circumstances.
- 57) No office within Defendant EPA has provided any indication it is in fact processing Plaintiff’s requests, or sought and made its case for an extension of time to respond to ATI’s requests as required when “exceptional circumstances” exist.
- 58) EPA chose to merely assign tracking numbers and claim that certain offices would handle the requests.
- 59) After agreeing with Plaintiff on appeal regarding the Agency’s failure to respond to Plaintiff’s requests for records, Defendant did not substantively respond, or order



production of responsive records subject to legitimate withholdings, or indicate that the requests were in the queue for processing and that a certain quantity of records was being reviewed with an eye toward production on some estimated schedule.

- 60) Defendant merely repeated its previous written assertions, and stated “EPA’s FOIA office will also update you on the status of processing your request to date”.
- 61) This is not a responsive reply to Plaintiff’s appeal. The Agency instead handled these requests in a way ensuring ATI had no other remedy but this lawsuit.
- 62) Nearly four months after agreeing with Plaintiff on appeal and despite further entreaties by Plaintiff seeking a substantive response, EPA continues to provide Plaintiff no responsive records or any substantive response at all.
- 63) Defendant’s sole written communication since that appeal, despite being styled as resolving Plaintiff’s appeal, simply stated that at some point in the future some office would provide some response.
- 64) By not substantively responding to ATI’s request Nos. HQ-FOI-0152-12, and HQ-FOI-0158-12, EPA has constructively denied the requests for records, and in its non-responsive ruling on Plaintiff’s appeal acknowledges Plaintiff has exhausted its administrative remedies.
- 65) To allow agencies to rule on appeal by merely providing indeterminate, non-substantive responses would make a mockery of FOIA. It would provide the taxpayer a right to see records without an actual remedy when those records are not produced as required. Plaintiff has no recourse but to file this lawsuit.

66) For the foregoing reasons, EPA is now legally required to provide Plaintiff records responsive to its requests.

**Defendant EPA Owes Plaintiff a Waiver or Substantial Reduction of its Fees**

67) FOIA is aimed in large part at promoting active oversight roles of watchdog public advocacy groups. *See Better Gov't Ass'n v. Department of State*, 780 F.2d 86, 88-89 (D.C. Cir. 1986)(fee waiver intended to benefit public interest watchdogs).

68) The language of the FOIA makes clear that Congress intended that the assessment of fees not be a bar to private individuals or public interest groups seeking access to government documents. Both FOIA and the legislative history of the relevant FOIA provision call for a liberal interpretation of the fee waiver standard. ("A requester is likely to contribute significantly to public understanding if the information disclosed is new; supports public oversight of agency operations; or otherwise confirms or clarifies data on past or present operations of the government." 132 Cong. Rec. H9464 (Reps. English and Kindness)).

69) Courts have noted this legislative history to find that a fee waiver request is likely to pass muster "if the information disclosed is new; supports public oversight of agency operations, including the quality of agency activities and the effects of agency policy or regulations on public health or safety; or, otherwise confirms or clarifies data on past or present operations of the government." *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1284-1286 (9th. Cir. 1987).

- 70) The information requested in request Nos. HQ-FOI-01052-12 and HQ-FOI-01058-12 meets that description, for reasons both obvious and specified in Plaintiff's request and appeal.
- 71) This history suggests that all fees should be waived whenever a requester is seeking information on a subject relating to the manner in which a government agency is carrying out its operations or the manner in which an agency program affects the public. The requested information also meets this description.
- 72) FOIA provides for fee waiver or reduction when "disclosure of the [requested] information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government." 5 U.S.C. § 552(a)(4)(A)(iii).
- 73) EPA has not responded to Plaintiff's requests to have its fees waived or reduced for request Nos. HQ-FOI-01052-12 and HQ-FOI-01058-12.
- 74) Plaintiff has routinely received fee waivers under FOIA and for requests for information of far less demonstrable interest to the public than, as here, records reflecting the nature and extent of Defendant's relationship with two pressure groups with whom it works closely and to which it pays substantial amounts of taxpayer dollars.
- 75) Due to that nature of the requested records disclosure of the requested information would contribute significantly to public understanding of the operations or activities of the government. This is particularly true because neither Plaintiff, nor the public at large, has any other means of obtaining the information requested.

76) Further, ATI has proven its ability to disseminate the information to a broad audience, through means explained in its original FOIA request, and for the reasons for which ATI has received fee waivers in the past (see. e.g., U.S. Department of Energy FOIA request No., HQ-2012-01449-F, seeking a large volume of emails produced on a private email account via which the director of DoE's Loan Guarantee Program administered that program).

77) By not substantively responding to ATI's requests Nos. HQ-FOI-01052-12 and HQ-FOI-01058-12, EPA has wrongly, constructively denied both of Plaintiff's requests to have its fees waived or substantially reduced, as "disclosure of the [requested] information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government."

78) Defendant's denial is also incomplete because, instead of granting Plaintiff's requests as is proper, or even having attempted to follow through on its vow to assess fees by providing Plaintiff the necessary fee estimates and information about Plaintiff's appellate rights, as required, Defendant has merely stated that it will not proceed with its search until Plaintiff agrees to the fee estimates which the Agency continues to refuse to put forth.

79) Further, as Plaintiff noticed Defendant, under the OPEN Government Act of 2007 ("2007 Amendments"), agencies that do not respond to requests within the statutory time period are precluded from charging search fees (or copying fees for media requesters, who are not subject to search fees). *Bensman v. Nat'l Park Serv.*, No. 10-1910, 806 F. Supp. 2d 31 (D.D.C. Aug. 10, 2011) ("To underscore Congress's

belief in the importance of the statutory time limit, the 2007 Amendments declare that ‘[a]n agency shall not assess search fees . . . if the agency fails to comply with any time limit’ of FOIA. § 552(a)(4)(A)(viii)’). *See also Lawyers Comm. for Civil Rights of the San Francisco Bay Area v. U.S. Dep't of the Treasury*, No. 07-2590, 2009, WL 2905963, 2009 U.S. Dist. LEXIS 86348 (N.D. Cal. Sept. 8, 2009)(Defendant waived its right to object to plaintiff's request for a fee waiver where it failed to respond within twenty days of the request.); Reporters Committee for Freedom of the Press, Federal Open Government Guide, Response Times, <http://www.rcfp.org/federal-open-government-guide/federal-freedom-information-act/response-times>.

80) Defendant's position by which it is not processing Plaintiff's requests until Plaintiff first agrees to pay fees that Defendant failed to estimate is arbitrary and capricious, and also simply moot, on at least three grounds: after eight months EPA never estimated fees which it stated Plaintiff must agree to pay before Defendant processed Plaintiff's requests; disclosure of responsive records is plainly in the public interest for reasons stated to EPA and in this Complaint; and EPA waived its right to assess fees by not responding to ATI's request within the statutory time period.

81) Finally, since this request is for material which is clearly of benefit to the public, other persons will undoubtedly also request these records. It would be inequitable if the first requester were to bear the full material cost of the initial search.

**Having Failed to Properly Respond to Plaintiff's Requests and Appeal, Defendant EPA Owes Plaintiff Responsive Records Subject to Legitimate Withholdings**

- 82) FOIA provides that a requesting party is entitled to a substantive agency response within twenty working days, affirming the agency is processing the request and intends to comply. It must rise to the level of indicating “that the agency is exercising due diligence in responding to the request...Upon any determination by an agency to comply with a request for records, the records shall be made promptly available to such person making such request.” 5 U.S.C. § 552(a)(6)(A)(i). *See, e.g., Shermco Industries v. Secretary of the U.S. Air Force*, 452 F. Supp. 306 (N.D. Tex. 1978).
- 83) EPA owed ATI a substantive response to its requests for information by April 30, 2012.
- 84) EPA failed to substantively respond to Plaintiff’s requests, which Plaintiff administratively appealed.
- 85) EPA provided no responsive records to ATI but stated it would update Plaintiff on the status of Plaintiff’s requests. EPA must now provide Plaintiff records responsive to its requests.
- 86) The courts have deemed a substantive agency response to mean the agency must begin to process the request. *See, e.g., Oglesby v. Department of the Army*, 920 F.2d 57 (D.C. Cir. 1990). Examples include informing a requester that it assigned the request(s) to the simple, normal or complex processing tracks and giving notice that it is reviewing some quantity of records with an eye toward production on some estimated schedule. *See, e.g., Citizens for Responsibility and Ethics in Washington v. Federal Election Commission*, 839 F. Supp. 2d 17, 25 (D.D.C. 2011).

87) Merely stating that an agency has many records to review, yet producing neither records nor notice that it is reviewing some quantity of records with an eye toward production on some estimated schedule, after seven months and will get back to requester does not constitute a response. An agency must demonstrate an intention to process the request. *See, e.g., Oglesby v. Dep't of the Army*, 920 F.2d at 68.

88) Thus, EPA must now provide Plaintiff records responsive to its requests.

**FIRST CLAIM FOR RELIEF**

**Duty to Release Specified EMails Sent To or From or Discussing Sierra Club HQ-FOI-01052-12 -- Declaratory Judgment**

89) Plaintiff re-alleges paragraphs 1-88 as if fully set out herein.

90) FOIA requires all doubts to be resolved in favor of disclosure. It allows the citizenry to learn “what their government is up to.” *NRA v. Favish* 541 U.S. 157, 171 (quoting *U.S. Dept. of Justice v. Reporters Committee for Freedom of the Press*, 489 U.S. 749, 773 (1989)). The act is designed to “pierce the veil of administrative secrecy and to open agency action to the light of scrutiny.” *Department of the Air Force v. Rose*, 425 U.S. 352 (1976). It is a transparency-forcing law, consistent with “the basic policy that disclosure, not secrecy, is the dominant objective of the Act.” *Ibid.* Accordingly, when an agency withholds requested documents the burden of proof is placed squarely on the agency, with all doubts resolved in favor of the requester. *See, e.g., Federal Open Mkt. Comm. v. Merrill*, 443 U.S. 340, 352 (1979).

91) Plaintiff has sought and been denied production of responsive records reflecting the conduct of official business.

92) Plaintiff has a statutory right to the information it seeks.

93) Defendant failed to search for or provide Plaintiff responsive records.

94) Defendant failed to respond to Plaintiff's administrative appeal.

95) Plaintiff has exhausted its administrative remedies.

96) Plaintiff asks this Court to enter a judgment declaring that

- i. EPA records sent to or from or discussing Sierra Club as described in Plaintiff's request HQ-FOI-01052-12, are public records subject to release under FOIA;
- ii. EPA must release those requested records;
- iii. EPA's denial of Plaintiff's FOIA requests seeking the described records is not reasonable, and does not satisfy EPA's obligations under FOIA; and
- iv. EPA's refusal to produce the requested records is unlawful.

**SECOND CLAIM FOR RELIEF**

**Release Specified E-mails Sent To or From or Discussing Sierra Club  
-- Injunctive Relief**

97) Plaintiff re-alleges paragraphs 1-96 as if fully set out herein.

98) Plaintiff is entitled to injunctive relief compelling Defendant to produce all records in its possession responsive to Plaintiff's requests described, *supra*.

99) This Court should enter an injunction ordering the Defendant to produce to Plaintiff within 10 business days of the date of the order, the described, requested records pertaining to Sierra Club, and a detailed *Vaughn* index claiming FOIA exemptions applicable to withheld information.



**THIRD CLAIM FOR RELIEF**

**Duty to Release Specified EMailS Sent To or From or Discussing American Lung Association HQ-FOI-01058-12 -- Declaratory Judgment**

- 100) Plaintiff re-alleges paragraphs 1-99 as if fully set out herein.
- 101) Plaintiff has sought and been denied production of responsive records reflecting the conduct of official business.
- 102) Plaintiff has a statutory right to the information it seeks.
- 103) Defendant failed to search for or provide Plaintiff responsive records.
- 104) Defendant failed to respond to Plaintiff's administrative appeal.
- 105) Plaintiff has exhausted its administrative remedies.
- 106) Plaintiff asks this Court to enter a judgment declaring that
- i. EPA records sent to or from or discussing American Lung Association as described in Plaintiff's request HQ-FOI-0158-12, are public records subject to release under FOIA;
  - ii. EPA must release those requested records;
  - iii. EPA's denial of Plaintiff's FOIA requests seeking the described records is not reasonable, and does not satisfy EPA's obligations under FOIA; and
  - iv. PA's refusal to produce the requested records is unlawful.

**FOURTH CLAIM FOR RELIEF**

**Release Specified EMailS Sent To or From or Discussing American Lung Association -- Injunctive Relief**

- 107) Plaintiff re-alleges paragraphs 1-106 as if fully set out herein.
- 108) Plaintiff is entitled to injunctive relief compelling Defendant to produce all records in its possession responsive to Plaintiff's requests described, *supra*.

109) This Court should enter an injunction ordering the Defendant to produce to Plaintiff within 10 business days of the date of the order, the described, requested records pertaining to ALA, and a detailed *Vaughn* index claiming FOIA exemptions applicable to withheld information.

**FIFTH CLAIM FOR RELIEF**  
**Request for Fee Waivers for HQ-FOI-01052-12 and HQ-FOI-01058-12 --  
Declaratory Judgment**

110) Plaintiff re-alleges paragraphs 1-109 as if fully set out herein.

111) Plaintiff has sought and been constructively denied a waiver or reduction of its fees for two requests under the Freedom of Information Act, HQ-FOI-01052-12 and HQ-FOI-01058-12.

112) FOIA provides for fee waiver or reduction when “disclosure of the [requested] information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government.”

113) The information Plaintiff seeks in HQ-FOI-01052-12 and HQ-FOI-01058-12 meets this description.

114) Plaintiff has a statutory right to have its fees waived or substantially reduced.

115) Defendant has not responded to Plaintiff’s requests to have its fees waived.

116) Defendant did not substantively respond to Plaintiff’s requests within the statutory period of time, thereby waiving its ability to seek fees.

117) Plaintiff has exhausted its administrative remedies.

118) Plaintiff asks this Court to enter a judgment declaring that:

- i. Disclosure of Agency records as described in Plaintiff's requests HQ-FOI-01052-12 and HQ-FOI-01058-12 is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government;
- ii. EPA's refusal to respond to and constructive denial of Plaintiff's fee waiver requests is not reasonable, and does not satisfy EPA's obligations under FOIA;
- iii. EPA's refusal to grant Plaintiff's request for fee waiver is unlawful; and
- iv. EPA must grant Plaintiff's request to have its fees waived or substantially reduced associated with producing the requested records.

**SIXTH CLAIM FOR RELIEF**

**Request for Fee Waiver for HQ-FOI-01052-12 and HQ-FOI-01058-12  
-- Injunctive Relief**

119) Plaintiff re-alleges paragraphs 1-118 as if fully set out herein.

120) Plaintiff is entitled to injunctive relief compelling Defendant to grant Plaintiff's requests to have its fees waived for HQ-FOI-01052-12 and HQ-FOI-01058-12.

121) We ask this Court to enter an injunction ordering the Defendant to grant Plaintiff's requests to have its fees waived within 10 business days of the date of the order.

**SEVENTH CLAIM FOR RELIEF**

**Costs And Fees – Injunctive Relief**

122) Plaintiff re-alleges paragraphs 1-121 as if fully set out herein.

123) Pursuant to 5 U.S.C. § 552(a)(4)(E), the Court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed.

124) This Court should enter an injunction ordering the Defendant to pay reasonable attorney fees and other litigation costs reasonably incurred in this case.

125) Plaintiff has a statutory right to the records that it seeks, Defendant has not fulfilled its statutory obligations to provide the records or a substantive response, and there is no legal basis for withholding the records.

WHEREFORE, Plaintiff requests the declaratory and injunctive relief herein sought, and an award for their attorney fees and costs and such other and further relief as the Court shall deem proper.

Respectfully submitted this 27th day of January, 2013,

AMERICAN TRADITION INSTITUTE



Christopher C. Horner  
D.C. Bar No. 440107  
1489 Kinross Lane  
Keswick, VA 22947  
202.262.4458  
[chornerlaw@aol.com](mailto:chornerlaw@aol.com)

OF COUNSEL  
David W. Schnare  
ATI Environmental Law Center  
Va. Bar No. 44522  
9033 Brook Ford Road  
Burke, VA 22015  
751-243-7975  
[Schnare@FMELawClinic.org](mailto:Schnare@FMELawClinic.org)

DATED: January 27, 2013



Environmental Law Center  
American Tradition Institute

## REQUEST UNDER THE FREEDOM OF INFORMATION ACT

April 2, 2012

National Freedom of Information Officer  
U.S. EPA, Records, FOIA and Privacy Branch  
1200 Pennsylvania Avenue, NW (2822T)  
**BY ELECTRONIC MAIL**

By E-mail: [hq.foia@epa.gov](mailto:hq.foia@epa.gov)

Dear EPA FOIA Officer,

On behalf of the American Tradition Institute (ATI), a non-profit public policy institute, please provide copies of all records meeting the description which follows and which were sent or received by or are in the possession of staff working now or during the period covered by this Request in or for the following five Offices at EPA HQ:

**Office of Associate Administrator for Policy,  
Office of Associate Administrator for External Affairs and Environmental  
Education,  
Office of Associate Administrator for Air and Radiation  
Office of the Deputy Administrator, and/or  
Office of the Assistant Administrator for Air and Radiation**

**Records Sought** -- Please provide us copies of any email sent from or to (including as cc:) the Offices identified above and containing the word "Sierra" in either the body, subject line or any domain name in the email.

Documents responsive to this Request will have been dated, sent or received by the identified EPA HQ offices between January 21, 2009 and the date EPA performs the relevant, respective search(es) in response to this Request, inclusive.

### Scope of Request

Please identify and inform us of all responsive or potentially responsive documents within the statutorily prescribed time, and the basis of any claimed exemptions or privilege and to which specific responsive or potentially responsive document(s) such objection applies.

Further, please inform us of the basis of any partial denials or redactions. Specifically, if your office takes the position that any portion of the requested records is exempt from disclosure, we request that you provide us with an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1972), with sufficient specificity “to permit a reasoned judgment as to whether the material is actually exempt under FOIA” pursuant to *Founding Church of Scientology v. Bell*, 603 F.2d 945, 959 (D.C. Cir. 1979), and “describ[ing] each document or portion thereof withheld, and for each withholding it must discuss the consequences of supplying the sought-after information.” *King v. Department of Justice*, 830 F.2d 210, 223-24 (D.C. Cir. 1987).

In the event that some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable, non-exempt portions of the requested records. See 5 U.S.C. §552(b). If it is your position that a document contains non-exempt segments and that those non-exempt segments are so dispersed throughout the documents as to make segregation impossible, please state what portion of the document is non-exempt and how the material is dispersed through the document. *Mead Data Central v. Department of the Air Force*, 455 F.2d 242, 261 (D.C. Cir. 1977). Claims of non-segregability must be made with the same detail as required for claims of exemption in a Vaughn index. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

**We request you provide copies of responsive records in electronic format if you possess them as such, otherwise photocopies are acceptable.**

Please provide responsive documents in complete form, with any appendices or attachments as the case may be.

#### Request for Fee Waiver

We request your office(s) waive any fees associated with this request. As explained below, this FOIA Request satisfies the factors listed in EPA’s governing regulations for waiver or reduction of fees, as well as the requirements of fee waiver under the FOIA statute - that “disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii).

ATI is a nonprofit, tax-exempt public interest organization, with formal research, educational and publication functions as part of its mission, and release of these records will serve the public interest by contributing significantly to the public’s understanding of the controversial topics of energy and environmental policy and specifically the ongoing debate over the transparency and credibility of the federal regulatory process involving a politically favored industry sector, and because such a release is not primarily in our organization’s commercial interest.

ATI has no commercial interest in obtaining the requested information. Instead, ATI intends to use the requested information to inform the public, so the public can meaningfully assess claims made by government agencies and participate in the policymaking process related to EPA policy with complete, relevant information. ATI will derive no economic benefit from the requested material. No "specialized use" of the documents is anticipated outside of that described herein.

If our fee waiver request is denied we are willing to pay up to \$150.00, and in the event of any appeal as appropriate and regardless of that outcome or your response to this fee waiver request we request the search and document production proceed in the interim.

ATI has engaged in high-profile efforts promoting the public interest advocating transparency and sensible policies to protect human health and the environment, and has routinely received fee waivers under FOIA.

1. The subject matter of the requested records must specifically concern identifiable operations or activities of the government.

The requested records relate to EPA's process and advice given it in the course of executing its taxpayer-funded work. Pursuant to FOIA this process, related correspondence, these determinations and the policies and procedures on which they are based are unquestionably "identifiable operations or activities of the government." The Department of Justice Freedom of Information Act Guide expressly concedes that "in most cases records possessed by federal agency will meet this threshold" of identifiable operations or activities of the government. There can be no question that this is such a case.

2. For the disclosure to be "likely to contribute" to an understanding of specific government operations or activities, the releasable material must be meaningfully informative in relation to the subject matter of the request.

The disclosure of the requested documents must have an informative value and be "likely to contribute to an understanding of Federal government operations or activities." The Freedom of Information Act Guide makes it clear that, in the Department of Justice's view, the "likely to contribute" determination hinges in substantial part on whether the requested documents provide information that is not already in the public domain. The requested records are "likely to contribute" to an understanding of your agency's activities because with limited exceptions they are not otherwise in the public domain and are not accessible other than through a FOIA request.

Given current concerns about the role and influence of outside groups on the federal government, this information will facilitate meaningful public understanding of such activities, therefore fulfilling the requirement that the documents requested be "meaningfully informative" and "likely to contribute" to an understanding of your agency's decision-making process and the controversial issue described above.

3. The disclosure must contribute to the understanding of the public at large, as opposed to the understanding of the requester or a narrow segment of interested persons.

Under this factor, the identity and qualifications of the requester—i.e., expertise in the subject area of the request and ability and intention to disseminate the information to the public—is examined. As described in our Request, above and below, ATI has a well-established interest and expertise in the subject of transparency and environmental regulatory policies, demonstrated through, *inter alia*, freedom of information requests and litigation.

More importantly, ATI unquestionably has the "specialized knowledge" and "ability and intention" to disseminate the information requested in the broad manner, and to do so in a manner that contributes to the understanding of the "public-at-large." ATI intends to disseminate the information it receives through FOIA regarding these government operations and activities in a variety of ways, including but not limited to, analysis and distribution to the media, distribution through publication and mailing, posting on the organizations' websites, and emailing.

ATI professionals appear regularly on radio and television shows to discuss issues on which they work, and similarly write in newspapers and for numerous other publications with broad readership including the National Review, Daily Caller, Pajamas Media, Big Government, Watts Up With That and American Spectator websites.

ATI intends to disseminate the information it receives through FOIA regarding these government operations and activities in a variety of ways, including but not limited to, analysis and distribution to the media, distribution through publication and mailing, posting on the organizations' websites, emailing and list-serve distribution to members.

4. The disclosure must contribute "significantly" to public understanding of government operations or activities.

There are currently no records publicly available regarding the requested information. Absent disclosure of the records requested, the public will have no understanding of the matter.

The records requested will contribute to the public understanding of the government's "operations and activities" associated with this critically important information. The disclosure of the requested records is also essential to public understanding of EPA decision making process, possible motivations involving highly political and otherwise controversial topics. After disclosure of these records, the public's understanding of this process will be significantly enhanced. The requirement that disclosure must contribute "significantly" to the public understanding is therefore met.

5. The extent to which disclosure will serve the requester's commercial interest, if any.



As already stated ATI has no commercial interest in the information sought or otherwise in the requested records. Nor does ATI have any intention to use these records in any manner that "furthers a commercial, trade, or profit interest" as those terms are commonly understood. ATI is a tax-exempt organization under sections 501(c)(3) of the Internal Revenue Code, and as such has no commercial interest. The requested records will be used for the furtherance of ATI's mission to inform the public on matters of vital importance to the regulatory process and policies relating to science and the environment.

6. The extent to which the identified public interest in the disclosure outweighs the requester's commercial interest.

See answers to factors 1-5 above. Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is "primarily in the commercial interest of the requester." When a commercial interest is found to exist and that interest would be furthered by the requested disclosure, an agency must assess the magnitude of such interest in order to compare it to the "public interest" in disclosure. If no commercial interest exists, an assessment of that non-existent interest is not required. As noted above, ATI has no commercial interest in the requested records.

Disclosure of this information is not "primarily" in ATI's commercial interest. On the other hand, it is clear that the disclosure of the information requested is in the public interest. It will contribute significantly to public understanding of the regulatory process as already described.

We respectfully request, because the public will be the primary beneficiary of this requested information, that EPA waive processing and copying fees pursuant to 5 U.S.C. §552(a)(4)(A). In the event that your agency denies a fee waiver, please send a written explanation for the denial. Also, please continue to produce the records as expeditiously as possible, but in any event no later than the applicable FOIA deadlines.

To keep costs and copying to a minimum please provide copies of all responsive records in electronic format if you have them.

Furthermore, as this matter involves a significant matter of public interest, and that the four different categories involve (three) different time parameters to search, please produce responsive records as they become available on a rolling basis.

Please direct all other disclosures to my attention at the following address:

American Tradition Institute  
c/p Chris Horner  
1489 Kinross Lane  
Keswick, VA 22947

## Transparency

We note the [inaugural post](#) on the White House “blog” made immediately upon President Obama’s swearing-in to office which restated, in pertinent part, a prominent promise made when courting votes during the election campaign:

**Transparency** — President Obama has committed to making his administration the most open and transparent in history, and WhiteHouse.gov will play a major role in delivering on that promise. The President’s executive orders and proclamations will be published for everyone to review, and that’s just the beginning of our efforts to provide a window for all Americans into the business of the government. You can also learn about some of the senior leadership in the new administration and about the President’s policy priorities. WhiteHouse.gov, “Change has come to WhiteHouse.gov”, January 20, 2009 (12:01 p.m.), [http://www.whitehouse.gov/blog/change\\_has\\_come\\_to\\_whitehouse-gov/](http://www.whitehouse.gov/blog/change_has_come_to_whitehouse-gov/)

If you have any questions, or would like to discuss this matter further, don't hesitate to contact me by phone at (202) 262-4458 or email at [chris.horner@atinstitute.org](mailto:chris.horner@atinstitute.org).

Thank you for your attention to this matter.

Sincerely,

Christopher C. Horner  
[chris.horner@atinstitute.org](mailto:chris.horner@atinstitute.org)  
202.262.4458 (M)



Environmental Law Center  
American Tradition Institute

## REQUEST UNDER THE FREEDOM OF INFORMATION ACT

April 2, 2012

National Freedom of Information Officer  
U.S. EPA, Records, FOIA and Privacy Branch  
1200 Pennsylvania Avenue, NW (2822T)  
**BY ELECTRONIC MAIL**

By E-mail: [hq.foia@epa.gov](mailto:hq.foia@epa.gov)

Dear EPA FOIA Officer,

On behalf of the American Tradition Institute (ATI), a non-profit public policy institute, please provide copies of all records meeting the description which follows and which were sent or received by or are in the possession of staff working now or during the period covered by this Request in or for the following five Offices at EPA HQ:

**Office of Associate Administrator for Policy,  
Office of Associate Administrator for External Affairs and Environmental  
Education,  
Office of Associate Administrator for Air and Radiation  
Office of the Deputy Administrator, and/or  
Office of the Assistant Administrator for Air and Radiation**

**Records Sought** -- Please provide us copies of any email sent from or to (including as cc:) the Offices identified above and:

- (1) from or to (including as cc:) anyone with "Lung" in their e-mail domain (this includes but is not limited to "Lung.org" or "LungUSA.org");

And/or

- (2) referencing the group American Lung Association (or "ALA").

Documents responsive to this Request will have been dated, sent or received by the identified EPA HQ offices between January 21, 2009 and the date EPA performs the relevant, respective search(es) in response to this Request, inclusive.

### Scope of Request

Please identify and inform us of all responsive or potentially responsive documents within the statutorily prescribed time, and the basis of any claimed exemptions or privilege and to which specific responsive or potentially responsive document(s) such objection applies.

Further, please inform us of the basis of any partial denials or redactions. Specifically, if your office takes the position that any portion of the requested records is exempt from disclosure, we request that you provide us with an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1972), with sufficient specificity “to permit a reasoned judgment as to whether the material is actually exempt under FOIA” pursuant to *Founding Church of Scientology v. Bell*, 603 F.2d 945, 959 (D.C. Cir. 1979), and “describ[ing] each document or portion thereof withheld, and for each withholding it must discuss the consequences of supplying the sought-after information.” *King v. Department of Justice*, 830 F.2d 210, 223-24 (D.C. Cir. 1987).

In the event that some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable, non-exempt portions of the requested records. See 5 U.S.C. §552(b). If it is your position that a document contains non-exempt segments and that those non-exempt segments are so dispersed throughout the documents as to make segregation impossible, please state what portion of the document is non-exempt and how the material is dispersed through the document. *Mead Data Central v. Department of the Air Force*, 455 F.2d 242, 261 (D.C. Cir. 1977). Claims of non-segregability must be made with the same detail as required for claims of exemption in a Vaughn index. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

**We request you provide copies of responsive records in electronic format if you possess them as such, otherwise photocopies are acceptable.**

Please provide responsive documents in complete form, with any appendices or attachments as the case may be.

### Request for Fee Waiver

We request your office(s) waive any fees associated with this request. As explained below, this FOIA Request satisfies the factors listed in EPA’s governing regulations for waiver or reduction of fees, as well as the requirements of fee waiver under the FOIA statute - that “disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii).

ATI is a nonprofit, tax-exempt public interest organization, with formal research, educational and publication functions as part of its mission, and release of these records will serve the public interest by contributing significantly to the public's understanding of the controversial topics of energy and environmental policy and specifically the ongoing debate over the transparency and credibility of the federal regulatory process involving a politically favored industry sector, and because such a release is not primarily in our organization's commercial interest.

ATI has no commercial interest in obtaining the requested information. Instead, ATI intends to use the requested information to inform the public, so the public can meaningfully assess claims made by government agencies and participate in the policymaking process related to EPA policy with complete, relevant information. ATI will derive no economic benefit from the requested material. No "specialized use" of the documents is anticipated outside of that described herein.

If our fee waiver request is denied we are willing to pay up to \$150.00, and in the event of any appeal as appropriate and regardless of that outcome or your response to this fee waiver request we request the search and document production proceed in the interim.

ATI has engaged in high-profile efforts promoting the public interest advocating transparency and sensible policies to protect human health and the environment, and has routinely received fee waivers under FOIA.

1. The subject matter of the requested records must specifically concern identifiable operations or activities of the government.

The requested records relate to EPA's process and advice given it in the course of executing its taxpayer-funded work. Pursuant to FOIA this process, related correspondence, these determinations and the policies and procedures on which they are based are unquestionably "identifiable operations or activities of the government." The Department of Justice Freedom of Information Act Guide expressly concedes that "in most cases records possessed by federal agency will meet this threshold" of identifiable operations or activities of the government. There can be no question that this is such a case.

2. For the disclosure to be "likely to contribute" to an understanding of specific government operations or activities, the releasable material must be meaningfully informative in relation to the subject matter of the request.

The disclosure of the requested documents must have an informative value and be "likely to contribute to an understanding of Federal government operations or activities." The Freedom of Information Act Guide makes it clear that, in the Department of Justice's view, the "likely to contribute" determination hinges in substantial part on whether the requested documents provide information that is not already in the public domain. The requested records are "likely to contribute" to an understanding of your agency's activities because with limited exceptions they are not otherwise in the public domain and are not accessible other than through a FOIA request.

Given current concerns about the role and influence of outside groups on the federal government, this information will facilitate meaningful public understanding of such activities, therefore fulfilling the requirement that the documents requested be "meaningfully informative" and "likely to contribute" to an understanding of your agency's decision-making process and the controversial issue described above.

3. The disclosure must contribute to the understanding of the public at large, as opposed to the understanding of the requester or a narrow segment of interested persons.

Under this factor, the identity and qualifications of the requester—i.e., expertise in the subject area of the request and ability and intention to disseminate the information to the public—is examined. As described in our Request, above and below, ATI has a well-established interest and expertise in the subject of transparency and environmental regulatory policies, demonstrated through, *inter alia*, freedom of information requests and litigation.

More importantly, ATI unquestionably has the "specialized knowledge" and "ability and intention" to disseminate the information requested in the broad manner, and to do so in a manner that contributes to the understanding of the "public-at-large." ATI intends to disseminate the information it receives through FOIA regarding these government operations and activities in a variety of ways, including but not limited to, analysis and distribution to the media, distribution through publication and mailing, posting on the organizations' websites, and emailing.

ATI professionals appear regularly on radio and television shows to discuss issues on which they work, and similarly write in newspapers and for numerous other publications with broad readership including the National Review, Daily Caller, Pajamas Media, Big Government, Watts Up With That and American Spectator websites.

ATI intends to disseminate the information it receives through FOIA regarding these government operations and activities in a variety of ways, including but not limited to, analysis and distribution to the media, distribution through publication and mailing, posting on the organizations' websites, emailing and list-serve distribution to members.

4. The disclosure must contribute "significantly" to public understanding of government operations or activities.

There are currently no records publicly available regarding the requested information. Absent disclosure of the records requested, the public will have no understanding of the matter.

The records requested will contribute to the public understanding of the government's "operations and activities" associated with this critically important information. The disclosure of the requested records is also essential to public understanding of EPA decision making process,

possible motivations involving highly political and otherwise controversial topics. After disclosure of these records, the public's understanding of this process will be significantly enhanced. The requirement that disclosure must contribute "significantly" to the public understanding is therefore met.

5. The extent to which disclosure will serve the requester's commercial interest, if any.

As already stated ATI has no commercial interest in the information sought or otherwise in the requested records. Nor does ATI have any intention to use these records in any manner that "furthers a commercial, trade, or profit interest" as those terms are commonly understood. ATI is a tax-exempt organization under sections 501(c)(3) of the Internal Revenue Code, and as such has no commercial interest. The requested records will be used for the furtherance of ATI's mission to inform the public on matters of vital importance to the regulatory process and policies relating to science and the environment.

6. The extent to which the identified public interest in the disclosure outweighs the requester's commercial interest.

See answers to factors 1-5 above. Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is "primarily in the commercial interest of the requester." When a commercial interest is found to exist and that interest would be furthered by the requested disclosure, an agency must assess the magnitude of such interest in order to compare it to the "public interest" in disclosure. If no commercial interest exists, an assessment of that non-existent interest is not required. As noted above, ATI has no commercial interest in the requested records.

Disclosure of this information is not "primarily" in ATI's commercial interest. On the other hand, it is clear that the disclosure of the information requested is in the public interest. It will contribute significantly to public understanding of the regulatory process as already described.

We respectfully request, because the public will be the primary beneficiary of this requested information, that EPA waive processing and copying fees pursuant to 5 U.S.C. §552(a)(4)(A). In the event that your agency denies a fee waiver, please send a written explanation for the denial. Also, please continue to produce the records as expeditiously as possible, but in any event no later than the applicable FOIA deadlines.

To keep costs and copying to a minimum please provide copies of all responsive records in electronic format if you have them.

Furthermore, as this matter involves a significant matter of public interest, and that the four different categories involve (three) different time parameters to search, please produce responsive records as they become available on a rolling basis.

Please direct all other disclosures to my attention at the following address:

American Tradition Institute  
c/p Chris Horner  
1489 Kinross Lane  
Keswick, VA 22947

### Transparency

We note the [inaugural post](#) on the White House “blog” made immediately upon President Obama’s swearing-in to office which restated, in pertinent part, a prominent promise made when courting votes during the election campaign:

**Transparency** — President Obama has committed to making his administration the most open and transparent in history, and WhiteHouse.gov will play a major role in delivering on that promise. The President’s executive orders and proclamations will be published for everyone to review, and that’s just the beginning of our efforts to provide a window for all Americans into the business of the government. You can also learn about some of the senior leadership in the new administration and about the President’s policy priorities. WhiteHouse.gov, “Change has come to WhiteHouse.gov”, January 20, 2009 (12:01 p.m.), [http://www.whitehouse.gov/blog/change\\_has\\_come\\_to\\_whitehouse-gov/](http://www.whitehouse.gov/blog/change_has_come_to_whitehouse-gov/)

If you have any questions, or would like to discuss this matter further, don't hesitate to contact me by phone at (202) 262-4458 or email at [chris.horner@atinstitute.org](mailto:chris.horner@atinstitute.org).

Thank you for your attention to this matter.

Sincerely,

Christopher C. Horner  
[chris.horner@atinstitute.org](mailto:chris.horner@atinstitute.org)  
202.262.4458 (M)



**AFFIDAVIT OF CHRISTOPHER C. HORNER, ESQ.**

**DIRECTOR OF LITIGATION, AMERICAN TRADITION INSTITUTE**

**APPEAL OF EPA DENIAL OF FOIA NOS. HQ-FOI-01052-12, HQ-FOI-01058-12**

My name is Christopher C. Horner, I am an attorney licensed to practice law in the District of Columbia. I attest to the following on behalf of the American Tradition Institute (ATI).

On April 2, 2012, on behalf of ATI I sent by electronic mail two Requests under the Freedom of Information Act (FOIA) to the Environmental Protection Agency, for certain records dated “between January 21, 2009 and the date EPA performs the relevant, respective search(es) in response to this Request, inclusive” and citing or referring to two different environmental pressure groups, the Sierra Club (“Sierra”) and the American Lung Association (“ALA”) (respectively, FOIA Request Nos. HQ-FOI-01052-12, HQ-FOI-01058-12.

EPA responded with acknowledgement letter(s) on April 2 and April 3, respectively.

Specifically, approximately one week after sending these requests the undersigned received a telephone call from a man identifying himself as being a FOIA officer with EPA, asking that we narrow the “Sierra” Request, FOIA No. HQ-FOI-01052-12. His position was that there are many people named “Sierra” and that if I rephrased the search parameter to Sierra Club it would expedite handling. The actual search parameters indicate such a narrowing is not necessary even given that fact, however, as we specify if the word “Sierra” appears in the *domain name*. (e.g., @Sierra.org).

Given that Sierra Club is commonly referred to among relevant professionals or communities simply as “Sierra”, and that searching for “Sierra Club” would inappropriately limit

the search to exclude many responsive records, we concluded the call reaffirming that this Request sought records using “Sierra” as described, referencing Sierra Club.

After this telephone call, however, EPA provided no further response. EPA did not seek an extension or otherwise notify ATI of reasons it must delay responding to ATI. EPA provided no responsive records and is improperly withholding responsive information through selective and uneven application, and therefore misapplication, of FOIA.

On July 5, 2012, three months after EPA received these Requests, at approximately 1:10 p.m. EDT I telephoned the number provided on both acknowledgement letters (202.566.1667). This call was answered by a woman identifying herself as Vivian, and the FOIA specialist assigned FOIA No. HQ-FOI-01058-12. She informed me that “Cindy” [ph] in her office was assigned FOIA No. HQ-FOI-01052-12.

When Vivian pulled the file to check on the status she uttered what sounded like a surprised “Oh.” After a pause she informed me, according to my contemporaneous notes of this conversation, that “Larry [Gottesman] told us he was going to write you a letter” and that neither she nor Cindy should take further action on the Requests that had been assigned to them. She stated that Mr. Gottesman had informed her that he would take over their handling, and specifically that he would send the fee waiver response and the initial determination.

ATI has not received any correspondence or otherwise communication from Mr. Gottesman after EPA’s acknowledgement letters.

My contemporaneous notes of this conversation also reflect Vivian stating that the “Request went to the administrator’s office and OAR [Office of Air and Radiation]”. Vivian also mentioned that a factor in the fee waiver would likely be that the requests were “very broad”. I

asked where “breadth” was located among the relevant factors in determining a fee waiver. After she did not understand my pronunciation of “breadth” twice, I restated her assertion that because they were “very broad” that would impact the Agency’s fee waiver determination, asking where that consideration is found and that according to statute and regulation that is not an appropriate consideration. “Vivian” demurred and the call ended with Vivian stating that she would make a note to Mr. Gottesman and he would contact me the next day. We have not received any such contact.

I submit this affidavit under penalty of perjury on this date, the 9th of July, 2012.

-----  
Christopher C. Horner, Esq.

-----  
July 9, 2012

## ALFREDO "AL" ARMENDARIZ

Research Associate Professor  
Southern Methodist University  
PO Box 750340  
Dallas, TX 75275  
mobile: 972-365-8370  
aja@engr.smu.edu  
<http://lyle.smu.edu/~aja/index.html>



### EDUCATION

|                                                                                                     |            |
|-----------------------------------------------------------------------------------------------------|------------|
| Massachusetts Institute of Technology - Chemical Engineering                                        | S.B. 1993  |
| University of Florida - Environmental Engineering                                                   | M.E. 1995  |
| University of North Carolina at Chapel Hill, School of Public Health<br>- Environmental Engineering | Ph.D. 2002 |

### PROFESSIONAL EXPERIENCE

2008-present, Research Associate Professor, Department of Environmental and Civil Engineering, Southern Methodist University, Dallas, TX.

2002-2008, Assistant Professor, Department of Environmental and Civil Engineering, Southern Methodist University, Dallas, TX.

2002, Environmental Scientist, Multimedia Planning and Permitting Division, Environmental Protection Agency, Region 6, Dallas, TX.

1995-1998, Chemical Engineer, Radian Corporation - now URS Corp., Morrisville, NC. Permitting and air quality compliance work for natural gas utilities (Columbia Gas), pulp and paper mills (International Paper), and wood products companies (Masonite Corporation).

1992-1993, Research Assistant, MIT Center for Global Change Science, Laboratory for Atmospheric Chemistry, Cambridge, MA.

### PUBLIC HEALTH COMMUNITY SERVICE

Member of the advisory board of the Texas office of the Environmental Defense Fund (EDF).

- working closely with EDF staff to study the local and regional air quality impacts from oil and gas development in the Dallas-Fort Worth area.

Technical advisor to citizen groups working on air quality issues in Texas and Colorado.

- Rocky Mountain Clean Air Action and WildEarth Guardians (Denver, CO) – cement kiln emissions, ozone smog, regional haze.
- Downwinders at Risk (Midlothian, TX) – cement kiln emissions, ozone smog, air toxics.

Summer instructor in the "ExxonMobil Green Team" program for high school students, coordinated by the Volunteer Center of North Texas.

Invited testimony to the Texas State Legislature, 80<sup>th</sup> and 81<sup>st</sup> Legislative Sessions, Senate, Natural Resources, Senate Transportation, and House Environmental Regulation Committees, 2007 - 2009.

## COMMUNITY SERVICE REFERENCES

**Tom "Smitty" Smith**  
Public Citizen  
Austin, Texas  
512-797-8468

**Cherelle Blazer**  
Environmental Defense Fund (EDF)  
Dallas, Texas  
214-604-0425

**Ramon Alvarez, Ph.D.**  
Environmental Defense Fund (EDF)  
Austin, Texas  
512-788-2246

**Jeremy Nichols**  
WildEarth Guardians  
Denver, Colorado  
720-563-9306

**Neil Carmen, Ph.D.**  
Sierra Club  
Austin, Texas  
512-472-1767

**Jim Schermbeck**  
Downwinders at Risk  
Midlothian, Texas  
806-787-6567

## EPA/STATE REFERENCES

**Al Linero, P.E.**  
Special Projects Administrator  
Florida Department of Environmental  
Protection  
Tallahassee, Florida  
850-921-9523

**Jacky Rosati, Ph.D.**  
National Homeland Security Research  
Center  
Environmental Protection Agency  
RTP, North Carolina  
919-541-9429

**Bonnie Braganza, P.E.**  
Air Quality Permitting  
Environmental Protection Agency  
– Region 6  
Dallas, Texas  
214-665-7340

**Greg Pashia**  
Office of Solid Waste and Emergency  
Response – Tribal Programs  
Environmental Protection Agency  
Dallas, Texas  
214-665-8439

## PERSONAL REFERENCES

**Rep. Lon Burnam** – Texas State Representative, District 90, Fort Worth, Texas. I worked closely with Representative Burnam and his staff during 2009 legislative session to craft bills that would reduce emissions from oil & gas development and cement kilns, as well as improve state computer databases of air emissions. 512-463-0740.

**Dean Geoffrey Orsak** – School of Engineering, SMU, Dallas, Texas. I have known Geoffrey Orsak since joining the faculty in 2002, and we've had a close working relationship since he became in Dean of Engineering in 2004. 972-333-0226.

**Chris Wanken** – Former special assistant to Gene Sperling in the National Economic Council in the Clinton White House – personal friends since 2004 when we worked together on voter mobilization efforts in the Dallas area. 214-770-9087

## HONORS AND AWARDS

Teaching Awards: Outstanding Graduate Faculty, Department of Environmental and Civil Engineering, 2003-2004, 2004-2005, 2006-2007.

Teaching Award: Outstanding Undergraduate Faculty, Department of Environmental and Civil Engineering, 2003-2004.

Royster Society Fellowship (UNC)

National Institute of Environmental Health Sciences Pre-doctoral Traineeship (UNC)

Camp Dresser & McKee Graduate Fellowship (UF)

Florida Section AWMA Scholarship (UF)

National Merit Hispanic Scholar (MIT)

Honor Societies:

Delta Omega (public health)

Tau Beta Pi (engineering)

Phi Kappa Phi (general academic)

## PUBLICATIONS AND PRESENTATIONS

Kim J., Kim K., Armendariz A.J., Al-Sheikhly M. "Electron Beam Irradiation for Mercury Oxidation and Mercury Emissions Control." under review by the *ASCE Journal of Environmental Engineering*.

Kim J., Lim Y., Son Y., Armendariz A.J. "Isoprene emission rates from deciduous trees in Korea and their potential importance to air quality." under review by *Chemosphere*.

Kim J., Armendariz A.J., Kim K., Al-Sheikhly M. "Mercury Oxidation with Electron Beam Irradiation," Proceedings of the Power Plant Air Pollutant Control MEGA Symposium, Baltimore, MD, August 25-28, 2008.

Armendariz A., Garcia A., Alvarez R., McMillan M., Feldman H. "Attainment Strategies for the New Ozone Standard," Proceedings of the Air and Waste Management Association's Annual Conference and Exhibition, Portland, OR, June 24-26, 2008.

A. Farnoud, Armendariz A. "Diesel Exhaust Treatment Using an Electrostatic Precipitator," Proceedings of the Air and Waste Management Association's Annual Conference and Exhibition, Portland, OR, June 24-26, 2008.

Armendariz A.J., Farnoud A, Huang C. "Using Electrostatic Precipitation to Control Diesel Exhaust Particulate Emissions," Proceedings of the 12<sup>th</sup> Mine Ventilation Symposium, Reno, NV, June 9-11, 2008.

Armendariz A., K. Gowda, G. Carney, "Evaluation of a Technique for Detection of Petroleum Hydrocarbons in Soils", *Journal of Environmental Engineering* 134(2),145-149, 2008.

Farnoud A., A. Armendariz, "Fundamental Electrical Properties of a Small-Scale Electrostatic Precipitator," Proceedings of the American Association for Aerosol Research Annual Conference, Reno, Nevada, September 24-28, 2007.

Farnoud A., A. Armendariz, "A Compact System for the Generation & Sampling of Diesel Particulate Matter," Proceedings of the American Association for Aerosol Research Annual Conference, Reno, Nevada, September 24-28, 2007.

Farnoud A., A. Armendariz, "Electrostatic Control of Particulate Emissions from Diesel-Powered Machinery," Proceedings of the American Association for Aerosol Research Annual Conference, Reno, Nevada, September 24-28, 2007.

Farnoud A., A. Armendariz, "Design and Performance of a Small-Scale Electrostatic Precipitator for Diesel Particulate Control," Proceedings of the Annual Conference of the Air and Waste Management Association, Pittsburgh, PA, June 26-29, 2007.

Farnoud A., A. Armendariz, "A Compact System for the Generation and Sampling of Diesel Exhaust Particulate," Proceedings of the Annual Conference of the Air and Waste Management Association, Pittsburgh, PA, June 26-29, 2007.

Armendariz A. "Apparatus and Methods for Performing Ozone HVAC Filtration." Provisional Patent Application # 300814-US20Prov, 2007.

Armendariz A., K. Gowda, G. Carney, "A Technique for Hydrocarbon Soil Assessments in Katrina Impacted Areas and in other Large Site Characterization Programs", Proceedings of the Annual Conference of the Air and Waste Management Association, New Orleans, June 20-23, 2006.

Dorsey N. and A. Armendariz, "Control of Microbial Growth in Metalworking Fluids," Proceedings of the American Association for Aerosol Research Annual Conference, Austin, Texas, October 17-21, 2005.

Armendariz A. "A Novel Technique for Determining Hydrocarbon Contamination in Soils," U.S. Environmental Protection Agency, Region 6, Environmental Research Seminar, Dallas, Texas, invited talk, 2004.

Armendariz A., D. Leith, M. Boundy, R. Goodman, L. Smith, G. Carlton, "Sampling and analysis of aircraft engine cold start particles and demonstration of an electrostatic personal particle sampler", *American Industrial Hygiene Association Journal* 64: 777-784, 2003.

Armendariz A., and D. Leith, "A personal sampler for aircraft engine cold start particles: laboratory development and testing", *American Industrial Hygiene Association Journal* 64: 755-762, 2003.

Armendariz A. and D. Leith, "Concentration measurement and counting efficiency for the aerodynamic particle sizer 3320", *Journal of Aerosol Science* 33: 133-148, 2002.

Armendariz A. and D. Leith, "Concentration measurement and counting efficiency for the aerodynamic particle sizer 3320," Proceedings of the American Association for Aerosol Research Annual Conference, Portland, Oregon, 2001.

Armendariz A., D. Leith, M. Boundy, "Testing an electrostatic sampler for semi-volatile particles: field tests," Proceedings of the American Association for Aerosol Research Annual Conference, St. Louis, Missouri, 2000.

Armendariz A., D. Leith, M. Boundy, "Sampling and analysis of jet engine start-up aerosol," Proceedings of the American Industrial Hygiene Conference and Exposition, Orlando, Florida, 2000.

Armendariz A., D. Leith, M. Boundy, "Testing an electrostatic sampler for semi-volatile particles: laboratory tests." Proceedings of the American Association for Aerosol Research, Annual Conference, St. Louis, Missouri, 2000.

Armendariz A., J. LaPointe, "Effect of fluid properties on measurement error in the API Aerosizer," American Association for Aerosol Research, Annual Conference, Cincinnati, Ohio, poster presentation, 1998.

Armendariz A., E. Allen, J. Kim, "Biogenic hydrocarbon emissions: development of a sampling technique and potential impacts on ambient air quality," Florida Environmental Expo, Tampa, Florida, poster presentation, 1994.

## **FUNDED RESEARCH PROPOSALS**

[under evaluation] City of Dallas, Sanitation Department, "Air Quality Compliance Assurance and Emission Reduction Techniques for Cell 6A at the McCommas Bluff Landfill." \$51,000, December 2008-November 2009, co-PI.

Eight Northern Indian Pueblos Council of New Mexico, Environmental Department. "Detection of Petroleum Hydrocarbons in Contaminated Soils," \$56,809, May 2009 – April 2010, PI.

Environmental Defense Fund (EDF), "Emissions Inventory for Oil and Gas Production Activities in the Barnett Shale Area and Opportunities for Cost-Effective Emissions Reductions." July 2008 – September 2008, PI

National Science Foundation, Major Research Instrumentation, "Acquisition of a Volumetric, 3-Component Particle Displacement and Velocity Measurement System for Mechanical and Environmental Engineering Measurements," \$196,490, August 2008 – July 2010, co-PI.

Centers for Disease Control and Prevention (CDC) / National Institute for Occupational Safety and Health (NIOSH), "Control of Workplace Diesel Exhaust Particulate," \$101,050, August 2007 - July 2008, PI.

Centers for Disease Control and Prevention (CDC) / National Institute for Occupational Safety and Health (NIOSH), "Control of Workplace Diesel Exhaust Particulate," \$98,865, August 2006 - July 2007, PI.

Centers for Disease Control and Prevention (CDC) / National Institute for Occupational Safety and Health (NIOSH), "Control of Workplace Diesel Exhaust Particulate," \$99,117, August 2005 - July 2006, PI.

Office of Environmental Services of the Cherokee Nation of Oklahoma, via a grant from the Environmental Protection Agency (EPA), "Development of a Field Test for Detecting Hydrocarbons in Soils," \$45,000, June 2004 - June 2005, PI.

## **MEMBERSHIP IN SCIENTIFIC AND PROFESSIONAL SOCIETIES**

American Association for the Advancement of Science

Air and Waste Management Association

American Industrial Hygiene Association

American Association for Aerosol Research

## **JOURNAL, PROPOSAL, TEXTBOOK REVIEWING**

U.S. Department of Agriculture, State Research, Education, and Extension Service, Proposal Reviewer, 2009.

National Science Foundation Graduate Research Fellowship Program, Panelist, 2007, 2009.

Journal of the Air and Waste Management Association, Peer Reviewer, 2006, 2007, 2008, 2009.

Environmental Science and Technology, Peer Reviewer, 2007.



*Visualizing Weather and Climate, 2008* (textbook), Book Reviewer, John Wiley and Sons, publishers.

*Weather and Climate, 2007* (textbook), Book Reviewer, John Wiley and Sons, publishers.

*Understanding Weather and Climate, 2007* (textbook), Book Reviewer, Prentice Hall, publishers.

U.S. Civilian Research and Development Foundation, Proposal Reviewer, 2006.

### **UNIVERSITY COMMITTEES AND SERVICE**

Instructor for Fundamentals of Engineering Exam (EIT) Mathematics Review, 2006-2009,

Faculty sponsor of SMU student chapter of Texas Society of Professional Engineers and volunteer for TSPE's annual "Mathcounts" competition in Dallas, 2005-2009.

Engineering Dean's Research Development Council, 2004, 2005, 2006, 2007.

Faculty search committee - Environmental Engineering, 2006, 2007.

Faculty search committee - ENCE Department Chair, 2002, 2003.

Faculty search committee - Transportation Engineering, 2003, 2004.

Faculty search committee - Geotechnical Engineering, 2002.

Coordinated successful proposal to start Ph.D. program in ENCE department, 2003, 2004.

Faculty participant in Mustang Corral, 2003.

Interviewer for President's Scholars Program, 2002, 2006.

Engineering Computer and Programming Committee, member, 2003, 2004.

Presentation to the Math, Science and Technology Readiness Institute Summer Camps, 2005.

### **RESEARCH ADVISOR TO GRADUATE STUDENTS**

Chenbo Huang (former M.S. student – graduated December 2008)

Ali Farnoud (former Ph.D. student - graduated May 2008)

Whitney Boger (former M.S. student - graduated August 2007)

Kushala M.C. Gowda (former M.S. student - graduated May 2005)

Nancy Dorsey (former M.S. student – graduated August 2004)

### **PROFESSIONAL SOCIETY ACTIVITIES**

Air and Waste Management Association, 2008 Annual Conference, "Attainment Strategies for the New Ozone Standard" - organizer and panel session chair.

American Association for Aerosol Research, conference session chair, October 2005.

American Association for Aerosol Research, Chair - Control Technology Working Group, 2004-2005.

American Association for Aerosol Research, Vice-Chair - Control Technology Working Group, 2003-2004.

American Association for Aerosol Research, conference session co-chair, October 2002.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

APR 30 2009

Mr. Dee Freeman  
Secretary  
North Carolina Department of  
Environment and Natural Resources  
1601 Mail Service Center  
Raleigh, North Carolina 27699-1601

Dear Secretary Freeman:

*Dee:*

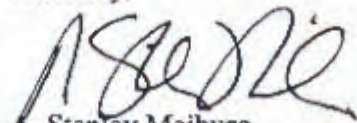
On March 15, 2009, the North Carolina Department of Air Quality (NCDAQ) issued Permit No. 04044T29 and related technical background documents for the Duke Energy Carolinas (Duke), LLC - Cliffside Steam Station. Included in these documents is a determination by NCDAQ that Unit 6 at Cliffside is an area source for Hazardous Air Pollutants (HAPs). While NCDAQ has included measures to strengthen the permit, the U.S. Environmental Protection Agency is concerned about the Unit 6 HAP potential to emit (PTE) analysis and permit conditions NCDAQ established to ensure continued HAP area source status for this unit.

To demonstrate that the source operates below the HAP applicability threshold of a major source, we recommend that the monitoring plan currently outlined by the State of North Carolina be modified to require continuous emission monitoring sufficient to verify compliance with the area source determination at all times. Specifically, we recommend that such monitoring include installation of a hydrogen chloride (HCl) continuous emission monitoring system (CEMS). While there are monitoring alternatives to an HCl CEMS, a HCl CEMS is expected to provide the most reliable assurance of compliance.

Our concern arises from questions and uncertainties associated with the unit's operating assumptions. For example, the current analysis specifies that both the spray dry absorber and the flue gas desulfurization units (scrubber systems) have to achieve very high removal efficiency (99.913%) at 3209 parts per million (ppm) coal chlorine content for the Unit to stay below major source thresholds. This removal efficiency is sufficiently tight that a small deviation of the annual removal efficiency, such as might occur during periods of start-up, shutdown, or malfunction, would cause the unit's emissions to exceed the major source threshold for HCl.

These technological considerations and the associated assumptions make it prudent to continuously measure HCl on Unit 6 to assure compliance with Unit 6's area source status. I appreciate your continued work to improve and protect air quality in North Carolina. If you have any questions or wish to discuss this further, please contact me or Carol L. Kemker, Acting Director, Air, Pesticides and Toxics Management Division, at (404) 562-8975.

Sincerely,



A. Stanley Mciburg  
Acting Regional Administrator

cc: B. Keith Overcash, P.E., NCDAQ