To: Edward Calabrese[edwardc@schoolph.umass.edu]
From: Jackson, Ryan
Sent: Tue 10/10/2017 9:49:49 AM
Subject: Re: [SPAM] LNT history

Thanks ed.

Ryan Jackson
Chief of Staff
U.S. EPA

Ex. 6 - Personal Privacy

On Oct 10, 2017, at 5:09 AM, Edward Calabrese <edwardc@schoolph.umass.edu> wrote:

Ryan:

See the attached new paper (published today). Please share with your key people.

Ed

<LNT History Abridged-1.pdf>

To: Fred Barnes[fwbarnes@weeklystandard.com]
From: Jackson, Ryan
Sent: Mon 10/30/2017 9:45:38 PM
Subject: RE: Pruitt piece

Sure, I'm sorry. I reached out to the communications staff there last week.

Please contact Wendi Price at wendi_price@inhofe.senate.gov She is his scheduler and can get you on the books.

From: Fred Barnes [mailto:fwbarnes@weeklystandard.com]
Sent: Monday, October 30, 2017 5:30 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Pruitt piece

Ryan:

I'm hoping to meet with you this week. And I have a question. Who should I contact in

Senator Inhofe's office to arrange an interview with him?

Fred Barnes

202-230-9090

To: Gwen Keyes Fleming[gfleming@vnf.com]
From: Jackson, Ryan
Sent: Wed 10/11/2017 3:46:43 PM
Subject: RE: An introduction

Would you want to meet for coffee? I would suggest the Trump hotel lobby because it's across the street, but I can understand if that doesn't suit the situation.

-----Original Message-----
From: Gwen Keyes Fleming [mailto:gfleming@vnf.com]
Sent: Wednesday, October 11, 2017 10:37 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RE: An introduction

Agreed! But misery (or in this case - exhaustion) loves company! 4pm works for me. Where do you want to meet? I'm in Georgetown, but can easily travel to some place near your offices. Just let me know.

Thanks,

Gwen

-----Original Message-----
From: Jackson, Ryan [mailto:jackson.ryan@epa.gov]
Sent: Wednesday, October 11, 2017 5:38 AM
To: Gwen Keyes Fleming
Subject: Re: An introduction

What if we get together later that afternoon. Maybe get coffee about 4? And yes, we were likely crazy to take this position so it might be attached to us for a while. Hah.

_____
Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

> On Oct 10, 2017, at 11:32 PM, Gwen Keyes Fleming <gfleming@vnf.com> wrote:
>
> And I thought I was the only other crazy person up and working at this hour! I have an 8am, noon lunch & a 2 pm, but free other than that. What does your schedule look like?
>
> G
>
> -----Original Message-----
> From: Jackson, Ryan [mailto:jackson.ryan@epa.gov]
> Sent: Tuesday, October 10, 2017 11:29 PM
> To: Gwen Keyes Fleming
> Subject: Re: An introduction
>
> Would Thursday be convenient to get together?
>
> _____
> Ryan Jackson
> Chief of Staff
> U.S. EPA

Ex. 6 - Personal Privacy

>
>> On Oct 2, 2017, at 4:47 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>>
>> Yes, I would really appreciate that, thank you. I have to admit, I'm not the best at keeping up on social media even business related social media. When would be convenient for you?
>>
>> -----Original Message-----
>> From: Gwen Keyes Fleming [mailto:gfleming@vnf.com]
>> Sent: Monday, October 2, 2017 3:50 PM
>> To: Jackson, Ryan <jackson.ryan@epa.gov>
>> Subject: An introduction
>>
>> Ryan,
>>
>> Belated congratulations on your appointment as Chief of Staff. I reached out via LinkedIn earlier this year but wasn't sure how often you check that site. I thought I'd try a more direct approach to follow in the footsteps of my predecessors and introduce myself. Hopefully by now you've had an opportunity to settle into the cadence of the role and I wanted to see if your schedule would allow time for us to meet in person. I've recently started the next chapter of my career at a law firm in DC so my schedule is currently pretty flexible except for some occasional travel. Please let me know if there are a few dates and times that work best for you.
>>
>> Congrats again and I hope to hear from you soon.
>>
>> All the best,
>> Gwen Keyes Fleming
>>
>> Sent from my iPhone

To: Doug Deason[doug@deasoncap.com]
From: Jackson, Ryan
Sent: Mon 10/9/2017 10:16:58 PM
Subject: RE: Invitation letter to Sec Pruitt for 2017 Crossroads Summit

Sure. This is a no brainer. And thanks for the help on the science boards. Those get announced in the next couple of weeks.

From: Doug Deason [mailto:doug@deasoncap.com]
Sent: Monday, October 9, 2017 5:38 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RE: Invitation letter to Sec Pruitt for 2017 Crossroads Summit

Ok thanks, Ryan. I will wait to hear from you. I truly appreciate the help!!

From: Jackson, Ryan [mailto:jackson.ryan@epa.gov]
Sent: Monday, October 9, 2017 4:11 PM
To: Doug Deason <doug@deasoncap.com>
Subject: RE: Invitation letter to Sec Pruitt for 2017 Crossroads Summit

Let me confirm this in the morning.

From: Doug Deason [mailto:doug@deasoncap.com]
Sent: Monday, October 9, 2017 5:07 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RE: Invitation letter to Sec Pruitt for 2017 Crossroads Summit

Fantastic, Ryan, thanks so much! So we can add him to the itinerary?

From: Jackson, Ryan [mailto:jackson.ryan@epa.gov]
Sent: Monday, October 9, 2017 3:17 PM
To: Doug Deason <doug@deasoncap.com>

Subject: RE: Invitation letter to Sec Pruitt for 2017 Crossroads Summit

I've got it. I thought we'd already gotten back with you. Let me check about any last moment hang up, but we'll get this on the books otherwise. This is easy.

From: Doug Deason [mailto:doug@deasoncap.com]
Sent: Monday, October 9, 2017 4:08 PM
To: pruitt.scott@epa.com
Cc: Hupp, Sydney <hupp.sydney@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Subject: FW: Invitation letter to Sec Pruitt for 2017 Crossroads Summit

Try it again, Scott. Thanks for verifying your email!!

From: Doug Deason
Sent: Thursday, October 5, 2017 11:57 AM
To: pruitt.scott@epa.com; jackson.ryan@epa.gov
Cc: Doug Deason <doug@deasoncap.com>
Subject: FW: Invitation letter to Sec Pruitt for 2017 Crossroads Summit

Hello Scott and Ryan,

I hope you are both doing well. Please see the attached invitation for Scott to speak at the Texas Public Policy Foundation's Energy Policy Summit in DC on Nov 30 at 10:45 or whatever works for you. Be sure and review the 2017 draft agenda. The 2016 is attached just so you can see how this event looked last year. If you have any questions, please call my cell.

Thanks!

Doug Deason

From: Clint Nesmith [mailto:cnesmith@texaspolicy.com]
Sent: Wednesday, October 4, 2017 9:33 AM
To: Doug Deason <doug@deasoncap.com>
Cc: Brooke Rollins <brollins@texaspolicy.com>; Ann Miller <ann@deasoncap.com>

Subject: Invitation letter to Sec Pruitt for 2017 Crossroads Summit

Doug,

We would like to invite Sec Pruitt to deliver keynote remarks at our 2017 Crossroads Energy and Climate Policy Summit in Washington, DC on November 30th. We have created an invitation letter for him and would very much like your help to get this to him personally or to his office. Would you be available to help deliver the letter and the other two attachments in this email that are mentioned in the letter?

Thank you in advance for your help and please let us know if you have any questions.

Regards,

Clint Nesmith

Vice President of Engagement

Texas Public Policy Foundation

(512) 615-7971

cnesmith@texaspolicy.com

To: Doug Deason[doug@deasoncap.com]
From: Jackson, Ryan
Sent: Mon 10/9/2017 9:10:59 PM
Subject: RE: Invitation letter to Sec Pruitt for 2017 Crossroads Summit

Let me confirm this in the morning.

From: Doug Deason [mailto:doug@deasoncap.com]
Sent: Monday, October 9, 2017 5:07 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RE: Invitation letter to Sec Pruitt for 2017 Crossroads Summit

Fantastic, Ryan, thanks so much! So we can add him to the itinerary?

From: Jackson, Ryan [mailto:jackson.ryan@epa.gov]
Sent: Monday, October 9, 2017 3:17 PM
To: Doug Deason <doug@deasoncap.com>
Subject: RE: Invitation letter to Sec Pruitt for 2017 Crossroads Summit

I've got it. I thought we'd already gotten back with you. Let me check about any last moment hang up, but we'll get this on the books otherwise. This is easy.

From: Doug Deason [mailto:doug@deasoncap.com]
Sent: Monday, October 9, 2017 4:08 PM
To: pruitt.scott@epa.com
Cc: Hupp, Sydney <hupp.sydney@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Subject: FW: Invitation letter to Sec Pruitt for 2017 Crossroads Summit

Try it again, Scott. Thanks for verifying your email!!

From: Doug Deason
Sent: Thursday, October 5, 2017 11:57 AM

To: pruitt.scott@epa.com; jackson.ryan@epa.gov
Cc: Doug Deason <doug@deasoncap.com>
Subject: FW: Invitation letter to Sec Pruitt for 2017 Crossroads Summit

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Thanks!

Doug Deason

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Sent: Wednesday, October 4, 2017 9:33 AM
To: Doug Deason <doug@deasoncap.com>
Cc: Brooke Rollins <brollins@texaspolicy.com>; Ann Miller <ann@deasoncap.com>
Subject: Invitation letter to Sec Pruitt for 2017 Crossroads Summit

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Thank you in advance for your help and please let us know if you have any questions.

Regards,

Clint Nesmith

Vice President of Engagement

Texas Public Policy Foundation

(512) 615-7971

cnesmith@texaspolicy.com

To: Stratton Edwards[sedwards@capitolhillcg.com]
From: Jackson, Ryan
Sent: Wed 12/6/2017 7:50:05 PM
Subject: RE: San Jacinto

No, he might be asked about it.

From: Stratton Edwards [mailto:sedwards@capitolhillcg.com]
Sent: Wednesday, December 6, 2017 2:24 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: San Jacinto

Ryan,

Do you know if the Administrator is expecting to talk about the San Jacinto Waste Pits when he is before E&C tomorrow?

Stratton

Stratton Edwards

Legislative Counsel

chcg

Capitol Hill Consulting Group

Government Relations Professionals

499 S. Capitol Street, SW

Suite 608

Washington, DC 20003

Cell: (202) 740-8309

Office: (202) 488-0101

Web: capitolhillcg.com

To: Doug Deason[doug@deasoncap.com]
From: Jackson, Ryan
Sent: Mon 10/9/2017 8:17:06 PM
Subject: RE: Invitation letter to Sec Pruitt for 2017 Crossroads Summit

I've got it. I thought we'd already gotten back with you. Let me check about any last moment hang up, but we'll get this on the books otherwise. This is easy.

From: Doug Deason [mailto:doug@deasoncap.com]
Sent: Monday, October 9, 2017 4:08 PM
To: pruitt.scott@epa.com
Cc: Hupp, Sydney <hupp.sydney@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Subject: FW: Invitation letter to Sec Pruitt for 2017 Crossroads Summit

Try it again, Scott. Thanks for verifying your email!!

From: Doug Deason
Sent: Thursday, October 5, 2017 11:57 AM
To: pruitt.scott@epa.com; jackson.ryan@epa.gov
Cc: Doug Deason <doug@deasoncap.com>
Subject: FW: Invitation letter to Sec Pruitt for 2017 Crossroads Summit

Hello Scott and Ryan,

I hope you are both doing well. Please see the attached invitation for Scott to speak at the Texas Public Policy Foundation's Energy Policy Summit in DC on Nov 30 at 10:45 or whatever works for you. Be sure and review the 2017 draft agenda. The 2016 is attached just so you can see how this event looked last year. If you have any questions, please call my cell.

Thanks!

Doug Deason

From: Clint Nesmith [mailto:cnesmith@texaspolicy.com]
Sent: Wednesday, October 4, 2017 9:33 AM
To: Doug Deason <doug@deasoncap.com>

Cc: Brooke Rollins <brollins@texaspolicy.com>; Ann Miller <ann@deasoncap.com>
Subject: Invitation letter to Sec Pruitt for 2017 Crossroads Summit

Doug,

We would like to invite Sec Pruitt to deliver keynote remarks at our 2017 Crossroads Energy and Climate Policy Summit in Washington, DC on November 30th. We have created an invitation letter for him and would very much like your help to get this to him personally or to his office. Would you be available to help deliver the letter and the other two attachments in this email that are mentioned in the letter?

Thank you in advance for your help and please let us know if you have any questions.

Regards,

Clint Nesmith

Vice President of Engagement

Texas Public Policy Foundation

(512) 615-7971

cnesmith@texaspolicy.com

To: rnolan@nma.org[rnolan@nma.org]
From: Jackson, Ryan
Sent: Mon 10/9/2017 5:19:10 PM
Subject: Rich can you give me a call. Ex. 6 - Personal Privacy

---

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

To: Dimitri.Karakitsos@hklaw.com[Dimitri.Karakitsos@hklaw.com]
From: Jackson, Ryan
Sent: Sun 12/3/2017 7:20:24 PM
Subject: RE: Letter to President Trump

A joint oped would be a good idea too. Same text.

-----Original Message-----
From: Dimitri.Karakitsos@hklaw.com [mailto:Dimitri.Karakitsos@hklaw.com]
Sent: Sunday, December 3, 2017 2:11 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Fwd: Letter to President Trump

FYI

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To: lbergeson@lawbc.com[lbergeson@lawbc.com]
From: Jackson, Ryan
Sent: Tue 12/5/2017 12:38:07 AM
Subject: ABA letter
S Quast by ABA SEER Executive 6_13_13.pdf

Lynn, thanks so much for the call back. I appreciate the letter offer and want to take you up on it. I've spoken already with a couple of past chairs who I know would contribute.

However, I wanted to shoot this past you too. This is actually from the section for a previous nominee. Of course, I'm greedy and this was the purpose of my call to John Milner. Just wanted you to be aware, and thank you so much for you time to reach out to the section staff in Chicago.

Thanks

Ryan.

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

Ex. 6 - Personal Privacy

To: Stephanie Tomasso[Stephanie.Tomasso@russellreynolds.com]
From: Jackson, Ryan
Sent: Tue 12/5/2017 8:35:52 PM
Subject: RE: SVP of Advocacy and Communications search for APPA - thoughts?

Yes, although she has moved to Oklahoma, I would highly recommend my former communications director at Senator Inhofe's office and the Senate Environment and Public Works Committee. I think for the right opportunity she would highly consider coming back to D.C. There's no more professional communications individual. Her capabilities, temperament, and professionality is always the model.

Ex. 6 - Personal Privacy

Thanks for asking,

Ryan.

From: Stephanie Tomasso [mailto:Stephanie.Tomasso@russellreynolds.com]
Sent: Tuesday, December 5, 2017 2:15 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: SVP of Advocacy and Communications search for APPA - thoughts?

Dear Ryan,

I hope this note finds you well. I can't believe it is December – the year is flying by!

I wanted to pick your brain for a search I am just kicking off for the **Senior Vice President of Advocacy and Communications** for the **American Public Power Association** (APPA). The SVP oversees APPA's integrated external affairs function, including the 25-person government affairs, regulatory advocacy and communications teams. S/he will lead the development and implementation of a coordinated advocacy strategy and the seamless execution of a multi-faceted

external communications plan with the ultimate goal of raising the visibility of the critical role public power utilities play in communities across the country. The ideal candidate would be an accomplished manager of people and teams with demonstrated expertise in the external affairs arena within the utility sector.

I have attached a copy of the position specification and would welcome any thoughts you might have of potentially strong candidates. I'm happy to hop on a quick call to talk through in more detail if that would be helpful.

Thanks in advance for your assistance!

Best,

Stephanie

Stephanie J. Tomasso

Russell Reynolds Associates

1700 New York Avenue | 4th Floor | Washington, DC 20006

P: +1.202.654.7843 | M: +1.202.236.5821 | F: +1.202.638.5178

stephanie.tomasso@russellreynolds.com |My Bio

RussellReynolds.com

Executive Assistant: Amy Walker

P: +1.202.654.7835 | amy.walker@russellreynolds.com

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To: alexandraddunn Ex. 6 - Personal Privacy ; Ford, Hayley[ford.hayley@epa.gov]
From: Jackson, Ryan
Sent: Thur 10/26/2017 6:30:35 PM

Hayley, I spoke with Alex today on the status of PPO which will clear Alex Monday, and we will formally send the offer letter Monday.

In the meantime, are there other paperwork issues or requirements we need Alex to complete?

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

Ex. 6 - Personal Privacy

To: J. Steven Hart[jshart@wms-jen.com]
From: Jackson, Ryan
Sent: Wed 10/18/2017 8:30:35 PM
Subject: RE: Meetings this week ?

I have a PhD in cluster

From: J. Steven Hart [mailto:jshart@wms-jen.com]
Sent: Wednesday, October 18, 2017 4:27 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Re: Meetings this week ?

Thanks. Mulvaney called us in with treasury et al, its a cluster. I will get our infrastructure team to give me some times next week

Sent from my iPad

On Oct 18, 2017, at 10:11 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

If they still have availability Thursday and Friday I'm around.

From: J. Steven Hart [mailto:jshart@wms-jen.com]
Sent: Tuesday, October 10, 2017 8:14 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Meetings this week ?

I unfortunately represent the Puerto Rico Financial Control Board.

I do not need a meeting but might be good optics for you to be concerned about the water infrastructure. The electric grid is our first concern but there are going to be huge health issues related to the water treatment facility . I describe the health crisis as the largest in the Americas since Columbus brought European disease to the New World.

Natalie Jaresko, the Board's exec director is in town this week along with the Dep GC, Kyle Rifkind. We are doing Hill briefings on liquidity needs and pending litigation

Happy to bring them by to meet you. I just want to offer when i have senior execs in town . The Chairman , Jose Carrion, will be here next Monday assuming we can get him out of Puerto Rico following Speakers Ryan's visit on Friday

Natalie/Kyle availability : Starting today at 12:3o and through Thursday noon. We have lots of requests from the Hill and will start filling in the schedule this morning

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Disclaimer

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To: Steven E Koonin[sek9@nyu.edu]; happer@princeton.edu[happer@princeton.edu]; Dickerson, Aaron[dickerson.aaron@epa.gov]
Cc: Wehrum, Bill[Wehrum.Bill@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Jackson, Ryan
Sent: Tue 12/5/2017 8:27:26 PM
Subject: RE: Red Team Blue Team

2pm tomorrow then? I'll provide a call in number.

From: Steven E Koonin [mailto:sek9@nyu.edu]
Sent: Tuesday, December 5, 2017 3:08 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>; happer@princeton.edu
Cc: Wehrum, Bill <Wehrum.Bill@epa.gov>
Subject: RE: Red Team Blue Team

Windows for me would be:

Tomorrow (Wednesday) after about 1400

Thursday 0800-1100

Friday – anytime

Thursday (say 0930) would be best.

SEK

From: Jackson, Ryan [mailto:jackson.ryan@epa.gov]
Sent: Tuesday, December 5, 2017 11:24 AM
To: Steven Koonin Ex. 6 - Personal Privacy Steven E Koonin <sek9@nyu.edu>; happer@princeton.edu
Cc: Wehrum, Bill <Wehrum.Bill@epa.gov>
Subject: Red Team Blue Team

Gentlemen, I wanted to provide you with an update on the red team blue team exercise. Would there be a convenient time this week to all get on the phone?

Thanks.

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

Ex. 6 - Personal Privacy

To: Maddy Morris[r Ex. 6 - Personal Privacy
From: Jackson, Ryan
Sent: Tue 9/26/2017 1:09:29 PM
Subject: RE: Re:

It's not a bother. I'll get on this.

From: Maddy Morris Ex. 6 - Personal Privacy
Sent: Tuesday, September 26, 2017 9:07 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Re:

Hi Ryan, sorry to bother you. I still haven't received my paycheck yet. Let me know if you would like me to do something on my end.

On Fri, Sep 22, 2017 at 12:58 PM Maddy Morris Ex. 6 - Personal Privacy wrote:

Thanks! I appreciate your help!

On Fri, Sep 22, 2017 at 12:16 PM Jackson, Ryan <jackson.ryan@epa.gov> wrote:

Actually, let me know if it doesn't come through by Tuesday. That's apparently the actual pay date for this period. We have not put in any paperwork on you so no one is aware of any actions.

From: Maddy Morris Ex. 6 - Personal Privacy
Sent: Friday, September 22, 2017 9:59 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject:

Hi Ryan,

I hope all is well over at the EPA. I just wanted to check in with you. I have been

working with some headhunters, and they would prefer if I had a reference at my last place of employment. Would you feel comfortable doing that? Also, I haven't got paid yet, usually I get paid on Thursday. I just wanted to see if something has changed since our conversation about being paid a few months.

Sorry to be a bother! And really appreciate your help!

Best,
Maddy

To: jon@oxbowinc.org[jon@oxbowinc.org]
From: Jackson, Ryan
Sent: Fri 11/3/2017 10:47:55 PM
Subject: FW: thanks

Jon, thank you for your time tonight.

Please address the letter to the following:

The Honorable John Barrasso, Chairman

The Honorable Tom Carper, Ranking Member

U.S. Senate Committee on Environment and Public Works

410 Dirksen Senate Office Building

Washington DC 20510

Please email me the final and I can take it from there. Thank you again.

Ryan.

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

Ex. 6 - Personal Privacy

To: john@oxbowinc.org[john@oxbowinc.org]
From: Jackson, Ryan
Sent: Fri 11/3/2017 10:29:23 PM
Subject: thanks

John, thank you for your time tonight.

Please address the letter to the following:

The Honorable John Barrasso, Chairman

The Honorable Tom Carper, Ranking Member

U.S. Senate Committee on Environment and Public Works

410 Dirksen Senate Office Building

Washington DC 20510

Please email me the final and I can take it from there. Thank you again.

Ryan.

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

Ex. 6 - Personal Privacy

To: Lori Ziebart[lori@ziebartconsulting.com]
Cc: Heine, Bruce[Bruce.Heine@magellanlp.com]; Bob Brooks[brooks@capitolcounsel.com]
From: Jackson, Ryan
Sent: Tue 9/26/2017 10:52:56 AM
Subject: Re: MLPA Annual Meeting Invitation to Speak on Thursday, September 28th

Ex. 6 - Personal Privacy

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Sep 11, 2017, at 11:50 AM, Lori Ziebart <lori@ziebartconsulting.com> wrote:

Thanks Ryan. We can wait until next Monday COB if that works for you. Appreciate it.

Best, Lori

Lori E. L. Ziebart
Partner
Ziebart Consulting, LLC
101 Constitution Ave., NW
Suite L110
Washington. DC 20001

(202) 870-0713 (direct)
(202) 318-8078 (fax)

On Sep 11, 2017, at 10:31 AM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

I'm trying to make this work. Trey mentioned it as well. I usually can't get away for speaking engagements especially during the day. So if you need to plan immediately within two weeks and make other arrangements, I can entirely understand that.

From: Heine, Bruce [mailto:Bruce.Heine@magellanlp.com]
Sent: Monday, September 11, 2017 11:27 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>

Cc: Lori E. L. Ziebart <lori@ziebartconsulting.com>; Bob Brooks <brooks@capitolcounsel.com>
Subject: RE: MLPA Annual Meeting Invitation to Speak on Thursday, September 28th

Good morning Ryan…I enjoyed visiting with you Friday evening in Lone Wolf and was delighted to know that you will indeed be able to accept the invitation to speak at the MLPA conference on September 28th at 12:15.

Thanks again!

Bruce

From: Bob Brooks [mailto:brooks@capitolcounsel.com]
Sent: Thursday, September 07, 2017 10:12 AM
To: jackson.ryan@epa.gov
Cc: Heine, Bruce <Bruce.Heine@magellanlp.com>; Lori E. L. Ziebart <lori@ziebartconsulting.com>
Subject: MLPA Annual Meeting Invitation to Speak on Thursday, September 28th

Sent by an external sender. Use caution opening attachments, clicking web links, or replying unless you have verified this email is legitimate.

Hey Ryan,

Hope you are well.

Was asked to follow up with you on an invitation to speak from the MLP Association.

MLPA is holding their annual meeting at the Willard Hotel from September 28-29.

They would like to have you speak during their lunch hour on Thursday, September 28 designated from 12:15 pm and 1:30 pm.

Realizing that your schedule can be hectic and that you may not be able to stay for the entire lunch period, MLPA would be delighted if you could come anytime in the window and make some brief remarks.

Attached are the relevant documents. Many thanks for your consideration Ryan.

Bob R Brooks Jr

Partner

Capitol Counsel LLC

From: Lori Ziebart <lziebart@mlpassociation.org>

Subject: MLPA Annual Meeting Invitation to Speak

Date: August 9, 2017 at 2:48:32 PM EDT

To: jackson.ryan@epa.gov

Cc: Bruce Heine <Bruce.Heine@magellanlp.com>, Bob Brooks <brooks@capitolcounsel.com>

Dear Mr. Jackson,

On behalf of the Master Limited Partnership Association (MLPA), www.mlpassociation.org, I would like to invite you to be our Keynote luncheon speaker at our Annual Meeting and 30th Year Celebration on September 28 at the Willard Intercontinental Hotel. Lunch is between 12:15 and 1:30 and you could speak at any time during that time period - prepared remarks and, if you would be willing, some Q&A. We particularly

would be interested in your thoughts on EPA's priorities, changes to regulations that affect the energy industry, and how EPA's policies could impact MLPs.

Attendees will consist of our membership, including MLPs, law firms, accounting firms, investment banks and financial advisors, many of whom are your constituents. I have attached a link to our current membership: https://www.mlpassociation.org/about-us/current-members/. The event is not open to the press.

I know your schedule is hectic and unpredictable, but if there is any chance you might be able to speak to my membership that would be fantastic. I know they would be thrilled.

Thank you so much for considering this request. I also have attached a formal invitation.

Please let me know if you have any questions or need additional information.

Best,

Lori

Lori E. L. Ziebart
Executive Director
Master Limited Partnership Association
101 Constitution Ave., NW
Suite L-110
Washington, DC 20001

(202) 747-6570

Email: lziebart@mlpassociation.org
Website: www.mlpassociation.org

To: Whitney Tawney[wtawney@ducks.org]
Cc: Willis, Sharnett[Willis.Sharnett@epa.gov]
From: Jackson, Ryan
Sent: Fri 11/3/2017 8:57:20 PM
Subject: RE: DU meeting request 12/5

Sure. I would be glad to.

From: Whitney Tawney [mailto:wtawney@ducks.org]
Sent: Friday, November 3, 2017 3:53 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Willis, Sharnett <Willis.Sharnett@epa.gov>
Subject: DU meeting request 12/5

Happy Friday, Ryan –

Do you have availability on 12/5 to meet with our CEO Dale Hall, Andrew Lunquist (Senior Vice President at Conoco Phillips and DU Board Member) and I?

Thanks for your consideration and have a great week!

Cheers,

Whitney

Whitney Tawney

Senior Water Policy Advisor

Ducks Unlimited

C: 202-412-4793

To: Gwen Keyes Fleming[gfleming@vnf.com]
From: Jackson, Ryan
Sent: Wed 10/11/2017 9:37:58 AM
Subject: Re: An introduction

What if we get together later that afternoon. Maybe get coffee about 4? And yes, we were likely crazy to take this position so it might be attached to us for a while. Hah.

_____
Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

> On Oct 10, 2017, at 11:32 PM, Gwen Keyes Fleming <gfleming@vnf.com> wrote:
>
> And I thought I was the only other crazy person up and working at this hour! I have an 8am, noon lunch & a 2 pm, but free other than that. What does your schedule look like?
>
> G
>
> -----Original Message-----
> From: Jackson, Ryan [mailto:jackson.ryan@epa.gov]
> Sent: Tuesday, October 10, 2017 11:29 PM
> To: Gwen Keyes Fleming
> Subject: Re: An introduction
>
> Would Thursday be convenient to get together?
>
> _____
> Ryan Jackson
> Chief of Staff
> U.S. EPA
> Ex. 6 - Personal Privacy
>
>> On Oct 2, 2017, at 4:47 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>>
>> Yes, I would really appreciate that, thank you. I have to admit, I'm not the best at keeping up on social media even business related social media. When would be convenient for you?
>>
>> -----Original Message-----
>> From: Gwen Keyes Fleming [mailto:gfleming@vnf.com]
>> Sent: Monday, October 2, 2017 3:50 PM
>> To: Jackson, Ryan <jackson.ryan@epa.gov>
>> Subject: An introduction
>>
>> Ryan,
>>
>> Belated congratulations on your appointment as Chief of Staff. I reached out via LinkedIn earlier this year but wasn't sure how often you check that site. I thought I'd try a more direct approach to follow in the footsteps of my predecessors and introduce myself. Hopefully by now you've had an opportunity to settle into the cadence of the role and I wanted to see if your schedule would allow time for us to meet in person. I've recently started the next chapter of my career at a law firm in DC so my schedule is currently pretty flexible except for some occasional travel. Please let me know if there are a few dates and times that work best for you.
>>

>> Congrats again and I hope to hear from you soon.
>>
>> All the best,
>> Gwen Keyes Fleming
>>
>> Sent from my iPhone

To: J. Steven Hart[jshart@wms-jen.com]
From: Jackson, Ryan
Sent: Sun 10/8/2017 5:47:14 PM
Subject: Re: Rex at 5:30 - early dinner

Thank you. I'm under the weather today. Pretty bad head cold. Ex. 6 - Personal Privacy and I love that place though so thanks. Next time.

_____
Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Oct 8, 2017, at 1:33 PM, J. Steven Hart <jshart@wms-jen.com> wrote:

A few of us are going to Rex tonight at the last minute. You are invited with spouse/girlfriend . Are you married yet?

Sent from my iPad

On Sep 7, 2017, at 9:39 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

Don't tell anyone my secret.

_____
Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Sep 7, 2017, at 8:12 PM, J. Steven Hart <jshart@wms-jen.com> wrote:

I see Inhofe and Lankford split on the debt ceiling vote. This exposes you as a liberal

We need to smoke a cigar soon

Sent from my iPad

On Sep 7, 2017, at 5:07 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

Thank you. I like Anthony. I've met him.

From: J. Steven Hart [mailto:jshart@wms-jen.com]
Sent: Thursday, September 7, 2017 5:07 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Fwd: Anthony Moore

As a reminder- Anthony is African American and republican. He is a VMI chemistry graduate

Sent from my iPad

Begin forwarded message:

From: "Treacy, Dennis" <dtreacy@smithfield.com>
Date: September 7, 2017 at 1:27:19 PM CDT
To: Steve Hart <jshart@wms-jen.com>
Subject: Anthony Moore

I saw him yesterday and he is ready to serve EPA/Pruitt in any capacity.

Dennis H. Treacy

President,

Smithfield Foundation

Smithfield Foods, Inc.

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To: Gwen Keyes Fleming[gfleming@vnf.com]
From: Jackson, Ryan
Sent: Wed 10/11/2017 3:29:14 AM
Subject: Re: An introduction

Would Thursday be convenient to get together?

Ryan Jackson
Chief of Staff
U.S. EPA

Ex. 6 - Personal Privacy

> On Oct 2, 2017, at 4:47 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>
> Yes, I would really appreciate that, thank you. I have to admit, I'm not the best at keeping up on social media even business related social media. When would be convenient for you?
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> -----Original Message-----
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> Sent: Monday, October 2, 2017 3:50 PM
> To: Jackson, Ryan <jackson.ryan@epa.gov>
> Subject: An introduction
>
> Ryan,
>
> Belated congratulations on your appointment as Chief of Staff. I reached out via LinkedIn earlier this year but wasn't sure how often you check that site. I thought I'd try a more direct approach to follow in the footsteps of my predecessors and introduce myself. Hopefully by now you've had an opportunity to settle into the cadence of the role and I wanted to see if your schedule would allow time for us to meet in person. I've recently started the next chapter of my career at a law firm in DC so my schedule is currently pretty flexible except for some occasional travel. Please let me know if there are a few dates and times that work best for you.
>
> Congrats again and I hope to hear from you soon.
>
> All the best,
> Gwen Keyes Fleming
>
> Sent from my iPhone

To: Morgan, Chip[cmorgan@deltacouncil.org]
From: Jackson, Ryan
Sent: Wed 10/11/2017 2:27:49 AM
Subject: Re: Meeting on October 12

Tell Scott Pruitt hello.

_____
Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Oct 10, 2017, at 9:59 PM, Morgan, Chip <cmorgan@deltacouncil.org> wrote:

Don't leave the Ranch— it needs protecting

You are doing a helluva job and we love it

On Oct 10, 2017, at 12:54 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

Hey thank you. I'll miss you. Stuck back here at the ranch in D.C.

_____
Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Oct 6, 2017, at 7:33 PM, Morgan, Chip <cmorgan@deltacouncil.org> wrote:

You thought you could slip him into MS without us knowing????

Looking forward to his visit

Any thing we need to say or get said, just let us know and it will happen

You're running a great shop just like you did at EPW and we are grateful to you for it

Begin forwarded message:

From: Alice Perry <Alice.Perry@governor.ms.gov>
Date: October 6, 2017 at 4:34:03 PM CDT
To: "'cmorgan@deltacouncil.org'" <cmorgan@deltacouncil.org>
Subject: Meeting on October 12

Chip,

It was good to talk to you the other day. I'm glad you'll be able to join Governor Bryant in welcoming EPA Administrator Scott Pruitt to Mississippi on Thursday, October 12, to talk about a revision to the Waters of the U.S. rule.

We will begin the day at the Governor's Mansion at 9:00 that morning. Following the meeting (approximately 10:30), we will go to Gaddis Farms, operated by Ted Kendall, for the Administrator to talk briefly with a group of farmers and other stakeholders about the rule. Ted Kendall has graciously offered the Gaddis Farms lake house for the meeting which will begin at 11:00. If you would like to invite some of your members to the meeting at 11:00, please do. We would like to have their names in advance, if possible. I am attaching a map to the lake house.

Please call me, if you have any questions. Thanks for you input and help.

Alice

Alice T. Perry

Senior Policy Advisor

Office of Governor Phil Bryant

P.O. Box 139

Jackson, MS 39205

601-576-2970 (office)

601-359-3741 (FAX)

Alice.Perry@governor.ms.gov

www.GovernorBryant.com

<Gaddis Farms Lake House Map - October 12 Event.pdf>

To: Rob Hobart[rhobart@hhqventures.com]; Willis, Sharnett[Willis.Sharnett@epa.gov]
From: Jackson, Ryan
Sent: Wed 12/6/2017 4:15:40 PM
Subject: RE: Meeting Request

Let's just set up a phone call. I'm in the middle ot getting him ready for a meeting again with the President and testifying tomorrow. He's also traveling internationally next week and I'm prepping him for that. This is a particularly bad time.

From: Rob Hobart [mailto:rhobart@hhqventures.com]
Sent: Wednesday, December 6, 2017 10:31 AM
To: Willis, Sharnett <Willis.Sharnett@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RE: Meeting Request

Ryan: I know it wont work for you today it sounds like you are at the WH today most of the day. It would really help me with Phil and the client if ya'll could get me some times that we can lock in a meeting or call before the holidays. Sharnett told me you are traveling internationally but even if a call this week before you leave or after you get back – that would be very helpful for me to get something on the books.

Very much appreciate it.

Thanks

Rob

From: Rob Hobart
Sent: Tuesday, December 5, 2017 6:04 PM
To: 'Willis, Sharnett' <Willis.Sharnett@epa.gov>; 'Jackson, Ryan' <jackson.ryan@epa.gov>
Subject: RE: Meeting Request

Sharnett & Ryan: Thanks for your help and appreciate the scheduling challenges. So we still

have some time tomorrow before Phil leaves – available from 1145-130 tomorrow. If that doesn't work, Phil will be back in DC and available next Monday December 11th from 12-6pm and since we have some updates we want to relay to Ryan – if neither works since you will be doing international travel – maybe we can look at dates when Ryan comes back or schedule a call to go over the issues before the holiday. Please let me know what you prefer.

As always, I appreciate your time and willingness to meet.

Rob

From: Willis, Sharnett [mailto:Willis.Sharnett@epa.gov]
Sent: Tuesday, December 5, 2017 9:58 AM
To: Rob Hobart <rhobart@hhqventures.com>
Subject: RE: Meeting Request

Good Morning Rob,

FYI – we may have to reschedule. I will let you asap.

Thanks.

Sharnett Willis

Office of the Administrator

202/564-7866

From: Rob Hobart [mailto:rhobart@hhqventures.com]
Sent: Friday, November 17, 2017 9:48 AM
To: Willis, Sharnett <Willis.Sharnett@epa.gov>

Subject: Re: Meeting Request

Sharnett: 130 on the 5th works great for us.

Thank You and hope you have a great thanksgiving.

Rob

Sent from my iPhone

On Nov 16, 2017, at 4:39 PM, Willis, Sharnett <Willis.Sharnett@epa.gov> wrote:

Hello Rob,

How does Tuesday, December 5th at 1:00 or 1:30 sound?

Thanks.

Sharnett Willis

Office of the Administrator

202/564-7866

From: Rob Hobart [mailto:rhobart@hhqventures.com]
Sent: Wednesday, November 15, 2017 1:00 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Willis, Sharnett <Willis.Sharnett@epa.gov>; Hupp, Sydney <hupp.sydney@epa.gov>; Milhouse, Gloria <Milhouse.Gloria@epa.gov>
Subject: RE: Meeting Request

Thanks Ryan. What works best for you that day?

From: Jackson, Ryan [mailto:jackson.ryan@epa.gov]
Sent: Wednesday, November 15, 2017 12:57 PM
To: Rob Hobart <rhobart@hhqventures.com>
Cc: Willis, Sharnett <Willis.Sharnett@epa.gov>; Hupp, Sydney <hupp.sydney@epa.gov>; Milhouse, Gloria <Milhouse.Gloria@epa.gov>
Subject: RE: Meeting Request

Ok. Thanks.

From: Rob Hobart [mailto:rhobart@hhqventures.com]
Sent: Wednesday, November 15, 2017 12:15 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Willis, Sharnett <Willis.Sharnett@epa.gov>; Hupp, Sydney <hupp.sydney@epa.gov>; Milhouse, Gloria <Milhouse.Gloria@epa.gov>; Rob Hobart <rhobart@hhqventures.com>
Subject: Meeting Request

Ryan: I hope you are well my friend. Phil Miller with Monsanto is in town on December 5th and we would like to come by for 30 min to bring you up to speed on some issues.

We are open from 10-5pm that day. Please let me know if we can lock something in. As always appreciate your time.

Rob

Robert Hobart
M: 202.285.8967

<image001.png>

<image002.png>

To: Peter Wright[pcw9@mac.com]
From: Jackson, Ryan
Sent: Wed 11/29/2017 4:37:42 PM
Subject: RE: ABA Letter of Support

Thank you. This is a team effort, and I really appreciate all your interest in this and work in this.

From: Peter Wright [mailto:pcw9@mac.com]
Sent: Wednesday, November 29, 2017 11:36 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Re: ABA Letter of Support

Ryan

I will reach out to some of contacts at the American College and then provide you with their contact information. Thank you for all of your efforts on my behalf.

Regards,

Peter

On Nov 29, 2017, at 11:25 AM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

> Yes, I did. Thanks. And yes, now I remember you raising that. So John was very helpful with a statement of support. I would be happy to work with the members you know to get a letter signed by them and maybe john as well just for good measure.
>
> **From:** Peter Wright [mailto:pcw9@mac.com]
> **Sent:** Wednesday, November 29, 2017 11:22 AM
> **To:** Jackson, Ryan <jackson.ryan@epa.gov>
> **Subject:** Re: ABA Letter of Support
>
> Ryan

I am not a member. Apparently the membership rules do not allow membership to be extended to in house lawyers. A couple of members (I know many of them) have said they have raised the issue and used me as a reference. I would think a number of their members would sign on to a letter of support.

Have you received copies of the paperwork that I submitted earlier this week?

I just finished my FBI interview.

Regards,

Peter

On Nov 29, 2017, at 11:18 AM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

Are you a member of the College of Environmental Lawyers?

From: Peter Wright [mailto:pcw9@mac.com]
Sent: Monday, November 20, 2017 9:32 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: ABA Letter of Support

Ryan:

Attached is an example of what I hope the ABA Environmental leadership could provide. It was prepared on behalf of Sylvia Quast with respect to the Assistant Attorney General.

Alex Dunn, was Chair of the Section at the time. I spoke with Alex to congratulate her and she told me she guessed about my nomination. She thought the American College of Environmental Lawyers might send a similar letter.

I have my publications and presentations just about ready to send to you. In addition, I have prepared a background on the Tittabawassee River, the controversy and the resolution, that will be accompanied with key correspondence between Dow and EPA (Susan was involved).

I am working on a summary of my pre-Dow career.

The FBI is at Dow this morning interviewing my colleagues.

Regards,

Peter

Begin forwarded message:

To: Fred Davis[fdavis@strategicperception.com]
From: Jackson, Ryan
Sent: Wed 10/11/2017 1:39:34 AM
Subject: Re: Admin. Pruitt: Senator Inhofe Message

No, ha. It's actually a bison cut out of some red stone. But you really have to get a good look at it. He pretty proud of it.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Oct 10, 2017, at 8:23 PM, Fred Davis <fdavis@strategicperception.com> wrote:

I can't see it on plane, but office says it works!!!!

What is that strange thing in front of him on his desk? A petrified brain?

From: "Jackson, Ryan" <jackson.ryan@epa.gov>
Date: Tuesday, October 10, 2017 at 6:05 PM
To: Fred Davis <fdavis@strategicperception.com>
Subject: FW: Admin. Pruitt: Senator Inhofe Message

How does this work?

From: Konkus, John
Sent: Tuesday, October 10, 2017 5:50 PM
To: Ford, Hayley <ford.hayley@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Subject: FW: Admin. Pruitt: Senator Inhofe Message

Link to raw video below…

From: Brian Taylor [mailto:delivery@spaces.hightailmail.com]
Sent: Tuesday, October 10, 2017 5:47 PM
To: Konkus, John <konkus.john@epa.gov>

Subject: Admin. Pruitt: Senator Inhofe Message

Brian Taylor sent you 1 file

Click on the orange button "View Files" button at the bottom of this notice, then click the 'Download 1 File' button at the top left of the video viewer page that appears. High tail may still not allow recipients to forward share notices and they've either done away with sharable URLs or hidden them very well. I'm still searching In either case, I can create another direct share to the crew who is editing this raw video into their presentation. Also note the 10/24/2017 expiration on the file.

MP4	2017-10-10_AdminPruitt_Inhofe.mp4	122.3 MB

These files will expire on October 24th 2017, 2:46pm PDT

This is a video/photo/graphic file from the Office of Multimedia at the U.S. EPA. Please download this file prior to the expiration date. Thanks.

Powered By Hightail

To: Wheeler, Andrew R.[Andrew.Wheeler@FaegreBD.com]; Shimmin, Kaitlyn[shimmin.kaitlyn@epa.gov]; Frye, Tony (Robert)[frye.robert@epa.gov]; Palich, Christian[palich.christian@epa.gov]; Lyons, Troy[lyons.troy@epa.gov]
From: Jackson, Ryan
Sent: Sat 10/21/2017 12:01:19 AM
Subject: RE: Draft Opening Statement -- Wheeler

Very nice. You're a pro. Eager to get you in the building.

From: Wheeler, Andrew R. [mailto:Andrew.Wheeler@FaegreBD.com]
Sent: Friday, October 20, 2017 4:50 PM
To: Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Draft Opening Statement -- Wheeler

Attached is my draft opening statement. Please let me know your thoughts.

Andrew R. Wheeler
Principal
andrew.wheeler@FaegreBD.com Download vCard
D: +1 202 312 7424 | M: +1 202 870 8556 | F: +1 202 312 7460

Faegre Baker Daniels Consulting
1050 K Street NW | Suite 400 | Washington, DC 20001, USA

To: Wheeler, Andrew R.[Andrew.Wheeler@FaegreBD.com]
Cc: Shimmin, Kaitlyn[shimmin.kaitlyn@epa.gov]
From: Jackson, Ryan
Sent: Wed 10/4/2017 12:25:06 AM
Subject: Re: Wheeler quote

Nice.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Oct 3, 2017, at 8:22 PM, Wheeler, Andrew R. <Andrew.Wheeler@FaegreBD.com> wrote:

The quote below is from Senator Lieberman. Clarine is his former chief of staff and works with him at their law firm if you need to confirm with her. I'll send you more in a minute

From: Clarine Nardi Riddle <CNRiddle@kasowitz.com>
Date: October 3, 2017 at 5:59:35 PM EDT
To: "Wheeler, Andrew R." <Andrew.Wheeler@FaegreBD.com>
Subject: RE: Hope all is well

The Senator said he would say this:

"Andrew was Republican staff director during part of the time I was on the Senate Environment Committee. We worked together on some issues and disagreed on others. He conducted himself in a fair and professional manner. I hope his nomination will receive similarly fair consideration by the Senate."

OK?

From: Wheeler, Andrew R. [mailto:Andrew.Wheeler@FaegreBD.com]
Sent: Tuesday, October 3, 2017 4:03 PM
To: Clarine Nardi Riddle <CNRiddle@kasowitz.com>
Subject: RE: Hope all is well

Yes, Deputy Administration. And before I worked in the Senate I worked at EPA as a career employee for four years too! Thanks!

Andrew R. Wheeler
Principal
andrew.wheeler@FaegreBD.com Download vCard
D: +1 202 312 7424 | M: +1 202 870 8556 | F: +1 202 312 7460

Faegre Baker Daniels Consulting
1050 K Street NW | Suite 400 | Washington, DC 20001, USA

From: Clarine Nardi Riddle [mailto:CNRiddle@kasowitz.com]
Sent: Tuesday, October 03, 2017 4:01 PM
To: Wheeler, Andrew R.
Subject: RE: Hope all is well

Wonderful….remind me the position again? Deputy Administrator..? Then I will ask the Senator…

Clarine Nardi Riddle
Kasowitz Benson Torres LLP
1399 New York Avenue, NW
Suite 201
Washington, DC 20005
Tel. (202) 760-3402
Fax. (202) 379-9785
CNRiddle@kasowitz.com

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From: Wheeler, Andrew R. [mailto:Andrew.Wheeler@FaegreBD.com]
Sent: Tuesday, October 3, 2017 3:54 PM
To: Clarine Nardi Riddle <CNRiddle@kasowitz.com>
Subject: Hope all is well

External Email

Clarine, I hope all is well. I hate to impose on you, but I was just told I will be nominated this week, perhaps as soon as tomorrow. Do you think Senator Lieberman would be willing to go on record and say something like "I worked with Andrew on the 911 air issues, he's professional and deserves fair consideration." I'm not asking for an endorsement but there are so few Democrats left on EPW that I actually worked with.

Senator Carper did say in a trade press article this summer the following, Asked about Wheeler, Carper said: "We know Andrew. On a personal level, we like him. I've not given any thought to his suitability for that job."

I know this is short notice, I just got the call 30 minutes ago, but if there is anything you can do I would appreciate it.

Andrew R. Wheeler
Principal
andrew.wheeler@FaegreBD.com Download vCard
D: +1 202 312 7424 | M: +1 202 870 8556 | F: +1 202 312 7460

Faegre Baker Daniels Consulting
1050 K Street NW | Suite 400 | Washington, DC 20001, USA

To: Fred Davis[fdavis@strategicperception.com]
From: Jackson, Ryan
Sent: Wed 10/11/2017 1:38:29 AM
Subject: Re: Admin. Pruitt: Senator Inhofe Message

Yes. Don't you have one?

Ryan Jackson
Chief of Staff
U.S. EPA

Ex. 6 - Personal Privacy

On Oct 10, 2017, at 8:23 PM, Fred Davis <fdavis@strategicperception.com> wrote:

I can't see it on plane, but office says it works!!!!

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Subject: Admin. Pruitt: Senator Inhofe Message

Brian Taylor sent you 1 file

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MP4	2017-10-10_AdminPruitt_Inhofe.mp4	122.3 MB

These files will expire on October 24th 2017, 2:46pm PDT

This is a video/photo/graphic file from the Office of Multimedia at the U.S. EPA. Please download this file prior to the expiration date. Thanks.

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To: Peter Wright[pcw9@mac.com]
From: Jackson, Ryan
Sent: Wed 11/29/2017 4:25:30 PM
Subject: RE: ABA Letter of Support

Yes, I did. Thanks. And yes, now I remember you raising that. So John was very helpful with a statement of support. I would be happy to work with the members you know to get a letter signed by them and maybe john as well just for good measure.

From: Peter Wright [mailto:pcw9@mac.com]
Sent: Wednesday, November 29, 2017 11:22 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Re: ABA Letter of Support

Ryan

I am not a member. Apparently the membership rules do not allow membership to be extended to in house lawyers. A couple of members (I know many of them) have said they have raised the issue and used me as a reference. I would think a number of their members would sign on to a letter of support.

Have you received copies of the paperwork that I submitted earlier this week?

I just finished my FBI interview.

Regards,

Peter

On Nov 29, 2017, at 11:18 AM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

Are you a member of the College of Environmental Lawyers?

From: Peter Wright [mailto:pcw9@mac.com]
Sent: Monday, November 20, 2017 9:32 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: ABA Letter of Support

Ryan:

Attached is an example of what I hope the ABA Environmental leadership could provide. It was prepared on behalf of Sylvia Quast with respect to the Assistant Attorney General.

Alex Dunn, was Chair of the Section at the time. I spoke with Alex to congratulate her and she told me she guessed about my nomination. She thought the American College of Environmental Lawyers might send a similar letter.

I have my publications and presentations just about ready to send to you. In addition, I have prepared a background on the Tittabawassee River, the controversy and the resolution, that will be accompanied with key correspondence between Dow and EPA (Susan was involved).

I am working on a summary of my pre-Dow career.

The FBI is at Dow this morning interviewing my colleagues.

Regards,

Peter

Begin forwarded message:

To: Dourson, Michael (doursoml)[doursoml@ucmail.uc.edu]
Cc: Lyons, Troy[lyons.troy@epa.gov]; Munoz, Charles[munoz.charles@epa.gov]; Beck, Nancy[beck.nancy@epa.gov]; Fugh, Justina[Fugh.Justina@epa.gov]
From: Jackson, Ryan
Sent: Thur 10/12/2017 7:04:08 PM
Subject: RE: My Schedule next week and for the rest of October

Thank you, sir. We are looking forward to it.

From: Dourson, Michael (doursoml) [mailto:doursoml@ucmail.uc.edu]
Sent: Thursday, October 12, 2017 8:16 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>; Munoz, Charles <munoz.charles@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: My Schedule next week and for the rest of October

Ryan

I look forward to working next week at EPA as an advisor to Administrator Pruitt. As I mentioned earlier, I am planning to commute most weekends back to Ohio because the flights are cheap and short. The schedule below for next week and the rest of October has me out of the office every other Friday. It goes without saying that you and Administrator Pruitt can work me on a 14 to 16 hour/day schedule during the week, and I will of course be available on call when in Ohio.

- Monday October 16, at EPA from 8:30 am to 1:00 pm for on boarding and orientation; leave for Ann Arbor, Michigan at 1:00 pm
- Tuesday October 17, at NSF International in Ann Arbor, Michigan for a prior commitment that has been cleared by Justina Fugh
- Wednesday through Friday October 18 -20, at EPA all days with a schedule being determined by Nancy Beck, but with a Wednesday evening dinner scheduled at the Environmental Law Institute which has also been cleared by Justina Fugh
- Monday October 23 at 9 am to Thursday, October 26, at 8 pm, at EPA all week
- Monday October 30 at 7 am to Friday, November 3 at 8 pm, at EPA all week

Cheers!

Michael

513 543 2892 (CELL)

-- *If you can't explain it simply, you don't understand it well enough. Albert Einstein*

Risk Science Center

To: Stratton Edwards[sedwards@capitolhillcg.com]
From: Jackson, Ryan
Sent: Fri 10/20/2017 11:50:53 PM
Subject: RE: Waiver letter

I didn't.

From: Stratton Edwards [mailto:sedwards@capitolhillcg.com]
Sent: Wednesday, October 11, 2017 9:38 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Waiver letter

Ryan,

Did you get the letter I sent? I resent it right after we left your office last week? I want to make sure my communications are coming through.

Stratton

To: Gary Hoitsma[hoitsmag@carmengroup.com]
From: Jackson, Ryan
Sent: Wed 10/18/2017 12:40:59 PM
Subject: Re: Today?

I can't do it this trip. Next time.

_____
Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Oct 18, 2017, at 8:17 AM, Gary Hoitsma <hoitsmag@carmengroup.com> wrote:

Any chance to squeeze Wayne Nastri in today for quick meeting? We're flexible anytime. Just let me know.

Thanks,

Gary

202-285-4307

To: Gwen Keyes Fleming[gfleming@vnf.com]
From: Jackson, Ryan
Sent: Thur 10/12/2017 6:13:54 PM
Subject: Re: An introduction

See you there. Thanks.

_____
Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

> On Oct 12, 2017, at 1:39 PM, Gwen Keyes Fleming <gfleming@vnf.com> wrote:
>
> Actually DelFriscos is a personal fave. Can we meet there?
>
> Sent from my iPhone
>
>> On Oct 11, 2017, at 11:46 AM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>>
>> Would you want to meet for coffee? I would suggest the Trump hotel lobby because it's across the street, but I can understand if that doesn't suit the situation.
>>
>> -----Original Message-----
>> From: Gwen Keyes Fleming [mailto:gfleming@vnf.com]
>> Sent: Wednesday, October 11, 2017 10:37 AM
>> To: Jackson, Ryan <jackson.ryan@epa.gov>
>> Subject: RE: An introduction
>>
>> Agreed! But misery (or in this case - exhaustion) loves company! 4pm works for me. Where do you want to meet? I'm in Georgetown, but can easily travel to some place near your offices. Just let me know.
>>
>> Thanks,
>>
>> Gwen
>>
>> -----Original Message-----
>> From: Jackson, Ryan [mailto:jackson.ryan@epa.gov]
>> Sent: Wednesday, October 11, 2017 5:38 AM
>> To: Gwen Keyes Fleming
>> Subject: Re: An introduction
>>
>> What if we get together later that afternoon. Maybe get coffee about 4? And yes, we were likely crazy to take this position so it might be attached to us for a while. Hah.
>>
>> _____
>> Ryan Jackson
>> Chief of Staff
>> U.S. EPA
>> Ex. 6 - Personal Privacy
>>
>>> On Oct 10, 2017, at 11:32 PM, Gwen Keyes Fleming <gfleming@vnf.com> wrote:
>>>
>>> And I thought I was the only other crazy person up and working at this hour! I have an 8am, noon

lunch & a 2 pm, but free other than that. What does your schedule look like?
>>>
>>> G
>>>
>>> -----Original Message-----
>>> From: Jackson, Ryan [mailto:jackson.ryan@epa.gov]
>>> Sent: Tuesday, October 10, 2017 11:29 PM
>>> To: Gwen Keyes Fleming
>>> Subject: Re: An introduction
>>>
>>> Would Thursday be convenient to get together?
>>>
>>> _____
>>> Ryan Jackson
>>> Chief of Staff
>>> U.S. EPA
>>> Ex. 6 - Personal Privacy
>>>
>>>> On Oct 2, 2017, at 4:47 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>>>>
>>>> Yes, I would really appreciate that, thank you. I have to admit, I'm not the best at keeping up on social media even business related social media. When would be convenient for you?
>>>>
>>>> -----Original Message-----
>>>> From: Gwen Keyes Fleming [mailto:gfleming@vnf.com]
>>>> Sent: Monday, October 2, 2017 3:50 PM
>>>> To: Jackson, Ryan <jackson.ryan@epa.gov>
>>>> Subject: An introduction
>>>>
>>>> Ryan,
>>>>
>>>> Belated congratulations on your appointment as Chief of Staff. I reached out via LinkedIn earlier this year but wasn't sure how often you check that site. I thought I'd try a more direct approach to follow in the footsteps of my predecessors and introduce myself. Hopefully by now you've had an opportunity to settle into the cadence of the role and I wanted to see if your schedule would allow time for us to meet in person. I've recently started the next chapter of my career at a law firm in DC so my schedule is currently pretty flexible except for some occasional travel. Please let me know if there are a few dates and times that work best for you.
>>>>
>>>> Congrats again and I hope to hear from you soon.
>>>>
>>>> All the best,
>>>> Gwen Keyes Fleming
>>>>
>>>> Sent from my iPhone

To: Peter Wright[pcw9@mac.com]
From: Jackson, Ryan
Sent: Wed 11/29/2017 4:18:20 PM
Subject: RE: ABA Letter of Support

Are you a member of the College of Environmental Lawyers?

From: Peter Wright [mailto:pcw9@mac.com]
Sent: Monday, November 20, 2017 9:32 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: ABA Letter of Support

Ryan:

Attached is an example of what I hope the ABA Environmental leadership could provide. It was prepared on behalf of Sylvia Quast with respect to the Assistant Attorney General.

Alex Dunn, was Chair of the Section at the time. I spoke with Alex to congratulate her and she told me she guessed about my nomination. She thought the American College of Environmental Lawyers might send a similar letter.

I have my publications and presentations just about ready to send to you. In addition, I have prepared a background on the Tittabawassee River, the controversy and the resolution, that will be accompanied with key correspondence between Dow and EPA (Susan was involved).

I am working on a summary of my pre-Dow career.

The FBI is at Dow this morning interviewing my colleagues.

Regards,

Peter

Begin forwarded message:

To: Dianne Severson[dseverson@strategicperception.com]
From: Jackson, Ryan
Sent: Wed 10/18/2017 10:40:48 AM
Subject: Re: THANK YOU - Inhofe awards film

Thank you so much.

_____
Ryan Jackson
Chief of Staff
U.S. EPA
(Ex. 6 - Personal Privacy

On Oct 17, 2017, at 10:31 PM, Dianne Severson <dseverson@strategicperception.com> wrote:

Hi Ryan,

Thank you so much for helping us to surprise Senator Inhofe at the Weyrich Awards Dinner tonight!

Here's the download link to the entire 15 minute film. Please download to your desktop for viewing.
https://strategicperception.box.com/s/udtdvhowz7xo34fiafw2rq3k4mos2s10

Best,
Dianne

Dianne Severson, Production Supervisor, Strategic Perception Inc., 3329 E 30th Place, Tulsa, OK 74114
323-873-2062 telephone, 918-512-4355 fax, http://strategicperception.com

To: Scott Nally[scottnally@ymail.com]
From: Jackson, Ryan
Sent: Thur 10/12/2017 12:35:04 PM
Subject: Re: Nally Support Letters

Thanks.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

> On Oct 12, 2017, at 8:17 AM, Scott Nally <scottnally@ymail.com> wrote:
>
> Ryan,
> I have (4) letters of support being drawn up now from national NGOs:
>
> 1. American Biogas, Patrick Serra's
> 2. Clean Cities, Mark Patton
> 3. Stateside, Mark Anderson
> 4. National Wildlife Federation, Collin O'Mara
>
> I have reached out to several more:
> 1. ECOS, Alexandra Dunn
> 2. Dairy Framers of American
> 3. Clean Fuels
>
> I should have this wrapped up shortly.
>
> Scott
>
> Sent from my iPad

To: Steven Koonin[Ex. 6 - Personal Privacy] Steven E Koonin[sek9@nyu.edu]; happer@princeton.edu[happer@princeton.edu]
Cc: Wehrum, Bill[Wehrum.Bill@epa.gov]
From: Jackson, Ryan
Sent: Tue 12/5/2017 4:24:24 PM
Subject: Red Team Blue Team

Gentlemen, I wanted to provide you with an update on the red team blue team exercise. Would there be a convenient time this week to all get on the phone?

Thanks.

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

Ex. 6 - Personal Privacy

To: ryflynn Ex. 6 - Personal Privacy
From: Jackson, Ryan
Sent: Tue 10/10/2017 11:43:23 PM
Subject: RE:

Also, just let me know when sometime that Oct 23-25 few days may work for you. We will be in D.C. and I think it looks like there's a lot of opportunities to meet.

From: Jackson, Ryan
Sent: Tuesday, October 10, 2017 7:37 PM
To: 'ryflynn Ex. 6 - Personal Privacy
Subject:

Great to talk with you tonight.

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

Ex. 6 - Personal Privacy

To: Jim Massie[jmassie@massiepartners.com]; Dickerson, Aaron[dickerson.aaron@epa.gov]
From: Jackson, Ryan
Sent: Mon 10/16/2017 5:18:05 PM
Subject: RE: Follow-up

Thank you.

From: Jim Massie [mailto:jmassie@massiepartners.com]
Sent: Monday, October 16, 2017 11:47 AM
To: Dickerson, Aaron <dickerson.aaron@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Re: Follow-up

Perfect. Thanks

Jim Massie l 202-841-8037

On Oct 16, 2017, at 11:45 AM, Dickerson, Aaron <dickerson.aaron@epa.gov> wrote:

That works. Thank you.

Aaron Dickerson

Office of the Administrator

U.S. EPA

Phone: 202-564-1783

From: Jim Massie [mailto:jmassie@massiepartners.com]
Sent: Monday, October 16, 2017 11:40 AM
To: Dickerson, Aaron <dickerson.aaron@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Re: Follow-up

How about Starbucks in the JW Marriott

Jim Massie l 202-841-8037

On Oct 16, 2017, at 11:38 AM, Dickerson, Aaron <dickerson.aaron@epa.gov> wrote:

Jim,

11:00am on Thursday will work for Ryan. Where would you like to meet for coffee?

Aaron Dickerson

Office of the Administrator

U.S. EPA

Phone: 202-564-1783

From: Jim Massie [mailto:jmassie@massiepartners.com]
Sent: Monday, October 16, 2017 10:21 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Dickerson, Aaron <dickerson.aaron@epa.gov>
Subject: RE: Follow-up

Ex. 6 - Personal Privacy

We are open Thursday from 11 to 4, any chance we can squeeze into this opening? thanks

From: Jackson, Ryan [mailto:jackson.ryan@epa.gov]

Sent: Friday, October 13, 2017 6:40 PM
To: Jim Massie <jmassie@massiepartners.com>
Cc: Dickerson, Aaron <dickerson.aaron@epa.gov>
Subject: RE: Follow-up

I'm going to have Aaron ensure that I can do this?

From: Jim Massie [mailto:jmassie@massiepartners.com]
Sent: Friday, October 13, 2017 3:27 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Re: Follow-up

Thanks. Would 3 or 4 pm work for your schedule?

Jim Massie l 202-841-8037

On Oct 13, 2017, at 2:05 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

Yes. When's good times. Been meaning to get coffee with you anyway.
Maybe if I can get some AAs in here I can get out more.

Ryan Jackson

Chief of Staff

U.S. EPA

Ex. 6 - Personal Privacy

On Oct 13, 2017, at 2:00 PM, Jim Massie <jmassie@massiepartners.com> wrote:

Hi Ryan,

Following up from the meeting this morning, Doug Whitehead wondered if the three of us could get a coffee next Tuesday or Wednesday afternoon.

Thanks,

Jim

<image003.png>

To: ryflynn Ex. 6 - Personal Privacy
From: Jackson, Ryan
Sent: Tue 10/10/2017 11:37:02 PM

Great to talk with you tonight.

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

Ex. 6 - Personal Privacy

To: fdavis@strategicperception.com[fdavis@strategicperception.com]
From: Jackson, Ryan
Sent: Tue 10/10/2017 10:05:48 PM
Subject: FW: Admin. Pruitt: Senator Inhofe Message

How does this work?

From: Konkus, John
Sent: Tuesday, October 10, 2017 5:50 PM
To: Ford, Hayley <ford.hayley@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Subject: FW: Admin. Pruitt: Senator Inhofe Message

Link to raw video below…

From: Brian Taylor [mailto:delivery@spaces.hightailmail.com]
Sent: Tuesday, October 10, 2017 5:47 PM
To: Konkus, John <konkus.john@epa.gov>
Subject: Admin. Pruitt: Senator Inhofe Message

Brian Taylor sent you 1 file

Click on the orange button "View Files" button at the bottom of this notice, then click the 'Download 1 File' button at the top left of the video viewer page that appears. High tail may still not allow recipients to forward share notices and they've either done away with sharable URLs or hidden them very well. I'm still searching In either case, I can create another direct share to the crew who is editing this raw video into their presentation. Also note the 10/24/2017 expiration on the file.

MP4 2017-10-10_AdminPruitt_Inhofe.mp4 122.3 MB

These files will expire on October 24th 2017, 2:46pm PDT

VIEW FILES

This is a video/photo/graphic file from the Office of Multimedia at the U.S. EPA. Please download this file prior to the expiration date. Thanks.

Powered By Hightail

To: Dickerson, Aaron[dickerson.aaron@epa.gov]
Cc: Jim Massie[jmassie@massiepartners.com]
From: Jackson, Ryan
Sent: Sat 10/14/2017 4:13:21 PM
Subject: Re: Follow-up

Story of the last 7 months. If I could get some AAs in here.

_____
Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Oct 14, 2017, at 10:51 AM, Dickerson, Aaron <dickerson.aaron@epa.gov> wrote:

Hi Jim

Tuesday/Wednesday may be tough for Ryan's schedule. Could we possibly do this on Thursday or Friday?

Aaron Dickerson

Office of the Administrator

U.S. EPA

Phone: 202-564-1783

From: Jackson, Ryan
Sent: Friday, October 13, 2017 6:40 PM
To: Jim Massie <jmassie@massiepartners.com>
Cc: Dickerson, Aaron <dickerson.aaron@epa.gov>
Subject: RE: Follow-up

I'm going to have Aaron ensure that I can do this?

From: Jim Massie [mailto:jmassie@massiepartners.com]
Sent: Friday, October 13, 2017 3:27 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Re: Follow-up

Thanks. Would 3 or 4 pm work for your schedule?

Jim Massie l 202-841-8037

On Oct 13, 2017, at 2:05 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

Yes. When's good times. Been meaning to get coffee with you anyway. Maybe if I can get some AAs in here I can get out more.

Ryan Jackson

Chief of Staff

U.S. EPA

Ex. 6 - Personal Privacy

On Oct 13, 2017, at 2:00 PM, Jim Massie <jmassie@massiepartners.com> wrote:

Hi Ryan,

Following up from the meeting this morning, Doug Whitehead wondered if the three of us could get a coffee next Tuesday or Wednesday afternoon.

Thanks,

Jim

<image003.png>

To: Wheeler, Andrew R.[Andrew.Wheeler@FaegreBD.com];
Ex. 6 - Personal Privacy
vmcwhorter@smithpachter.com[vmcwhorter@smithpachter.com]; John Coghlan Ex. 6 - Personal Privacy
Lauren Tabbara[tabbara@american.edu];
brian.c.mormino@Cummins.com[brian.c.mormino@Cummins.com]; Eros, Jared B Maj USAF SAF-IA (US) (jared.b.eros.mil@mail.mil)[jared.b.eros.mil@mail.mil]; Andrews, Joshua L.[Joshua.Andrews@FaegreBD.com]; Bono, Mary[Mary.Bono@faegrebd.com]; Munoz, Darrin R.[Darrin.Munoz@FaegreBD.com]; louis.renjel@duke-energy.com[louis.renjel@duke-energy.com]
From: Jackson, Ryan
Sent: Tue 10/10/2017 9:33:48 PM
Subject: RE: EPA Promotes Pulsating Black Sludge To Deputy Director

Welcome, pulsating black sludge. I guess I'm going to have to have the cleaning crews come in more often.

From: Wheeler, Andrew R. [mailto:Andrew.Wheeler@FaegreBD.com]
Sent: Tuesday, October 10, 2017 5:30 PM
To: Ex. 6 - Personal Privacy Vmcwhorter@smithpachter.com; John Coghlan
Ex. 6 - Personal Privacy, Lauren Tabbara <tabbara@american.edu>;
brian.c.mormino@Cummins.com; Eros, Jared B Maj USAF SAF-IA (US) (jared.b.eros.mil@mail.mil) <jared.b.eros.mil@mail.mil>; Andrews, Joshua L. <Joshua.Andrews@FaegreBD.com>; Bono, Mary <Mary.Bono@faegrebd.com>; Munoz, Darrin R. <Darrin.Munoz@FaegreBD.com>; louis.renjel@duke-energy.com; Jackson, Ryan <jackson.ryan@epa.gov>
Subject: EPA Promotes Pulsating Black Sludge To Deputy Director

http://www.theonion.com/graphic/epa-promotes-pulsating-black-sludge-deputy-directo-57172

EPA Promotes Pulsating Black Sludge To Deputy Director

To: Roberts, Jennifer[jennifer.roberts@squirepb.com]
Cc: Flynn, John[john.flynn@squirepb.com]
From: Jackson, Ryan
Sent: Fri 11/3/2017 2:00:16 PM
Subject: RE: Message from Senator Lott

Right. I got the message from the other day. Working through the permit situation. I would like them to use the pre-existing one, but I don't think that's going to happen. I want to understand that before I get back with you because it still really doesn't entirely make sense to me.

From: Roberts, Jennifer [mailto:jennifer.roberts@squirepb.com]
Sent: Friday, November 3, 2017 9:51 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Flynn, John <john.flynn@squirepb.com>
Subject: Message from Senator Lott

Ryan,

We had a really good meeting with you and our client. I just wanted to follow up and see what the issues are and where we stand at this time?

Trent

SQUIRE PATTON BOGGS

Jennifer L. Roberts

Practice Group Coordinator - Policy

Squire Patton Boggs (US) LLP

2550 M Street, NW

Washington, DC 20037

T 4575138

O +1 202 457 6000

F +1 202 457 6315

jennifer.roberts@squirepb.com | squirepattonboggs.com

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46 Offices in 20 Countries

This message is confidential and may be legally privileged or otherwise protected from disclosure. If you are not the intended recipient, please telephone or email the sender and delete this message and any attachment from your system; you must not copy or disclose the contents of this message or any attachment to any other person.

Squire Patton Boggs (US) LLP is part of the international legal practice Squire Patton Boggs, which operates worldwide through a number of separate legal entities. Please visit www.squirepattonboggs.com for more information.

#US

To: ryflynn Ex. 6 - Personal Privacy
From: Jackson, Ryan
Sent: Tue 10/24/2017 10:47:50 PM

Ryan, no worries. We'll schedule something. I'd like to get it on the books soon. I'll get back with you.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

To: Doug Deason[doug@deasoncap.com]; Ford, Hayley[ford.hayley@epa.gov]; Bennett, Tate[Bennett.Tate@epa.gov]
From: Jackson, Ryan
Sent: Wed 10/11/2017 11:26:14 PM
Subject: RE: Invitation letter to Sec Pruitt for 2017 Crossroads Summit

And to help us on this, Hayley and Tate are working with me on getting this nailed down. We are squeezing stops together to get back for Thursday.

From: Jackson, Ryan
Sent: Wednesday, October 11, 2017 7:25 PM
To: 'Doug Deason' <doug@deasoncap.com>
Subject: RE: Invitation letter to Sec Pruitt for 2017 Crossroads Summit

I know, so we are furiously trying to adjust our scheduling to making this and another event in DC work because SP will be coming in from MI, IA, and KY and can be back Thursday. Does Thursday afternoon work just as well? I thought it was just whenever.

From: Doug Deason [mailto:doug@deasoncap.com]
Sent: Wednesday, October 11, 2017 4:06 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Re: Invitation letter to Sec Pruitt for 2017 Crossroads Summit

Hi Ryan

Any news on Scott's availability for this event?

Thanks

Doug

On Oct 9, 2017, at 5:17 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

> Sure. This is a no brainer. And thanks for the help on the science boards. Those get announced in the next couple of weeks.

From: Doug Deason [mailto:doug@deasoncap.com]
Sent: Monday, October 9, 2017 5:38 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RE: Invitation letter to Sec Pruitt for 2017 Crossroads Summit

Ok thanks, Ryan. I will wait to hear from you. I truly appreciate the help!!

From: Jackson, Ryan [mailto:jackson.ryan@epa.gov]
Sent: Monday, October 9, 2017 4:11 PM
To: Doug Deason <doug@deasoncap.com>
Subject: RE: Invitation letter to Sec Pruitt for 2017 Crossroads Summit

Let me confirm this in the morning.

From: Doug Deason [mailto:doug@deasoncap.com]
Sent: Monday, October 9, 2017 5:07 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RE: Invitation letter to Sec Pruitt for 2017 Crossroads Summit

Fantastic, Ryan, thanks so much! So we can add him to the itinerary?

From: Jackson, Ryan [mailto:jackson.ryan@epa.gov]
Sent: Monday, October 9, 2017 3:17 PM
To: Doug Deason <doug@deasoncap.com>
Subject: RE: Invitation letter to Sec Pruitt for 2017 Crossroads Summit

I've got it. I thought we'd already gotten back with you. Let me check about any last moment hang up, but we'll get this on the books otherwise. This is easy.

From: Doug Deason [mailto:doug@deasoncap.com]

Sent: Monday, October 9, 2017 4:08 PM
To: pruitt.scott@epa.com
Cc: Hupp, Sydney <hupp.sydney@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Subject: FW: Invitation letter to Sec Pruitt for 2017 Crossroads Summit

Try it again, Scott. Thanks for verifying your email!!

From: Doug Deason
Sent: Thursday, October 5, 2017 11:57 AM
To: pruitt.scott@epa.com; jackson.ryan@epa.gov
Cc: Doug Deason <doug@deasoncap.com>
Subject: FW: Invitation letter to Sec Pruitt for 2017 Crossroads Summit

Hello Scott and Ryan,

I hope you are both doing well. Please see the attached invitation for Scott to speak at the Texas Public Policy Foundation's Energy Policy Summit in DC on Nov 30 at 10:45 or whatever works for you. Be sure and review the 2017 draft agenda. The 2016 is attached just so you can see how this event looked last year. If you have any questions, please call my cell.

Thanks!

Doug Deason

From: Clint Nesmith [mailto:cnesmith@texaspolicy.com]
Sent: Wednesday, October 4, 2017 9:33 AM
To: Doug Deason <doug@deasoncap.com>
Cc: Brooke Rollins <brollins@texaspolicy.com>; Ann Miller <ann@deasoncap.com>
Subject: Invitation letter to Sec Pruitt for 2017 Crossroads Summit

Doug,

We would like to invite Sec Pruitt to deliver keynote remarks at our 2017 Crossroads

Energy and Climate Policy Summit in Washington, DC on November 30th. We have created an invitation letter for him and would very much like your help to get this to him personally or to his office. Would you be available to help deliver the letter and the other two attachments in this email that are mentioned in the letter?

Thank you in advance for your help and please let us know if you have any questions.

Regards,

Clint Nesmith

Vice President of Engagement

Texas Public Policy Foundation

(512) 615-7971

cnesmith@texaspolicy.com

To: SDudley@gwu.edu[SDudley@gwu.edu]
From: Jackson, Ryan
Sent: Thur 11/2/2017 2:44:06 PM
Subject: Re: RE:

Perfect. Thank you.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Nov 2, 2017, at 10:43 AM, Susan Dudley <sdudley@gwu.edu> wrote:

I'll call you in 5 minutes, if that's ok. I'm at home today and free until 11, then between 11:30-12:3. 703-754-0304

Susan E. Dudley
Director, GW Regulatory Studies Center
Distinguished Professor of Practice, Trachtenberg School of Public Policy & Public Administration
The George Washington University

Past President, The Society for Benefit-Cost Analysis
202-994-7543
www.RegulatoryStudies.gwu.edu

From: Jackson, Ryan [mailto:jackson.ryan@epa.gov]
Sent: Thursday, November 2, 2017 10:38 AM
To: sdudley@gwu.edu
Subject:

Susan, I left a message at your office this morning but would you have an opportunity to speak today and where I could reach you? Much appreciated. Ryan.

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

Ex. 6 - Personal Privacy

To: sdudley@gwu.edu[sdudley@gwu.edu]
From: Jackson, Ryan
Sent: Thur 11/2/2017 2:38:07 PM

Susan, I left a message at your office this morning but would you have an opportunity to speak today and where I could reach you? Much appreciated. Ryan.

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

Ex. 6 - Personal Privacy

To: Dourson, Michael (doursoml)[doursoml@ucmail.uc.edu]
From: Jackson, Ryan
Sent: Tue 10/3/2017 12:05:43 PM
Subject: RE: Talking Points

Mike, do you have an opportunity to speak today?

From: Dourson, Michael (doursoml) [mailto:doursoml@ucmail.uc.edu]
Sent: Tuesday, October 3, 2017 7:40 AM
To: Lyons, Troy <lyons.troy@epa.gov>
Cc: Beck, Nancy <Beck.Nancy@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Ringel, Aaron <ringel.aaron@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>
Subject: Re: Talking Points
Importance: High

Troy

You are being kind, but I do feel better prepared for tomorrow. I also thought a lot about the Jesus quote and have an answer that fits me and segues back to an island. Perhaps I can run it off of you today?

Your talking points are spot on…

Cheers!

Michael

-- *If you can't explain it simply, you don't understand it well enough. Albert Einstein*

Risk Science Center

From: "Lyons, Troy" <lyons.troy@epa.gov>
Date: Monday, October 2, 2017 at 4:48 PM
To: Michael Dourson <doursoml@ucmail.uc.edu>
Cc: "Beck, Nancy" <Beck.Nancy@epa.gov>, "Jackson, Ryan" <jackson.ryan@epa.gov>, "Palich, Christian" <palich.christian@epa.gov>, "Ringel, Aaron" <ringel.aaron@epa.gov>, "Shimmin, Kaitlyn" <shimmin.kaitlyn@epa.gov>
Subject: Talking Points

Mike—good job today in the round table. I have provided some updates to the talking points.

This document—specifically the talking points—will be helpful to have at the hearing on Friday.

Kaitlyn—could you put this in a binder for Mike?

Troy M. Lyons

Associate Administrator

Office of Congressional & Intergovernmental Relations

U.S. Environmental Protection Agency

202-309-2490 (cell)

To: Wheeler, Andrew R.[Andrew.Wheeler@FaegreBD.com]
From: Jackson, Ryan
Sent: Thur 11/30/2017 6:43:14 PM
Subject: FW: Executive Nomination

Makes me proud.

Hotline

Thursday, November 30, 2017 at 12:06 PM

Executive Nomination

ENVIRONMENTAL PROTECTION AGENCY

Cal. #506 - Andrew Wheeler, of Virginia, to be Deputy Administrator of the Environmental Protection Agency.

Limited time agreement followed by a vote.

To: Alexandra Dunn Ex. 6 - Personal Privacy
From: Jackson, Ryan
Sent: Tue 11/28/2017 1:23:44 PM
Subject: RE: Names

http://www.clarionledger.com/story/news/2014/05/21/deq-defends-redacting-turned-invoices/9405205/

From: Alexandra Dunn Ex. 6 - Personal Privacy
Sent: Monday, November 27, 2017 9:45 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Names

Trudy Fisher: Excellent. https://www.butlersnow.com/attorney/trudy-fisher/

Former Mass DEP Commissioner Bob Golledge - not an attorney - well liked; I don't know him - worked for Romney

https://www.linkedin.com/in/bob-golledge-6199a811/

Florida officials mentioned: Jon Steverson, Herschel Vinyard (I don't know them)

http://www.miamiherald.com/news/politics-government/state-politics/article128010754.html

http://www.tampabay.com/news/environment/florida-dep-secretary-jon-steverson-going-to-work-for-firm-that-just-got/2310654

To: Jeffrey Sands Ex. 6 - Personal Privacy
From: Jackson, Ryan
Sent: Sun 10/1/2017 12:37:17 AM
Subject: Re: Meeting Request

Jeff, WH just called me with your preemployment waiver. Let's do this.

_____
Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

> On Jun 26, 2017, at 8:56 AM, Jeffrey Sands < Ex. 6 - Personal Privacy
>
> Ryan,
>
> Sincerest apologies, this note didn't go straight into my inbox and I missed it. I am available to come and meet at any point today from now on.
>
> Best,
> Jeff Sands
> (912) 381-1775
>
>> On Jun 24, 2017, at 9:53 AM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>>
>> Would you want to meet early Monday like around 8 or 8:30?
>>
>> _____
>> Ryan Jackson
>> Chief of Staff
>> U.S. EPA
Ex. 6 - Personal Privacy
>>
>>> On Jun 23, 2017, at 11:25 PM, Jeffrey Sands <jmsands912@gmail.com> wrote:
>>>
>>> Ryan,
>>>
>>> Great to speak with you this evening. As I mentioned, I am available next week on Monday and Friday. Please let me know what timeframe works best for you on either of those days and I would be happy to accommodate your schedule.
>>>
>>> Have a great weekend and I look forward to meeting next week.
>>>
>>> Best,
>>> Jeff Sands
>>> (912) 381-1775

To: Edward Calabrese[edwardc@schoolph.umass.edu]
From: Jackson, Ryan
Sent: Thur 11/2/2017 11:02:33 AM
Subject: Re: new paper

Big thanks, Ed.

_____
Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Nov 2, 2017, at 5:40 AM, Edward Calabrese <edwardc@schoolph.umass.edu> wrote:

Ryan:

This should be a good read for you....please share with your colleagues.

Ed

<Academic Quest.-1.pdf>

To: Ado Machida[ado.machida@navigatorsglobal.com]
From: Jackson, Ryan
Sent: Fri 10/6/2017 10:39:06 PM
Subject: RE:

So a note of good news is that I finally have a political hire in the regional administrator starting Tuesday. In short, LEP is simply owed $5.657 million in work which should be paid through Puerto Rico's State Revolving Loan Fund for waste water infrastructure? I will finally have someone to help me with tracking this down. I'm happy to do that and glad he's aboard. However, I have to admit that although EPA provides the funds if there's no funding in PR's SRF, I'm not sure what to suggest. However, I'm still on this.

From: Ado Machida [mailto:ado.machida@navigatorsglobal.com]
Sent: Thursday, September 21, 2017 8:04 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Re:

Ryan,

Just checking in on this.

POTUS going to Puerto Rico post-Hurricane.

Any way we can get this done as part of recovery? They are an infrastructure company that can do tons to fix existing pipelines on the island with minimal disruption.

Please let me know.

Thanks.

Ado

Ado Machida | Navigators Global LLC

901 7th Street N.W., Suite 200, Washington, DC 20001

P 202.315.5100 | F 202.315.5010

ado.machida@navigatorsglobal.com

On Jun 1, 2017, at 10:30, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

He's in a similar spot as other contractors, this will take some time and EPA has already taken a legal position which DOJ has defended so although we need to provide SRF funds they attorney in this case is in a tough spot and will need to provide us more time.

Ryan Jackson

Chief of Staff

U.S. EPA

Ex. 6 - Personal Privacy

On Jun 1, 2017, at 9:53 AM, Ado Machida <ado.machida@navigatorsglobal.com> wrote:

Ryan,

Just checking back - the lawyer says that he has to file another motion for a stay, and he just wanted to know if there might be any movement on this.

I know it's only been a couple of days.

Thanks!

Ado

Ado Machida | Navigators Global LLC

901 7th Street N.W., Suite 200, Washington, DC 20001
<image001.png>
P 202.315.5100 | F 202.315.5010

ado.machida@navigatorsglobal.com

On May 29, 2017, at 10:17, Ado Machida <ado.machida@navigatorsglobal.com> wrote:

Ryan,

Much thanks!

Ado

Ado Machida | Navigators Global LLC

901 7th Street N.W., Suite 200, Washington, DC 20001
<image001.png>
P 202.315.5100 | F 202.315.5010

ado.machida@navigatorsglobal.com

From: "Jackson, Ryan" <jackson.ryan@epa.gov>
Date: Sunday, May 28, 2017 at 2:51 PM
To: Ado Machida <ado.machida@navigatorsglobal.com>
Subject: <no subject>

Thanks again for the time last week. I'm checking on the PR SRF situation. You are correct, that was a ridiculously written memo. I'll get back with you soon.

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

Ex. 6 - Personal Privacy

<image001.png>

To: Lott, Trent[trent.lott@squirepb.com]
From: Jackson, Ryan
Sent: Sun 11/19/2017 10:33:51 PM
Subject: RE: TOTE Permit

Senator, who could we work with at your firm or with the company to gather any technical information we may need?

From: Lott, Trent [mailto:trent.lott@squirepb.com]
Sent: Monday, November 6, 2017 1:01 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: TOTE Permit

Ryan,

Thanks for your response last Friday and update that you are working through the TOTE permit situation.

TOTE prefers and I see merit with moving forward with an extension on the preexisting application approach that was discussed during the September 27, 2017 meeting with you and Administrator Pruitt.

In addition to the preexisting application and other documents previously advanced with EPA (attached), I thought it would be helpful to share the text below from the International Maritime Organization (IMO) which allows for the 5 year extension to the permit.

Please known that TOTE and I very much appreciate your attention and support of the LNG vessel permit issue.

Trent

==========

http://www.imo.org/en/KnowledgeCentre/IndexofIMOResolutions/Marine-Environment-Protection-Committee-%28MEPC%29/Documents/MEPC.176%2858%29.pdf

Trials for ship emission reduction and control technology research

2 The Administration of a Party may, in cooperation with other Administrations as

appropriate, issue an exemption from specific provisions of this Annex for a ship to conduct trials

for the development of ship emission reduction and control technologies and engine design

programmes. Such an exemption shall only be provided if the applications of specific provisions

of the Annex or the revised NOx Technical Code 2008 could impede research into the

development of such technologies or programmes. A permit for such an exemption shall only be

provided to the minimum number of ships necessary and be subject to the following provisions;

.1 for marine diesel engines with a per cylinder displacement up to 30 litres, the duration of the sea trial shall not exceed 18 months. If additional time is required, a permitting Administration or Administrations may permit a renewal for one additional 18-month period; or

.2 for marine diesel engines with a per cylinder displacement at or above 30 litres, the duration of the ship trial shall not exceed 5 years and shall require a progress review by the permitting Administration or Administrations at each intermediate survey. A permit may be withdrawn based on this review if the testing has not adhered to the conditions of the permit or if it is determined that the technology or programme is not likely to produce effective results in the reduction and control of ship emissions. If the reviewing Administration or Administrations determine that additional time is required to conduct a test of a particular technology or

programme, a permit may be renewed for an additional time period not to exceed

five years.

SQUIRE PATTON BOGGS

Trent Lott

Senior Counsel

Squire Patton Boggs (US) LLP

2550 M Street, NW

Washington, DC 20037

T +1 202 457 5290

O +1 202 457 6000

F +1 202 457 6315

M +1 202 494 5556

trent.lott@squirepb.com | squirepattonboggs.com

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46 Offices in 20 Countries

This message is confidential and may be legally privileged or otherwise protected from disclosure. If you are not the intended recipient, please telephone or email the sender and delete this message and any attachment from your system; you must not copy or disclose the contents of this message or any attachment to any other person.

Squire Patton Boggs (US) LLP is part of the international legal practice Squire Patton Boggs, which operates worldwide through a number of separate legal entities. Please visit www.squirepattonboggs.com for more information.

#US

To: dannyseiden@gmail.com[dannyseiden@gmail.com]
From: Jackson, Ryan
Sent: Fri 11/17/2017 11:43:16 PM

Danny, thanks again for the time today.

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

Ex. 6 - Personal Privacy

To: Alexandra Dunn Ex. 6 - Personal Privacy
From: Jackson, Ryan
Sent: Tue 11/28/2017 11:24:52 AM
Subject: Re: Names

Thank you.

_____
Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Nov 27, 2017, at 9:45 PM, Alexandra Dunn Ex. 6 - Personal Privacy wrote:

Trudy Fisher: Excellent. https://www.butlersnow.com/attorney/trudy-fisher/

Former Mass DEP Commissioner Bob Golledge - not an attorney - well liked; I don't know him - worked for Romney

https://www.linkedin.com/in/bob-golledge-6199a811/

Florida officials mentioned: Jon Steverson, Herschel Vinyard (I don't know them)

http://www.miamiherald.com/news/politics-government/state-politics/article128010754.html

http://www.tampabay.com/news/environment/florida-dep-secretary-jon-steverson-going-to-work-for-firm-that-just-got/2310654

To: White, Elizabeth[white.elizabeth@epa.gov]; Roger.Martella@ge.com[Roger.Martella@ge.com]
From: Jackson, Ryan
Sent: Thur 10/5/2017 12:56:32 PM

I would like to introduce the two of you and see if we can schedule a call among us. Thanks.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

To: Rashid G. Hallaway[rhallaway@hhqventures.com]
From: Jackson, Ryan
Sent: Thur 11/16/2017 1:24:50 AM
Subject: Re: Thank You

Thanks.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

> On Nov 15, 2017, at 5:54 PM, Rashid G. Hallaway <rhallaway@hhqventures.com> wrote:
>
> Ryan,
>
> You did a great job today. I personally don't like public speaking but admire folks that do it well. The ACCCE members gave you high marks and appreciated you taking time to be there. Thanks for all you do.
>
> RH
>
>

To: Dain Hansen[dain.hansen@iapmo.org]
From: Jackson, Ryan
Sent: Wed 11/22/2017 3:48:56 PM
Subject: RE: IAPMO CEO Update

Pruitt is out of town next week.

-----Original Message-----
From: Dain Hansen [mailto:dain.hansen@iapmo.org]
Sent: Wednesday, November 22, 2017 10:44 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Re: IAPMO CEO Update

Hey Ryan,

Hope you going to be able to enjoy some time of this week with family and friends for Thanksgiving.

We are making travel arrangements and scheduling for my CEO next week. Will there be a possibility that we will be able to meet with your boss next week?

Thanks, and Happy Thanksgiving.

Dain M. Hansen
Senior Vice President
Government Relations
The IAPMO Group
101 Constitution Avenue, NW
Suite 825 East
Washington, D.C. 20001
(202) 445-7514
www.IAPMO.org/GR
www.Twitter.com/IAPMOGR
www.Linkedin.com/in/DainHansen

On Nov 1, 2017, at 9:37 AM, Dain Hansen <dain.hansen@iapmo.org> wrote:

Hey Ryan,

Thank you again for meeting with myself and my staff last month. We also appreciate you assisting in scheduling the meeting between Administrator Pruitt and our CEO, Russ Chaney. While ultimately the meeting didn't occur due to Administrator Pruitt's schedule change, we do appreciate your effort.

As mentioned during our meeting, our CEO is scheduled to return the week of November 27, and we would appreciate a few minutes for our CEO to meet with Mr. Pruitt.

Being nearly a month out, we are hoping this will provide early enough notice to get something on Mr. Pruitt's schedule.

Thank you, and please let us know if you have any questions.

Dain M. Hansen
Senior Vice President
Government Relations

The IAPMO Group
101 Constitution Avenue, NW
Suite 825 East
Washington, D.C. 20001
(202) 445-7514
www.IAPMO.org/GR
www.Twitter.com/IAPMOGR
www.Linkedin.com/in/DainHansen

To: Ex. 6 - Personal Privacy
From: Jackson, Ryan
Sent: Wed 10/4/2017 8:27:33 PM
Subject: Jo Ellen could I reach you by phone on something?

I don't have a recent number. Thanks.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

To: Rob Hobart[rhobart@hhqventures.com]
Cc: Willis, Sharnett[Willis.Sharnett@epa.gov]; Hupp, Sydney[hupp.sydney@epa.gov]; Milhouse, Gloria[Milhouse.Gloria@epa.gov]
From: Jackson, Ryan
Sent: Wed 11/15/2017 5:57:13 PM
Subject: RE: Meeting Request

Ok. Thanks.

From: Rob Hobart [mailto:rhobart@hhqventures.com]
Sent: Wednesday, November 15, 2017 12:15 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Willis, Sharnett <Willis.Sharnett@epa.gov>; Hupp, Sydney <hupp.sydney@epa.gov>; Milhouse, Gloria <Milhouse.Gloria@epa.gov>; Rob Hobart <rhobart@hhqventures.com>
Subject: Meeting Request

Ryan: I hope you are well my friend. Phil Miller with Monsanto is in town on December 5th and we would like to come by for 30 min to bring you up to speed on some issues.

We are open from 10-5pm that day. Please let me know if we can lock something in. As always appreciate your time.

Rob

Robert Hobart
M: 202.285.8967

HOBART HALLAWAY &
QUAYLE VENTURES, LLC

To: Wheeler, Andrew R.[Andrew.Wheeler@FaegreBD.com]
From: Jackson, Ryan
Sent: Thur 10/5/2017 7:48:01 PM
Subject: FW: Sixteen Nominations Sent to the Senate Today

From: Locetta, Jennifer R. EOP/WHO Ex. 6 - Personal Privacy
Sent: Thursday, October 5, 2017 3:37 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>; Munoz, Charles <munoz.charles@epa.gov>
Subject: FW: Sixteen Nominations Sent to the Senate Today

From: White House Press Office [mailto:whitehouse-noreply@messages.whitehouse.gov]
Sent: Thursday, October 5, 2017 3:35 PM
To: Locetta, Jennifer R. EOP/WHO Ex. 6 - Personal Privacy
Subject: Sixteen Nominations Sent to the Senate Today

THE WHITE HOUSE

Office of the Press Secretary

FOR IMMEDIATE RELEASE

October 5, 2017

NOMINATIONS SENT TO THE SENATE:

Frank M. Coffman, of Oklahoma, to be United States Marshal for the Eastern District of Oklahoma for the term of four years, vice Patrick J. Wilkerson, term expired.

Kurt D. Engelhardt, of Louisiana, to be United States Circuit

Judge for the Fifth Circuit, vice Edith Brown Clement, retired.

Thomas M. Griffin, Jr., of South Carolina, to be United States Marshal for the District of South Carolina for the term of four years, vice Kelvin Corneilius Washington, term expired.

Mark S. James, of Missouri, to be United States Marshal for the Western District of Missouri for the term of four years, vice Alfred Cooper Lomax, term expired.

R. D. James, of Missouri, to be an Assistant Secretary of the Army, vice Jo-Ellen Darcy.

Bruce D. Jette, of Virginia, to be an Assistant Secretary of the Army, vice Heidi Shyu, resigned.

Lisa A. Johnson, of Washington, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Namibia.

Johnny Lee Kuhlman, of Oklahoma, to be United States Marshal for the Western District of Oklahoma for the term of four years, vice Charles Thomas Weeks II, term expired.

Shon J. Manasco, of Texas, to be an Assistant Secretary of the Air Force, vice Gabriel Camarillo.

Daniel C. Mosteller, of South Dakota, to be United States Marshal for the District of South Dakota for the term of four years, vice Paul Charles Thielen, term expired.

Kate S. O'Scannlain, of Maryland, to be Solicitor for the Department of Labor, vice M. Patricia Smith, resigned.

David J. Ryder, of New Jersey, to be Director of the Mint for a term of five years, vice Edmund C. Moy, resigned.

Gary G. Schofield, of Nevada, to be United States Marshal for the District of Nevada for the term of four years, vice Christopher Tobias Hoye, term expired.

Leon A. Westmoreland, of Georgia, to be a Director of the Amtrak Board of Directors for a term of five years. (New Position)

Andrew Wheeler, of Virginia, to be Deputy Administrator of the Environmental Protection Agency, vice Robert Perciasepe, resigned.

Mitchell Zais, of South Carolina, to be Deputy Secretary of Education, vice James H. Shelton, III, resigned.

###

Unsubscribe

The White House · 1600 Pennsylvania Avenue, NW · Washington DC 20500 · 202-456-1111

To: White, Elizabeth[white.elizabeth@epa.gov]; Martella, Roger(GE Corporate)[Roger.Martella@ge.com]
From: Jackson, Ryan
Sent: Thur 10/5/2017 7:23:40 PM
Subject: RE: EXT: Re:

I'm sorry I missed it. Beth are you available?

-----Original Message-----
From: White, Elizabeth
Sent: Thursday, October 5, 2017 1:34 PM
To: Martella, Roger(GE Corporate) <Roger.Martella@ge.com>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RE: EXT: Re:

Roger -

Thank you for taking time today to meet with me. Our discussion ended up being quite timely and has already been very helpful. I hope to talk to you again soon.

Beth

-----Original Message-----
From: Martella, Roger(GE Corporate) [mailto:Roger.Martella@ge.com]
Sent: Thursday, October 5, 2017 11:10 AM
To: White, Elizabeth <white.elizabeth@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Re: EXT: Re:

Thank you. I'm heading to Ryan's office. Would it be possible to meet there? I'm not sure I can get to administrators office

> On Oct 5, 2017, at 11:06 AM, White, Elizabeth <white.elizabeth@epa.gov> wrote:
>
> Roger - I'm in the reception area of the administrators office right now. My office OEX on 2nd floor.
>
> Sent from my iPhone
>
>> On Oct 5, 2017, at 9:27 AM, Martella, Roger(GE Corporate) <Roger.Martella@ge.com> wrote:
>>
>> I have a meeting at EPA 10:30-11. Would it be possible to stop by briefly after that?
>>
>>> On Oct 5, 2017, at 9:09 AM, White, Elizabeth <white.elizabeth@epa.gov> wrote:
>>>
>>> Ryan, my schedule is open today after 10 and flexible tomorrow as well. Let me know what works for the both of you.
>>>
>>> Beth
>>>
>>> Sent from my iPhone
>>>
>>>> On Oct 5, 2017, at 8:56 AM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>>>>
>>>> I would like to introduce the two of you and see if we can schedule a call among us. Thanks.
>>>>
>>>> _____

>>>> Ryan Jackson
>>>> Chief of Staff
>>>> U.S. EPA
>>>> Ex. 6 - Personal Privacy

To: Steve Koonin Ex. 6 - Personal Privacy amada, Richard (Yujiro)[yamada.richard@epa.gov]
From: Jackson, Ryan
Sent: Wed 6/21/2017 10:56:40 PM

Gentlemen, I know we were initially thinking waiting until Fall but the Administrator would like to announce the red team blue team the week of July 10 here at EPA in an event and invite whoever we deem appropriate. I wanted to let know that asap. Can we get back together to plan for that?

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

To: Brook Simmons[BSimmons@newfield.com]
Cc: Willis, Sharnett[Willis.Sharnett@epa.gov]
From: Jackson, Ryan
Sent: Tue 4/18/2017 1:14:00 PM
Subject: Re: Ryan, may I please schedule 20 minutes with you next week April 26-28...

Yes. Definitely. Sorry for the delay.

Ryan Jackson
Chief of Staff
U.S. EPA

Ex. 6 - Personal Privacy

On Apr 18, 2017, at 9:12 AM, Brook Simmons <BSimmons@newfield.com> wrote:

to bring you up to speed on a tribal permitting issue in Region 8? I'll have my schedule in hand if you want to call 202.746.3424 to discuss availability.

Brook A. Simmons
Government Affairs Manager
Main: 281-210-5100

Office: 281-210-5359

Cell: 202-746-3424

NEWFIELD

To: Brook Simmons[BSimmons@newfield.com]
From: Jackson, Ryan
Sent: Tue 4/18/2017 1:13:44 PM
Subject: Re: Ryan, may I please schedule 20 minutes with you next week April 26-28...

He

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Apr 18, 2017, at 9:12 AM, Brook Simmons <BSimmons@newfield.com> wrote:

to bring you up to speed on a tribal permitting issue in Region 8? I'll have my schedule in hand if you want to call 202.746.3424 to discuss availability.

Brook A. Simmons
Government Affairs Manager
Main: 281-210-5100

Office: 281-210-5359

Cell: 202-746-3424

<image001.png>

NEWFIELD

To: Ex. 6 - Personal Privacy
From: Jackson, Ryan
Sent: Tue 4/18/2017 1:30:13 AM
Subject: Scott Pruitt

Mr. Ricketts, thank you for your time the other day. Administrator Pruitt plans to attend the game April 19 possibly with IN Governor Holcomb. They have tickets in Section 129, Row 9, Seats 101-104. Much appreciated. I gather you have his cell phone, but I'm happy to coordinate with anyone in your office to make contact.

Thanks.

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

Ex. 6 - Personal Privacy

To: Yamada, Richard (Yujiro)[yamada.richard@epa.gov]
Cc: Steven Koonin Ex. 6 - Personal Privacy Dickerson, Aaron[dickerson.aaron@epa.gov]; Willis, Sharnett[Willis.Sharnett@epa.gov]
From: Jackson, Ryan
Sent: Tue 6/20/2017 6:17:41 PM
Subject: Re: Introductions

Richard and I will just call you then. Big thanks.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Jun 20, 2017, at 11:10 AM, Yamada, Richard (Yujiro) <yamada.richard@epa.gov> wrote:

Ryan – I can come by your office and we can call Steven together at 3:30 pm – thanks much, Richard

From: Steven Koonin Ex. 6 - Personal Privacy
Sent: Tuesday, June 20, 2017 11:08 AM
To: Yamada, Richard (Yujiro) <yamada.richard@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RE: Introductions

Good for me. Send dial-in instructions or reach me at 3474074733.

SEK

From: Yamada, Richard (Yujiro) [mailto:yamada.richard@epa.gov]
Sent: Tuesday, June 20, 2017 11:06 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>; Steven Koonin
Ex. 6 - Personal Privacy
Subject: RE: Introductions

Would tomorrow at 3:30 PM work for you all? Thanks much, Richard

From: Jackson, Ryan
Sent: Tuesday, June 20, 2017 9:36 AM
To: Yamada, Richard (Yujiro) <yamada.richard@epa.gov>; Steven Koonin
Ex. 6 - Personal Privacy
Subject: RE: Introductions

Initial wrong email address.

From: Jackson, Ryan
Sent: Tuesday, June 20, 2017 9:34 AM
To: 'Richard.Yamada@mail.house.gov' <Richard.Yamada@mail.house.gov>; Steven Koonin
Ex. 6 - Personal Privacy
Subject: Introductions

Gentlemen, I wanted to make introductions but also see when would be convenient for us all to get on the phone preferably this week to talk about next steps.

For me tomorrow is very open, but I'll certainly make time. Richard has been on staff now for one week so we are up and running to staff this out.

Thanks.

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

Ex. 6 - Personal Privacy

To: Steven E Koonin (sek9@nyu.edu)[sek9@nyu.edu]
Cc: Hupp, Sydney[hupp.sydney@epa.gov]
From: Jackson, Ryan
Sent: Tue 4/18/2017 1:25:18 AM
Subject: RE: introducing...

Dr. Koonin, if you are planning to be in DC on April 28, would there be a convenient time to meet with Administrator Pruitt?

Thanks.

From: Jackson, Ryan
Sent: Tuesday, April 11, 2017 7:22 PM
To: 'Yergin, Dan' <Daniel.Yergin@ihsmarkit.com>; Steven E Koonin (sek9@nyu.edu) <sek9@nyu.edu>
Cc: Dravis, Samantha <dravis.samantha@epa.gov>
Subject: RE: introducing...

Thank you gentlemen. So as luck would have it the Administrator will happen to be in New York tomorrow. Would there be a convenient time to meet as early as tomorrow? I know this is last minute, but I wanted to ask. If that doesn't work, we will schedule another time definitely.

My cell is Ex. 6 - Personal Privacy

Ryan.

From: Yergin, Dan [mailto:Daniel.Yergin@ihsmarkit.com]
Sent: Tuesday, April 11, 2017 6:07 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>; Steven E Koonin (sek9@nyu.edu) <sek9@nyu.edu>

Subject: introducing...

Dear Ryan,

Very glad to meet you with Administrator Pruitt today. With this email, introducing you to Steve Koonin, now at NYU, formerly Undersecretary of Energy in DOE and Provost of Caltech. He's an MIT Ph.D. in astrophysics. I've attached his article on climate science not being settled from the Wall Street Journal.

He's based in New York City but will be down for a meeting of the top physicists on April 28, and could come a day early. Or they could meet in New York City. I think the Administrator would find an 1 ½ to 2 hours very useful for deepening the texture on the climate change discussion. As I mentioned, Steve will have a new article coming up in the WSJ later this month.

Kind regards,

Dan

http://online.wsj.com/articles/the-unknowns-of-climate-science-1411143565

To: mhall@firstenergycorp.com[mhall@firstenergycorp.com]
From: Jackson, Ryan
Sent: Sun 4/30/2017 11:31:36 PM

I gave you the wrong phone number.

I'm at Ex. 6 - Personal Privacy

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

To: Gary Hoitsma[hoitsmag@carmengroup.com]
From: Jackson, Ryan
Sent: Thur 11/16/2017 4:32:54 PM
Subject: Re: Wayne Nastri -- SCAQMD

I am helping you out.

____

Ryan Jackson
Chief of Staff
U.S. EPA

Ex. 6 - Personal Privacy

On Nov 16, 2017, at 10:58 AM, Gary Hoitsma <hoitsmag@carmengroup.com> wrote:

> Please help me out here. He wants to meet with Pruitt, mostly as a courtesy thing, as a former Republican EPA appointee himself, and now as the head of his agency. There no big "ask" or secret agenda or something. We've tried to set it up multiple times since the beginning of the year. He's trying to be completely flexible on the timing. If there is some other reason for not meeting, you need to tell me….like if it's a "California" thing, or a "political" or a "policy" thing or whatever….he can handle that. But otherwise, he's going to keep asking. Can we take a look at Dec. 4-7 or Dec. 11-14?
>
> Sorry for any inconvenience here. Appreciate your help as always.
>
> **From:** Jackson, Ryan [mailto:jackson.ryan@epa.gov]
> **Sent:** Thursday, November 16, 2017 10:25 AM
> **To:** Gary Hoitsma
> **Subject:** RE: Wayne Nastri -- SCAQMD
>
> Pruitt will be traveling.
>
> I can meet with him or our new AA for air can, but I just don't see this coming together. I'm sorry about that.

From: Gary Hoitsma [mailto:hoitsmag@carmengroup.com]
Sent: Thursday, November 16, 2017 7:52 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Fwd: Wayne Nastri -- SCAQMD

How about something the week after Thanksgiving? Will that work?

Begin forwarded message:

From: Gary Hoitsma <hoitsmag@carmengroup.com>
Date: November 6, 2017 at 10:31:53 AM EST
To: "Jackson, Ryan" <jackson.ryan@epa.gov>
Subject: RE: Wayne Nastri -- SCAQMD

SCAQMD's Air Quality Management Plan—challenges to meet Ozone and PM deadlines. Importance of DERA, Targeted Airshed grant programs. SCAQMD's work in developing advanced clean vehicle technologies, including natural gas, electric, hydrogen. Possible Trump Admin Infrastructure plan—can it help address clean air/other environmental infrastructure needs?

From: Jackson, Ryan [mailto:jackson.ryan@epa.gov]
Sent: Monday, November 06, 2017 10:21 AM
To: Gary Hoitsma
Subject: RE: Wayne Nastri -- SCAQMD

Ok. What is the subject on it?

From: Gary Hoitsma [mailto:hoitsmag@carmengroup.com]
Sent: Monday, November 6, 2017 10:17 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Wayne Nastri -- SCAQMD

Ryan,

Let's try again with Wayne Nastri of South Coast Air Quality Management District. Brief meeting with the Administrator.

Here are possible date windows that would work: Nov. 13-17, Nov. 27-30, Dec. 4-7. Will work with you to make it an easy positive meeting. Appreciate if we can put something on the calendar.

Thanks,

Gary

From: Jackson, Ryan [mailto:jackson.ryan@epa.gov]
Sent: Wednesday, October 18, 2017 8:41 AM
To: Gary Hoitsma
Subject: Re: Today?

I can't do it this trip. Next time.

Ryan Jackson

Chief of Staff

U.S. EPA

Ex. 6 - Personal Privacy

On Oct 18, 2017, at 8:17 AM, Gary Hoitsma <hoitsmag@carmengroup.com> wrote:

> Any chance to squeeze Wayne Nastri in today for quick meeting? We're flexible anytime. Just let me know.
>
> Thanks,
>
> Gary
>
> 202-285-4307

To: Jim Massie[jmassie@massiepartners.com]
From: Jackson, Ryan
Sent: Tue 6/20/2017 6:16:45 PM
Subject: Re: good morning

He's traveling that whole day presently anyway.

_____
Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Jun 20, 2017, at 11:54 AM, Jim Massie <jmassie@massiepartners.com> wrote:

Just checking in. any chance we can squeeze into the Administrator's calendar next week?

Hope you are enjoying the new gig! Thanks. Jim

From: Jackson, Ryan [mailto:jackson.ryan@epa.gov]
Sent: Wednesday, June 14, 2017 1:28 PM
To: Jim Massie <jmassie@massiepartners.com>
Subject: RE: good morning

Let me check on this.

From: Jim Massie [mailto:jmassie@massiepartners.com]
Sent: Wednesday, June 14, 2017 11:24 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: good morning

Ryan,

Hope all is good. I would like a little advice. Siemen's executive management team is in DC the afternoon of June 27. I believe that Administrator Pruitt has a meeting request for this group. Can you advise me if you need anything from us? And who we should be in contact with to track the potential of a meeting. Thanks. Sorry to be a pest!

Jim

<image001.png>

To: wwehrum@hunton.com[wwehrum@hunton.com]
From: Jackson, Ryan
Sent: Mon 4/17/2017 9:35:27 PM
Subject: Re:

Let me give you a call right back.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

> On Apr 17, 2017, at 5:28 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>
> I'm sorry for the delay, do you have an opportunity to talk tonight?
>
> Ryan Jackson
> Chief of Staff
> U.S. EPA
>
Ex. 6 - Personal Privacy

To: Willis, Sharnett[Willis.Sharnett@epa.gov]; Dickerson, Aaron[dickerson.aaron@epa.gov]; markdmari Ex. 6 - Personal Privacy
From: Jackson, Ryan
Sent: Fri 4/28/2017 12:02:19 AM

Sharnette, I mean to email you all week about trying to get up a time for Mark to come in to meet. Do we have time tomorrow?

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

Ex. 6 - Personal Privacy

To: Walls, Michael[Michael_Walls@americanchemistry.com]
Cc: Hupp, Sydney[hupp.sydney@epa.gov]
From: Jackson, Ryan
Sent: Fri 6/9/2017 12:34:18 PM
Subject: Re: Invitation to speak to ACC Health, Products and Science Policy Committee June 27

Awesome

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Jun 9, 2017, at 8:24 AM, Walls, Michael <Michael_Walls@americanchemistry.com> wrote:

Ryan, the members of ACC's Health, Products and Science Policy Committee (our industry's TSCA experts) will be in town on June 27 for their annual planning meeting. The group will be meeting for drinks and dinner on June 27, 2017, starting at 6 p.m.. We would like to invite you to address the group with remarks beginning at 6:30 or so. I hope you will be able to join us – I know the member companies would value having the benefit of your perspective. I expect about 30 member company representatives to attend. If you can join us, please let me know. Thanks very much and have a good weekend. Mike

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To: Steven Koonin Ex. 6 - Personal Privacy ugh, Justina[Fugh.Justina@epa.gov]
From: Jackson, Ryan
Sent: Tue 6/20/2017 1:36:53 PM
Subject: Introduction

Justina, I wanted to introduce you to Dr. Steve Koonin formerly with DOE and now the NYU. Dr. Koonin will be working with the Agency to assemble teams of science advisors to work through a climate change initiative. He will likely contribute his time pro bono, but I wanted to ensure that he's spoken with you on the terms of this project and work through any conflicts.

Justina, I'll provide you additional information when we speak today on this project.

Thanks all.

Ryan.

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

Ex. 6 - Personal Privacy

To: wwehrum@hunton.com[wwehrum@hunton.com]
From: Jackson, Ryan
Sent: Mon 4/17/2017 9:28:14 PM

I'm sorry for the delay, do you have an opportunity to talk tonight?

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

To: Sydney Hupp[Ex. 6 - Personal Privacy
From: Jackson, Ryan
Sent: Thur 4/27/2017 11:55:51 PM
Subject: FW: ABA Section of Litigation, Environmental and Litigation Committee
Memorandum to Andy Lester 3-28-2017.pdf

We declined this, correct?

From: Lester, Andy [mailto:alester@spencerfane.com]
Sent: Thursday, April 27, 2017 8:51 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: FW: ABA Section of Litigation, Environmental and Litigation Committee

Ryan,

I am following up on this, to see whether Administrator Pruitt is considering accepting the invitation (below) to Administrator Pruitt to be the Keynote Speaker at the May 18 meeting in DC of the ABA Section of Litigation, Environmental and Litigation Committee. As mentioned, I would be happy to facilitate this.

I look forward to hearing from you on this.

I trust you are doing well.

All best.

Andy

Andy Lester Attorney
Spencer Fane LLP

9400 N. Broadway Ext., Suite 600 | Oklahoma City,

OK 73114
O 405.753.5911
alester@spencerfane.com | spencerfane.com

From: Lester, Andy
Sent: Wednesday, April 5, 2017 10:33 PM
To: Ryan Jackson (EPA)
Subject: ABA Section of Litigation, Environmental and Litigation Committee

Ryan,

Attached is the information I mentioned the other day regarding the invitation to Administrator Pruitt to be the Keynote Speaker at the May 18 meeting in DC of the ABA Section of Litigation, Environmental and Litigation Committee. Jim Price, the fellow who wrote the memo to me, is my law partner, a highly regarded environmental lawyer, a good person, and one of the leaders of the Committee. He made clear to me that they would set up the meeting to suit your preferences (e.g., however long you would like, questions, no questions, etc.).

I would be more than happy to facilitate this, if you would like. Please let me know your thoughts.

All best.

Andy Lester Attorney
Spencer Fane LLP

9400 North Broadway Extension, Suite 600 Oklahoma City, Oklahoma 73114-7423
O 405.844.9900
alester@spencerfane.com | spencerfane.com

SpencerFane

Memorandum

File No.

To: Andy Lester

From: James T. Price JTP

Re: American Bar Association Section of Litigation, Environmental and Energy Litigation Committee: Current Developments in Environmental Compliance and Enforcement Workshop

Date: March 28, 2017

The American Bar Association Section of Litigation, Environmental and Energy Litigation Committee, is holding a workshop in Washington, D.C., on May 18 on the latest developments in environmental compliance, enforcement, and litigation. We want to invite EPA Administrator Scott Pruitt to be our keynote speaker.

This is a successful annual program. The program brochure for this workshop in 2015 is attached.

A presentation at this workshop would be an opportunity for Administrator Pruitt to deliver his message about the direction of today's EPA to an interested and influential audience of leading lawyers in environmental law nationally and to do so in the District with staff nearby and without significant travel. In these workshops in the past, leaders of EPA and the Department of Justice have announced new initiatives and areas of emphasis. For example, John Cruden, former DOJ Assistant Attorney General for the Environment and Natural Resources Division, has used this program in previous years to release public statements about DOJ's initiatives contemporaneously with his speech. These received attention in the environmental press and thus broadened the reach of his messages. Attached is an example from 2015.

In terms of scheduling Administrator Pruitt's remarks, we are looking at approximately one hour in the early- to mid-afternoon of May 18. An hour would include introductions and wrap-up remarks. Administrator Pruitt could take questions if he wanted, which could be handled extemporaneously from the floor or by written questions submitted in advance. We can be flexible on scheduling, both in terms of the time slot for Administrator Pruitt's remarks and their length.

The Environmental and Energy Litigation Committee of the ABA Section of Litigation is one of the nation's leading organizations of environmental lawyers. The committee focuses on compliance, enforcement, and litigation of environmental laws nationwide and in the states. This group has a track record of presenting high-quality programs with leading state and federal regulators and environmental practitioners. These programs are attended by lawyers from around the country who represent clients on cutting-edge issues before EPA and DOJ.

We would be honored if Administrator Pruitt would consider this request and speak to our group, sharing his thoughts about the current direction and initiatives of EPA. .

JTP/tjh

WA 9444231.1

2015 Program Brochure

ABA Section of Litigation

Regional CLE Workshop

At the Forefront of Environmental Litigation

Morgan, Lewis & Bockius, LLP
2020 K Street, NW, 11th Floor
Washington, D.C.
July 23, 2015

Presented by the ABA Section of Litigation Environmental Litigation Committee

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Section of Litigation

Program Agenda

Speakers from EPA and DOJ will discuss recent developments and new initiatives in environmental compliance and regulatory enforcement.

12:30 pm – 1:00 pm	**Registration** *We ask that everyone plan to arrive early to allow the program to start promptly at 1:00 pm.*
1:00 pm – 1:15 pm	**Introduction and Welcome** **Environmental Litigation Committee Co-Chairs:** Speakers: **Meaghan G. Boyd**, Alston & Bird LLP, Atlanta, GA; **Kevin J. Bruno**, Blank Rome LLP, New York, NY; **Ronald J. Tenpas**, Morgan Lewis & Bockius LLP, Washington, D.C.
1:15 pm – 2:15 pm	**U.S. Environmental Enforcement Initiatives and Developments** With offices across the United States, the Environmental and Natural Resources Division is the nation's environmental lawyer, and the largest environmental law firm in the country. The Division, which is organized into ten sections, has primary responsibilities for litigation as well as appellate and policy work on behalf of the United States regarding: (1) prevention and clean–up of pollution; (2) environmental challenges to federal programs and activities; (3) stewardship of public lands and natural resources; (4) property acquisition for federal needs; (5) wildlife protection; and (6) Indian rights and claims. During his presentation, Mr. Cruden will describe recent initiatives, successes and developments, and future programs in these and other substantive areas. Speaker: **John Cruden**, (AAG)U.S. Department of Justice, Washington, D.C.

Section of Litigation

Program Agenda

2:15 pm – 3:15 pm	**Effective Use of ADR In Environmental Administrative Proceedings** The use of alternative dispute resolution (ADR) to facilitate the settlement of legal actions before the administrative tribunals of US EPA is becoming increasingly common. Both the Environmental Appeals Board and Office of Administrative Law Judges have established rules that strongly encourage the use of mediation to support the resolution of filed actions and have dedicated judicial staff to service as mediators. Recent ADR cases highlight the benefits for all litigating parties and the need for environmental counsel to obtain competence in mediation advocacy skills. This interactive session, conducted by the former EPA Senior ADR Specialist and senior jurists of EAB and OALJ will provide an overview of the ADR process in administrative cases with a focus on what counsel can expect when mediating the resolution of both enforcement and proactive actions. The session will use hypothetical case scenarios based on real-life mediations to explore and discuss tips for counsel on how to effectively advocate within an administrative mediation and maximize the strategic advantages of working with an EAB or OALJ mediator. Moderator: **David Batson**, AlterEcho Panelists: **Hon. Leslye Fraser,** Environmental Appeals Judge, U.S. Environmental Protection Agency, Environmental Appeals Board; **Hon. Barbara Gunning**, Administrative Law Judge, U.S. Environmental Protection Agency, Office of Administrative Law Judges
3:15 pm – 3:30 pm	**Break**

Program Agenda

3:30 pm – 4:30 pm	**Next Generation Compliance And Enforcement Trends / Techniques** Assistant Administrator Cynthia Giles leads EPA's efforts to enforce our nation's environmental laws and advance environmental justice. Giles has committed EPA's Office of Enforcement and Compliance Assurance to three goals that she will explain and discuss during her presentation, as follows: (1) Tough civil and criminal enforcement for violations that threaten communities and the environment, with a particular emphasis on addressing the problems of communities overburdened with pollution; (2) Next-Generation Compliance: achieve greater compliance and reduce pollution using advanced monitoring and information technologies; and (3) Strong EPA/state/tribal environmental protection: work together toward shared environmental goals. Speaker: **Cynthia Giles,** U.S. Environmental Protection Agency
4:30 pm – 5:30 pm	**Department of Justice Perspectives on Civil and Criminal Enforcement Issues** The Environmental Enforcement Section (EES) and the Environmental Crimes Section (ECS) within the Environment and Natural Resources Division of the U.S. Department of Justice are charged with the civil and criminal enforcement of our Nation's pollution laws, respectively. Both Sections have nationwide enforcement authority and actively litigate cases in almost every judicial district in the country. As such, they are in a position to see enforcement trends and priorities as they are developed by both the Department of Justice and the agencies charged with implementing and enforcing laws designed to protect the environment. This session, which will include the Chief of EES, Senior Trial Attorney of ECS, and Assistant Chief of ECS will focus on environmental enforcement activities and patterns. The panel will examine the types of violations brought to them for enforcement by a variety of agencies, including aging infrastructure, hydrofracking, E-waste, other enforcement priorities, scope of relief sought, and mitigation, as well as the intersection of the civil and criminal programs in the context of parallel proceedings and global settlements. Moderator: **Kris Dighe**, U.S. Department of Justice, Washington, D.C. Panelists: **Jennifer Whitfield**, U.S. Department of Justice, Washington, D.C.; **Ben Fisherow**, U.S. Department of Justice, Washington, D.C.
5:30 pm – 6:30 pm	**Networking Reception**

Section of Litigation

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PROGRAM ORGANIZERS

Nessa Coppinger
Beveridge & Diamond, P.C.
1450 I Street, N.W. Suite 700
Washington, D.C. 20005-3311
(202) 789-6053
ncoppinger@bdlaw.com

Charlie Denton
Barnes & Thornburg LLP
300 Ottawa Ave NW, Suite 500
Grand Rapids, MI 49503-2311
(616) 742-3974
cdenton@btlaw.com

Dave Erickson
Shook, Hardy & Bacon
2555 Grand Boulevard
Kansas City, MO 64108
(816) 559-2487
derickson@shb.com

Jim Price
Spencer Fane Britt & Browne
1000 Walnut Street Suite 1400
Kansas City, MO 64106
(816) 292-8228
jprice@spencerfane.com

Karen Crawford
Nelson Mullins Riley & Scarborough
101 Constitution Ave NW, Suite 900
Washington, D.C. 20001
(202) 545-2934
karen.crawford@nelsonmullins.com

Kris Dighe
U.S. Dept. of Justice
P. O. Box 7611
Washington, D.C. 20044
(202) 305-1574
kris.dighe@usdoj.gov

Duke McCall
Morgan Lewis & Bockius
2020 K St. NW
Washington, D.C. 20006
(202) 373-6607
duke.mccall@morganlewis.com

ABA SECTION OF LITIGATION,
Environmental Litigation Committee Co-Chairs

Meaghan Boyd
Alston & Bird
One Atlantic Center
1201 West Peachtree Street
Atlanta, GA 30309
(404) 881-7245
meaghan.boyd@alston.com

Kevin J. Bruno
Blank Rome LLP
The Chrysler Building
405 Lexington Avenue
New York, NY 10174
(212) 885-5580
KBruno@BlankRome.com

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Section of Litigation

General Information

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or return the Registration Form on the following page with your payment (checks only) to:

Kristen McCann
American Bar Association
321 N. Clark St.
Chicago, IL 60654

Please register by July 16, 2015 to reserve your spot.

Requests for refunds must be made in writing and received no later than July 16, 2015, in the ABA Section of Litigation office. Please email your request to the Program Associate. There will be a $10 administrative fee deducted from the refund. Cancellations received after July 16, 2015 will not be refunded; however, the Section will gladly accept substitutions for those unable to attend.

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A limited number of scholarships to defray registration fees may be available for government employees, public interest lawyers employed with nonprofits, academics, and law students, as well as unemployed attorneys. For more information, please contact: Kristen McCann at (312) 988-5662.

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Section of Litigation

Registration

Name _____ Member ID _____

Affiliation _____

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Phone _____ Email _____

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A limited amount of scholarships are available for this program. For more information, please contact: Kristen McCann at (312) 988-5662.

Registration Information

$60.00	Section of Litigation members
$75.00	Non-Section members
$20.00	Governmental Attorneys
$25.00	Law Students

Pre-registration deadline is July 16, 2015. Checks for attendance and course materials should be made payable to the AMERICAN BAR ASSOCIATION (credit cards for online registration only).

- ❍ I will attend the meeting and my check for $_____.00 is enclosed.
- ❍ I am unable to attend the meeting, but please send the course materials to the above address, at a cost of $35.00, a check for which is enclosed.

Please send your Registration Form and check to:
Kristen McCann
Section of Litigation
American Bar Association
321 N. Clark St.
Chicago, IL 60654

DEPARTMENT OF JUSTICE

John Cruden

Department of Justice

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ASSISTANT ATTORNEY GENERAL JOHN C. CRUDEN DELIVERS REMARKS TO THE AMERICAN BAR ASSOCIATION'S SECTION OF LITIGATION WORKSHOP

Remarks as prepared for delivery

WASHINGTON, D.C.

Thank you very much, it is a great pleasure to be here. I have spoken before to the ABA Litigation Section and it is always a great pleasure to speak to this important audience. And, I appreciate the title of this workshop: "At the Forefront of Environmental Litigation" as I do believe that describes the work of the Department of Justice.

I returned to the Department of Justice as Assistant Attorney General of the Environment and Natural Resources Division (ENRD) in January. When I first arrived at the Department of Justice in 1991, I was the chief of the Environmental Enforcement Section. A lot has happened since that time. I am reminded of the famous NASA probe Voyager, which was launched in 1977 and had reached the planet Neptune in 1990. That year, the Voyager 1 spacecraft looked back and snapped the first-ever pictures of the planets from its perch. This "family portrait" captured Neptune, Uranus, Saturn, Jupiter, Earth and Venus. The late Carl Sagan, a member of the Voyager imaging team at the time, had the idea of pointing the spacecraft back toward Earth for a last look. The title of his 1994 book, *Pale Blue Dot*, refers to the image of Earth in this series. Sagan wrote, "That's here. That's home. That's us. On it everyone you love, everyone you know, everyone you ever heard of, every human being who ever was, lived out their lives." This quote and the stunning photos of Pluto last week from the New Horizons space probe help provide perspective on our work as environmental litigators.

With that in mind, I will try to discuss how we at ENRD do our environmental enforcement work at the local, state and international levels.

I am going to focus on what we have been doing in 2015 as that has been an extraordinarily productive time in our history, with significant impacts in virtually every area of our practice. We at the Department of Justice feel that our enforcement work has significantly ramped up and the amount of press coverage, the increase in joint enforcement actions with states and our work with a whole range of federal agencies has been significant. And, I want to focus attention on our joint enforcement with states, like we are doing in Deepwater Horizon and a personnel announcement I made just this week, creating a new position in the department, a Counselor for State and Local matters.

Let me start with what the world heard on July 3 when we announced an agreement in principle with BP concerning the Deepwater Horizon oil spill. Although I am under a strict confidentiality order that governs the terms of that non-binding agreement, the court did make public the monetary terms. In summary, BP has pledged at least $18.7 billion to resolve federal, state and local claims. The Department of Justice, in announcing the agreement in principle, stated that–if approved by the court, the settlement would be the largest settlement with a single entity in our history. I had the honor of leading that negotiating team, but it is a classic example of multi-state, multi-federal agency joint action. To give you some idea of scale, the Exxon-Valdez settlement, which I also approved in 1991, was collectively for about $1 billion which covered both civil and criminal penalties. *The Washington Post*, commenting on the BP agreement, spoke of "jaw-dropping" numbers.

While BP is vitally important, it is only one example of a real surge in the vital enforcement work we are doing. I am going to break up my discussion of our work this year into three categories: First, I will discuss cases primarily with significance at the local level, impacting local communities. Second, I will talk about cases that seek broader, company-wide relief or involve efforts at the state or regional level. Third, cases that raise international issues as we are often cooperating with other nations' governments or international entities such as Interpol.

In each of these three categories, the Department of Justice leverages resources through partnering with others. These themes also advance goals that I have established for the division. Finally, I will try to summarize how this enforcement surge has had real on-the-ground environment and health benefits.

But first let's set the stage. ENRD brings cases against individuals and companies that are in violation of our nation's civil and criminal pollution control and wildlife protection laws. And while these laws are national in scope, the work that we do ranges from enforcing pollution violations at individual sites to prosecuting international wildlife trafficking networks. The division has a large workforce of over 600 people. The vast majority of our staff is located in Washington, DC. The geographic scope and diversity of our work requires close collaboration with federal and state partners across the country and internationally. In our enforcement effort we are partnering with such agencies as the Environmental Protection Agency (EPA), the Coast Guard, the FBI, the Fish and Wildlife Service (FWS), NOAA, the Department of Agriculture and the Corps of Engineers. Through this collaboration, we are able to leverage resources to achieve results that advance priorities of the Administration and federal agencies.

I. LOCAL COMMUNITIES

The first goal I established for ENRD this year is to vigorously enforce the nation's bedrock environmental laws that protect air, land and water for all Americans and advance environmental justice. Illustrating our efforts on this goal is our work at the community level. Turning first to our cases involving local communities, we rely on local partners both to bring environmental concerns to the public eye and to help identify remedies that are appropriate for the affected community. At the Tonawanda Coke facility in western New York, for example, the

company's violations of the Clean Air Act resulted in releases of a substance known as coke oven gas. Coke oven gas contains benzene and other harmful chemicals. Contact with these chemicals can significantly harm human health. Excessive exposure to benzene can cause cancer. For approximately 19 years, people living in the low-income community near the facility were forced to breathe contaminated air. However, the community did its own air toxic monitoring, which revealed high levels of pollution. These citizens' diligent efforts helped build the enforcement action that the United States and state of New York brought to protect the community.

Indeed, further investigation revealed that the Tonawanda Coke facility had also failed to report that it manufactured benzene and ammonia in quantities that exceeded the 25,000 pound per year threshold that the company had reported under the Emergency Planning and Community Right-to-Know Act. In addition, Clean Water Act violations at the facility included the discharge of wastewater and other prohibited pollutants into the nearby Niagara River.

As a result of the civil agreement, I was proud to announce this May in a press conference that Tonawanda Coke will pay $12 million in civil penalties, facility improvements and environmental projects to benefit the community. Specifically, the agreement requires Tonawanda Coke to pay $2.75 million in civil penalties, spend approximately $7.9 million to reduce air pollution and enhance air and water quality and spend an additional $1.3 million for environmental projects in the area.

And this brings me to the issue of what we call "parallel proceedings." The Tonawanda Coke civil settlement followed a successful criminal action. That criminal action resulted in one of the largest fines ever levied in an air pollution case involving a federal criminal trial. After a five-week criminal trial, the company was sentenced in March 2014 to pay a $12.5 million fine, make a $12.2 million community service payment and serve a five-year term of probation. The community service payment will fund a study to determine the extent of health and environmental impacts of the coke facility on the Tonawanda community. Before sentencing in the criminal matter, community members submitted over one hundred impact statements under the Crime Victims' Rights Act.

Together, the civil settlement and criminal action permitted those living near the Tonawanda facility to finally receive the protections they deserve.

In other cases we have secured important ecological benefits for local communities in California. In April of this year, for example, we reached a settlement with Lehigh Southwest Cement Company and Hanson Permanente. The Lehigh settlement requires the company to remove selenium and other toxic substances from Permanente Creek, which feeds into San Francisco Bay. Permanente Creek provides recreational opportunities. It is also important habitat for ecologically important species such as the red-legged frog. FWS has listed this species as threatened under the Endangered Species Act. Many scientists believe it was the subject of Mark Twain's 1865 short story, *The Celebrated Jumping Frog of Calaveras County*.

The EPA Regional Administrator, California's Deputy Attorney General, and I jointly announced the settlement, which addresses violations of the Clean Water Act stemming from the

discharge of millions of gallons daily of quarry process water and polluted stormwater. As a result of the settlement, the company will spend more than $5 million to install wastewater treatment and make other facility improvements to prevent future violations. The company will also pay $2.55 million in civil penalties.

But here is what I want you to think about today. In resolving that case, ENRD relied on EPA and the state of California's Regional Water Board. But other groups' actions were also involved. The Sierra Club, for example, pursued its own separate Clean Water Act claims under the Act's citizen suit provision. And members of the surrounding communities and local organizations brought national attention to the issue through their sustained advocacy efforts. This is in reality how enforcement actions typically play out, with a number of different individuals and entities involved.

Our work at the local level also reflects the Administration's commitment to environmental justice. Last year marked the 20th anniversary of the Presidential Executive Order on "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations." This historic document requires each federal agency to make achieving Environmental Justice (EJ) part of its mission by addressing the disproportionate adverse human health and environmental effects of its programs and policies in these communities. At ENRD, promoting environmental justice and enforcing environmental laws are primary goals for me. We will seek protection for all communities from environmental harms by ensuring that the law is applied even-handedly in our cases. And we resolve our cases in the interest of affected communities by making sure they have a voice in remedies that affect the places in which they live and work.

In April, for example, ENRD and co-plaintiff Mississippi reached a settlement with Cal-Maine Foods Inc., one of the nation's largest egg producers. The settlement resolves Clean Water Act violations in Edwards, Mississippi, at a concentrated animal feeding operation housing more than two million chickens. The company discharged pollutants into a creek without permit authorization and also illegally applied nitrogen-laden wastewater in violation of its permit.

The facility is located in a community disproportionately affected by pollution. Nearly half of the households have an annual income of less than $25,000. Like the Tonawanda Coke and Lehigh actions, this suit ensured that a large company conducts itself as a good neighbor in its community. Under the settlement, the facility will comply with its discharge permit, significantly reducing nutrient pollution from nitrogen and phosphorus. Excess nitrogen and phosphorus in our waters causes algae to grow faster than ecosystems can handle. Large growths of algae are called algal blooms and they can severely reduce or eliminate oxygen in the water, leading to illnesses in fish and the death of large numbers of fish. Nutrient pollution in ground water – which millions of people in the U.S. use as their drinking water source – can be harmful, even at low levels. Infants are vulnerable to a nitrogen-based compound called nitrates in drinking water. The company will additionally make improvements to its data collection and reporting methods. The penalty will be divided between the U.S. and Mississippi. This case illustrates how the division implements Department of Justice's Environment Justice policy, but

also a theme I will touch on in the next section of my talk, that is, coordination with state governments.

A prime example of this is in the context of our suits involving the operation of municipal sewer collection and treatment systems. At the beginning of 2015, we announced a settlement with the city of Fort Smith, Arkansas. Under the agreement, the city agreed to pay a civil penalty and spend more than $200 million over 12 years to upgrade its sewer collection and treatment systems to reduce discharges of raw sewage and other pollutants into local waterways. Importantly, also as part of the settlement, the city will implement a program to help qualified low-income residential property owners to repair or replace defective sewer lines that connect to the city collection system. And in May, the Mayor of the District of Columbia, the EPA Regional Administrator (Region 3) and I announced changes to the D.C. sewer upgrade consent decree that will integrate green technology into the district plan to eliminate sewer overflow and promote jobs.

Our commitment to environmental justice in local communities extends to Native American lands. Last month, we announced a Clean Air Act settlement which will reduce damaging pollution from the Four Corners Power Plant located on the Navajo Nation. The settlement requires significant upgrades to the plant's sulfur dioxide, SO_2, nitrogen oxide, NO_x, pollution controls estimated to cost the co-owners of the facility approximately $160 million and payment of a civil penalty of $1.5 million. SO_2 and NO_x have numerous adverse effects on human health – including severe respiratory and cardiovascular impacts. They contribute to the formation of acid rain, which acidifies lakes and streams. This, in turn, (1) reduces fish population numbers and can completely eliminate fish species from waterbodies, (2) contributes to damage of spruce and other tree species at high elevations and (3) accelerates the decay of building materials, including irreplaceable buildings and statues that are part of our nation's cultural heritage. They also cause smog, which contains ozone, a pollutant that can inflame and damage the lining of human lungs and aggravate asthma. It can also increase susceptibility to respiratory illnesses, such as pneumonia and bronchitis. Children are at the highest risk, but adults who are active outdoors are also considered a sensitive group because of their higher levels of exposure than the general population.

The settlement also requires $6.7 million for three health and environmental mitigation projects benefiting tribal members residing near the plant. The first is a project to replace local residents' appliances with more energy-efficient heating systems. The second is for residential weatherization projects that will decrease energy use. A third project will establish a Health Care Project trust fund to pay for certain medical expenses for tribal residents nearby the plant suffering from respiratory issues.

As with some of the other cases I have highlighted, this suit benefited from invaluable participation from local groups, including the Navajo group Diné CARE – Citizens Against Ruining our Environment, To'Nizhoni Ani and the National Parks Conservation Association, all co-plaintiffs in the case.

II. STATE, REGIONAL AND INDUSTRY-WIDE IMPACTS OF THE DIVISION'S WORK

The second level that I would like to highlight is the state and regional level.

At this level, ENRD seeks to leverage resources by turning violations at one or a few facilities into broader, company – or industry-wide solutions. The division also collaborates and creates partnerships with states and furthers broader federal government priorities, for example EPA initiatives.

One example of how this plays out is one of the two cases I announced on Earth Day: Noble Energy, Inc. Noble, an oil and gas exploration and production company based in Houston, Texas, agreed to settle our claims that it failed to adequately design, size, operate and maintain certain vapor control systems on its controlled condensate storage tanks. These discrepancies had resulted in emissions of volatile organic compounds (VOCs). VOCs are a key component of smog.

Under the settlement, Noble will spend an estimated $60 million on system upgrades, monitoring and inspections to reduce emissions, in addition to $4.5 million to fund environmental mitigation projects, $4 million on supplemental environmental projects and a $4.95 million civil penalty. The case arose from a joint EPA and Colorado investigation that found significant VOC emissions coming from storage tanks, primarily due to undersized vapor control systems. Noble has agreed to evaluate vapor control system designs, significantly reduce VOC emissions and provide reports to the public. These reports will give other companies the opportunity to learn and apply this information to emissions estimates and vapor control system designs. Using advanced monitoring technologies, Noble will be better able to detect air pollution problems in real time and properly operate and maintain pollution control equipment.

Why is this settlement significant? Because it is a first-of-its-kind settlement that takes a basin-wide, systematic approach to addressing oil and gas emissions. The settlement highlights how states and the federal government can collaborate to address air pollution from a significant sector in a commonsense way. It will also help spur development of advanced pollution control technologies that will become available to the entire industry. In addition, this settlement highlights the "Next Generation" initiative that EPA, under Assistant Administrator Cynthia Giles' leadership, has developed to use cutting edge technology and advanced computer forensics to dramatically advance environmental law enforcement now and in the future. ENRD supports EPA in this innovative initiative.

The other case I announced on Earth Day this year was an enforcement partnership with the state of Arkansas. ExxonMobil Pipeline Co. and Mobil Pipeline Co. (ExxonMobil) agreed to settle claims by the United States and the state of Arkansas stemming from the Pegasus Pipeline oil spill in Mayflower, Arkansas. The spill occurred after a pipeline, carrying Canadian heavy crude oil from Illinois to Texas, ruptured. The spilled oil contaminated homes and yards before entering a nearby creek, wetlands and Lake Conway. Some residents were ordered to evacuate their homes and remained displaced for an extended period of time. The spill volume has been estimated at approximately 134,000 gallons.

The settlement includes civil penalties to fund an environmental project and corrective measures to resolve alleged violations of the Clean Water Act and state environmental laws. Arkansas was a co-plaintiff. Crucially, while the spill was localized to one community, the injunctive relief that ExxonMobil agreed to was company-wide. Under the settlement, ExxonMobil will pay $3.19 million in civil penalties and take steps to address pipeline safety issues and its spill response capability by providing additional training to its first responders. In addition, ExxonMobil will pay $1 million in state civil penalties, $600,000 for a project to improve water quality at Lake Conway and $280,000 to the Arkansas Attorney General's Office for the state's litigation costs. This agreement is an excellent example of federal and state cooperation. It will benefit public health and the environment for years to come.

Another example of our work at the state/regional level is our enforcement case involving Total Petroleum Puerto Rico Corporation. That case concerned Resource Conservation Recovery Act violations alleged at 31 gas stations. Our complaint alleged that the company, among other things, failed to report and monitor for leaks, investigate suspected leaks, protect against corrosion and overflows and maintain records of release detection monitoring. Leaking underground petroleum tanks are a serious problem because they can contaminate groundwater with pollutants such as benzene.

We structured the settlement to achieve a comprehensive solution, improving leak detection company-wide by installing advanced electronic release detection monitoring equipment at over 125 gas stations across Puerto Rico. This is the second judicial settlement in Puerto Rico requiring a defendant to implement company-wide automated electronic release detection with a centralized monitoring capability. Together, over 250 stations in that commonwealth will become equipped with electronic release detection equipment and centralized monitoring.

Fourth, with the states of Alabama and Oklahoma, we recently settled Clean Air Act claims against Houston-based Continental Carbon Co. Continental manufactures carbon black, a fine powder used in tires, plastics, rubber, inkjet toner and cosmetics. It has facilities in Phenix City, Alabama, Ponca City, Oklahoma, and Sunray, Texas. Because the oil used to make carbon black is high in sulfur, its production creates large amounts of SO_2 and NO_x. Once emitted, natural chemical processes in the atmosphere convert SO_2 and NO_x into particulate matter, which in turn can cause severe respiratory and cardiovascular impacts and premature death. The result of our enforcement case is a settlement that will reduce harmful emissions by over 6,000 tons per year of SO_2 and nearly 1,600 tons per year of NO_x. The pollution reductions will be achieved through the installation, upgrade and operation of state-of-the-art pollution control devices designed to reduce emissions and protect public health.

This case illustrates how the state and federal governments can cooperate to reduce dangerous pollution into the air that we all breathe. The settlement requires Continental to pay a civil penalty that will be shared with the co-plaintiff states. It additionally shows how the Department of Justice is implementing ENRD environmental goals by protecting communities, which have been disproportionately impacted by pollution. Under the agreement, Continental will spend $550,000 on environmental projects to help mitigate the harmful effects of air

pollution and benefit local communities, including financing energy efficiency projects in the communities near each of its three facilities.

Fifth, in May three subsidiaries of North Carolina-based Duke Energy Corp., the largest utility in the United States, pleaded guilty to nine criminal violations of the Clean Water Act. It also agreed to pay a $68 million criminal fine and spend $34 million on environmental projects and land conservation to benefit rivers and wetlands in North Carolina and Virginia. Four of the charges resulted from the massive coal ash spill into the Dan River in February 2014. Coal ash contains contaminants like mercury, cadmium and arsenic. Without proper management, these contaminants can pollute waterways, ground water, drinking water and the air. The government discovered the remaining violations as the scope of the investigation broadened based on allegations of historical violations at the companies' other facilities. The alleged violations included unlawfully failing to maintain equipment at two of their facilities and unlawfully discharging coal ash and/or coal ash wastewater from impoundments at three of their facilities.

Why is this significant? The defendants own and operate coal ash basins holding approximately 108 million tons of coal ash in North Carolina. But they also operate facilities with coal ash basins in South Carolina, Kentucky, Indiana and Ohio. Duke's subsidiaries, operating 18 facilities in five states, including 14 in North Carolina, will be required to develop and implement nationwide and statewide environmental compliance programs.

This case highlights a key federal-state partnership and how ENRD leverages cases to ensure broader, company-wide and regional effects whenever possible. The EPA Criminal Investigation Division, Region Four and the Office of Inspector General; IRS Criminal Investigation office; and North Carolina State Bureau of Investigation with assistance from the FBI and the Department of Defense Criminal Investigative Service conducted the investigations. The Acting Director of the North Carolina State Bureau of Investigation stated that "[t]his type of collaboration is critical to ensuring a thorough and intensive review on cases such as this."

In short, as you can see, environmental enforcement often involves close collaboration between the United States and state governments. Partnering in enforcement cases sends a strong message about the importance to federal and state governments of pollution control statutes and their enforcement. Both EPA and the Department of Justice have a policy of sharing penalties with states when we are partners. When ENRD decides to file a civil judicial action, we often additionally provide notice to state and invite a state to join the action.

III. IMPACTS AT THE GLOBAL LEVEL

The third level of impact is our international efforts. We cooperate closely with the State Department, Department of Homeland Security, Coast Guard, Fish and Wildlife (DOI), Interpol and other countries' governments to enforce federal environmental laws and international environmental agreements.

A. Wildlife Trafficking

One area of increased attention and more litigation for the division has been wide ranging efforts to stem wildlife trafficking. International wildlife traffickers respect no international borders. So it is essential that the United States coordinates with foreign governments to stop this cross-border crime. With estimated annual revenues of $10 billion or more, wildlife trafficking is one of the most profitable types of transnational organized crime, behind only drugs, counterfeiting and human trafficking. Organized criminal syndicates and militant groups have become increasingly involved. In the past decade, wildlife trafficking has escalated into an international crisis. Illegal trade at this scale threatens security, hinders sustainable economic development and undermines the rule of law.

This year I became co-chair of the Presidential Task Force on Wildlife Trafficking, which leads a coordinated, government-wide effort to stop poaching and other wildlife trafficking. The Task Force includes the Departments of Treasury, Defense, Agriculture, Commerce, Transportation and Homeland Security, as well as the U.S. Agency for International Development and seven other federal departments and agencies.

The Task Force agencies have been working in coordination to implement the National Strategy for Combatting Wildlife Trafficking since its issuance and in February the Task Force released an Implementation Plan that builds upon the Strategy. The Implementation Plan provides a robust, focused reaffirmation of the nation's commitment to stopping wildlife trafficking and sets out specific steps to achieve each of three key strategic priorities: (1) strengthening domestic and international law enforcement to curb the illegal flow of wildlife, (2) reducing the demand for illegally traded wildlife and (3) building global cooperation and public/private partnerships to support the fight against wildlife trafficking.

In March, I had the privilege of leading the U.S. delegation to the international Conference on the Illegal Wildlife Trade in Botswana. Representatives from more than 30 nations gathered to follow up on commitments to reduce illegal wildlife trade. The joint participation of the U.S. Departments of Justice, State and the Interior at these conferences demonstrates the "whole of government" approach taken in the Strategy, which we are pleased to see other nations beginning to adopt as well. It was a true honor to speak on behalf of the United States about our ongoing efforts to combat wildlife trafficking through the Strategy and the newly released Implementation Plan. While in Botswana, I participated in the second African Elephant Summit, which focused on international efforts to implement 14 "urgent measures" to stop the illegal slaughter of elephants for their ivory.

Let me be clear. This illegal trade is decimating species across the globe, including elephants, rhinoceroses, sharks and tigers. When I testified before Congress this year on illegal wildlife trafficking, I advised the members of the House Foreign Affairs Committee that such iconic species as rhinoceroses, elephants, great apes, totoaba, sea turtles and tigers are facing extinction in our lifetime if we do not act now. If you can imagine the diminished world that would result if these powerful and iconic species are permitted to go extinct, you can see why this is such an important initiative for us. The department, principally through ENRD, has long been a leader in the fight against illegal wildlife trafficking. Together with U.S. Attorneys' Offices across the country and partner federal agencies – such as FWS and NOAA – ENRD's Environmental Crimes Section prosecutes international wildlife trafficking crimes. The Crimes

Section primarily operates under the Endangered Species Act and the Lacey Act. It also prosecutes related crimes such as smuggling, money laundering and conspiracy. ENRD has successfully prosecuted numerous cases involving trafficking of rhinoceros horns, elephant ivory, South African leopard, Asian and African tortoises and reptiles and many other protected wildlife species.

One prominent example of how the Department of Justice is involved in this effort is "Operation Crash," an ongoing multi-agency effort to detect, deter and prosecute those engaged in the illegal killing of rhinoceros and the illegal trafficking of endangered rhinoceros horns. Thus far, the initiative has resulted in 26 arrests and 18 convictions.

One example of Operation Crash is *United States v. Xiao Ju Guan.* There, an individual known as Tony Guan, a Canadian antiques dealer, and co-conspirators smuggled into Canada more than $500,000 worth of rhino horns and sculptures made from elephant ivory and coral from various U.S. auction houses. They did so by driving them across the border or having packages mailed directly to Canada with false paperwork and without the required declaration or permits. In March of this year, Guan was sentenced to 30 months' imprisonment and required to forfeit a variety of wildlife items made from elephant ivory and coral seized during a search of his business.

Yet another example is *United States v. Andrew Zarauskas*. In January 2015, Andrew Zarauskas was sentenced to 33 months in prison for unlawful trafficking of narwhal tusks and teeth. The narwhal is a medium-sized toothed whale that possesses a large "tusk" from a protruding canine tooth. It lives year-round in Arctic waters around Greenland, Canada and Russia. Some medieval Europeans believed narwhal tusks to be the horns from the legendary unicorn. Narwhals are listed as "threatened" under the Endangered Species Act and are covered by the Convention on International Trade in Endangered Species of Wild Fauna and Flora. It is illegal to import narwhal parts into the United States without a permit and without declaring the parts at the time of importation.

B. Vessel Pollution

Another key area where we work is combatting vessel pollution. The division's Vessel Pollution Initiative addresses intentional acts of pollution from ocean-going vessels, including discharges of oil and garbage and the deliberate falsification of official ship records designed to conceal illegal pollution. These events often occur in international waters. Criminal penalties imposed in these vessel pollution cases totaled more than $344 million in fines and more than 27 years of confinement.

For example, I would like to highlight U.S. criminal prosecutions under the Act to Prevent Pollution from Ships, or APPS, which implements the International Convention for the Prevention of Pollution from Ships, or MARPOL. Countries negotiated MARPOL to minimize pollution of the oceans and seas, including releases of garbage, sewage and oil and air pollution. Our work in this area has resulted in cases against key segments of the commercial maritime industry. Defendants in these cases have included owners or operators of cruise ships, container ships, oil and chemical tankers and bulk cargo vessels. The APPS requires vessels to maintain a

record known as an oil record book in which all transfers and disposals of oil-contaminated waste, including the discharge overboard of such waste, must be fully and accurately recorded.

One recent example, in *United States v. Carbofin SPA et al.,* in March the U.S. District Court for the Middle District of Florida sentenced the defendant to pay a $2.15 million fine and make a $600,000 community service payment to the National Marine Sanctuary Foundation. Carbofin previously pleaded guilty to three APPS violations. Carbofin had maintained a false oil record book that failed to record illegal overboard discharges of oily wastes in 2013 and 2014. While conducting a routine inspection in April 2014, crew members provided Coast Guard inspectors with cell phone video of a black hose being used to discharge oily bilge waste directly overboard. After examining valves and finding oily residue on the hose, the inspectors confirmed that the hose had been used to bypass pollution prevention equipment and to discharge wastes overboard.

ENRD has accomplished these results in these wildlife trafficking and vessel pollution cases by collaborating with new and existing local, state and international partners. They illustrate how the resolution of these cases will provide real benefits for the public and natural environment.

IV. CHANGES IN PERSONNEL AND PENALTIES SHARED WITH STATES

Finally, I want to draw your attention to a press release that the Department of Justice recently issued on a new personnel action. This Monday, I announced the creation of a new position designed to facilitate ENRD's work with state and local government attorneys. We designed the newly created role of Counselor for State and Local Matters to facilitate the joint efforts by the division and its environmental partners in state and local governments. The Counselor for State and Local Matters will work with the National Association of Attorneys General, the Environmental Conference of States and individual attorneys in state and local governments working on environment and natural resource matters. One important function of the counselor will be to increase collaboration with our state and local partners to achieve shared environmental enforcement goals. Such collaboration may range from developing and implementing joint training to serving as a resource for state and local counterparts on issues of shared concern. The counselor also will advise and assist the division regarding litigation, legislation and policy matters affecting state and local governments.

Maintaining and improving this coordination is critical to our success. Just this year, ENRD has already filed 13 cases with state parties – some of which I have discussed. ENRD has entered into settlements in six such cases. Those six cases have resulted in over $2.1 million in penalties going to state co-plaintiffs. These cases are: *United States v. Allan Myers, Inc.* ($81,250 to state); *United States v. Noble Energy, Inc.* ($1.475 million to Colorado); *United States v. Continental Carbon Company* ($19,500 to state); *United States v. Barrick Goldstrike Mines, Inc.* ($98,000 to state); *United States v. Cal-Maine* ($237,500 to Mississippi) and *United States and State of Nevada v. Newmont USA Ltd.* ($197,500 to state). Additionally, over $2.2 million will go to New York and California upon court approval of two pending consent decrees in *United States v. Tonawanda Coke Corporation* ($1 million to New York); and *United States v. Lehigh Southwest Cement Company and Hanson Permanente* ($1,275,000 to California).

In conclusion, ENRD's efforts bring about concrete results at the local, state and international levels. You have seen how in the Tonawanda Coke, Lehigh Southwest Cement, and similar cases, ENRD's enforcement work has impacts on local communities. I have talked about how in cases such as the Noble Energy and Total Petroleum matters, we often seek and achieve broader, company-wide relief and successfully coordinate our efforts with governments at the state or regional level. Third, I have spoken about cases involving a Canadian antiques dealer, a German company and an Italian-domiciled entity and others that raise international issues where our efforts require extensive international cooperation. We have seen how across all three categories, the Department of Justice leverages resources by partnering with others and advances Administration priorities.

Thank you again for having me here today.

# # #

DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE OFFICE OF PUBLIC AFFAIRS AT 202-514-2007.

To: Desmarie Waterhouse[dwaterhouse@publicpower.org]
Cc: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Jackson, Ryan
Sent: Thur 6/8/2017 4:37:12 PM
Subject: Re: Public power CEO

The meeting is at 1pm in the green room in the Administrator's suite. They should plan to be there by 12:45 to get through security. It's a straight shot. We'll have people in the lobby helping usher people up. We are not announcing to the press. It's a closed stakeholder meeting to get honest input. What should be next on 111 if anything and are there other opportunities to get regulatory certainty.

_____
Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Jun 8, 2017, at 8:30 AM, Desmarie Waterhouse <dwaterhouse@publicpower.org> wrote:

Some are just logistical:

Where will the meeting be? By what time do you want CEOs there to get through security?

Will the meeting be announced to the press?

I have three CEOs confirmed that they can go. We have one more we are waiting to hear back from. Is giving you their names, titles, and organizations enough or do you need their contact info?

Is there anything you need from us? Almost all of the staff will be in Orlando for our National Conference. I leave for that next Friday.

We really appreciate the outreach and want to thank you again for the invitation to participate.

Sent from my Verizon, Samsung Galaxy smartphone

-------- Original message --------
From: "Gunasekara, Mandy" <Gunasekara.Mandy@epa.gov>
Date: 6/8/17 12:49 AM (GMT-05:00)
To: Desmarie Waterhouse <dwaterhouse@publicpower.org>
Cc: "Jackson, Ryan" <jackson.ryan@epa.gov>

Subject: Re: Public power CEO

Hi Desmarie,
I'm out of the country until Tuesday and Ryan is en route this morning. We are working out the final agenda for the 19th starting at 1 pm.
Can you email your specific questions for now?
Best,
Mandy

Sent from my iPhone

On Jun 7, 2017, at 5:06 PM, Desmarie Waterhouse <dwaterhouse@publicpower.org> wrote:

Ryan and Mandy:

Do either of you have time to talk today about the roundtable? I have a couple of questions on logistics, etc. Shouldn't take more than five to ten minutes.

Thanks.

Des

From: Jackson, Ryan [mailto:jackson.ryan@epa.gov]
Sent: Tuesday, June 6, 2017 6:04 PM
To: Desmarie Waterhouse <dwaterhouse@publicpower.org>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Michael.J.Catanzaro@who.eop.gov; Schwab, Justin <schwab.justin@epa.gov>; Hupp, Sydney <hupp.sydney@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: Re: Public power CEO

Thank you.

Ryan Jackson

Chief of Staff

U.S. EPA

Ex. 6 - Personal Privacy

On Jun 6, 2017, at 5:21 PM, Desmarie Waterhouse <dwaterhouse@publicpower.org> wrote:

Ryan:

I just heard back from one of our CEOs that can attend. Tom Heller, the President and CEO of Missouri River Energy Services (MRES), a joint action agency that serves 60 public power utilities in four states (ND, SD, MN, and IA) is available to attend the meeting. He will come to D.C. and miss our National Conference to be at the roundtable.

Please let me know what the next steps are – should I send you his contact info or is there info I should relay to him about the meeting?

Thanks so much.

Des

Desmarie M. Waterhouse

Vice President of Government Relations & Counsel

American Public Power Association

2451 Crystal Dr., Ste. 1000

Arlington, VA 22202

202-467-2930 (w)

703-665-9182 (c)

To: Yamada, Richard (Yujiro)[yamada.richard@epa.gov]; Steven Koonin[Ex. 6 - Personal Privacy]
From: Jackson, Ryan
Sent: Tue 6/20/2017 1:35:37 PM
Subject: RE: Introductions

Initial wrong email address.

From: Jackson, Ryan
Sent: Tuesday, June 20, 2017 9:34 AM
To: 'Richard.Yamada@mail.house.gov' <Richard.Yamada@mail.house.gov>; Steven Koonin [Ex. 6 - Personal Privacy]
Subject: Introductions

Gentlemen, I wanted to make introductions but also see when would be convenient for us all to get on the phone preferably this week to talk about next steps.

For me tomorrow is very open, but I'll certainly make time. Richard has been on staff now for one week so we are up and running to staff this out.

Thanks.

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

[Ex. 6 - Personal Privacy]

To: Ross Eisenberg[REisenberg@nam.org]
From: Jackson, Ryan
Sent: Thur 11/9/2017 4:22:45 PM
Subject: Re: Manufacturers Support EPA Nominees

Big thanks.

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999
Ex. 6 - Personal Privacy

On Nov 9, 2017, at 11:16 AM, Ross Eisenberg <REisenberg@nam.org> wrote:

From: Ross Eisenberg, NAM <Ross.E.Eisenberg@nam.org>
Sent: Thursday, November 9, 2017 11:08:25 AM
To: Ross Eisenberg
Subject: Manufacturers Support EPA Nominees

November 9, 2017

The Honorable Mitch McConnell
Majority Leader
United State Senate
Washington, DC 20510

The Honorable Charles Schumer
Democratic Leader
United States Senate
Washington, DC 20510

Dear Majority Leader McConnell and Democratic Leader Schumer:

We are writing on behalf of millions of businesses, large and small, to ask you to schedule votes to confirm the pending nominees for senior leadership positions at the United States Environmental Protection Agency (EPA). Our organizations represent many major sectors of the American economy—including aerospace, agriculture, apparel, automotive, building and construction materials, chemical and raw material production, consumer and industrial goods, distribution, electronics, energy, equipment manufacturers, food and grocery, footwear, healthcare products and medical technology, information technology, mining and metals, paper and wood products, plastics, retail, storage, tire manufacturers, and travel goods.

The mission of the EPA is to protect human health and the environment. However, more than nine months into the new Administration, the EPA lacks Senate-confirmed Deputy and Assistant Administrators to carry out this mission. The EPA's activities have a significant impact on each of our industries, the products we make or the services we provide, and the tens of millions of workers we represent. It is therefore of significant importance to our groups that EPA is appropriately and fully staffed. This holds especially true for individuals in key leadership positions.

To ensure that EPA's vast workload can be efficiently and effectively achieved and implemented, we urge you to move expeditiously towards confirmation for the following nominees:

- Susan Bodine, for EPA Assistant Administrator, Office of Enforcement and Compliance Assurance
- Michael Dourson, for EPA Assistant Administrator, Office of Chemical Safety and Pollution Prevention
- Matthew Leopold, for EPA Assistant Administrator, Office of General Counsel
- David Ross, for EPA Assistant Administrator, Office of Water
- William Wehrum, for EPA Assistant Administrator, Office of Air and Radiation
- Andrew Wheeler, for EPA Deputy Administrator

We appreciate your assistance in this important and timely matter.

Sincerely,

American Chemistry Council

American Coke and Coal Chemicals Institute

American Composites Manufacturers Association

American Fiber Manufacturers Association

American Forest & Paper Association

American Foundry Society

American Fuel & Petrochemical Manufacturers

American Home Furnishings Alliance

American Iron & Steel Institute

American Supply Association

American Wood Council

Arizona Manufacturers Council

Associated Industries of Missouri

Brick Industry Association

Can Manufacturers Institute

Colorado Association of Commerce and Industry

Connecticut Business & Industry Association

CropLife America

Flexible Packaging Association

Georgia Association of Manufacturers

Glass Packaging Institute

Global Cold Chain Alliance

INDA, Association of the Nonwoven Fabrics Industry

Industrial Fasteners Institute

Institute of Makers of Explosives

International Fragrance Association North America

International Housewares association

Interstate Natural Gas Association of America

IPC - Association Connecting Electronics Industries

Kansas Chamber of Commerce

Louisiana Association of Business and Industry

MPIF

MSCI

National Association of Chemical Distributors

National Association of Manufacturers

National Lime Association

National Marine Manufacturers Association

National Mining Association

National Oilseed Processors Association

National Precast Concrete Association

National Shooting Sports Foundation

National Wooden Pallet and Container Association

Nebraska Chamber of Commerce & Industry

Nevada Manufacturers Assn

New Mexico Business Coalition (NMBC)

Northeast PA Manufacturers & Employers Asso.

Ohio Manufacturers' Association

Oregon Women In Timber

Plastics Pipe Institute

Plumbing Manufacturers International

Polyisocyanurate Insulation Manufacturers Association

Portland Cement Association

Rhode Island Manufacturers Association

Society of Chemical Manufacturers and Affiliates (SOCMA)

South Carolina Chamber of Commerce

The Aluminum Association

The Fertilizer Institute

U.S. Chamber of Commerce

U.S. Tire Manufacturers Association

Vinyl Institute

cc: U.S. Senate

To: fre@usepa.onmicrosoft.com[fre@usepa.onmicrosoft.com]
From: Jackson, Ryan
Sent: Mon 4/17/2017 7:42:18 PM
Subject: Fwd: Paris

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

Begin forwarded message:

From: Evan Lehmann <elehmann@eenews.net>
Date: April 17, 2017 at 3:40:44 PM EDT
To: "jackson.ryan@epa.gov" <jackson.ryan@epa.gov>
Subject: Paris

Hi Ryan,

Can you please spare a few minutes today to talk about tomorrow's WH meeting on the Paris climate agreement? We can talk off the record. I'd could really use your help in getting some context for Pruitt's positions. Some sources I'm talking to are critical of his descriptions of Paris as economically harmful and too stringent in its required commitments on emissions. I'd really appreciate your insights. No quotes.

Thank you,

Evan

Evan Lehmann

Climatewire deputy editor, E&E News

elehmann@eenews.net

202-446-0462 (office)

202-427-6155 (mobile)

Twitter: @evanlehmann

E&E NEWS

122 C Street NW 7th Floor Washington, DC 20001

www.eenews.net | @EENewsUpdates

Energywire, Climatewire, Greenwire, E&E Daily, E&E News PM, E&ETV

To: John Blount[john.blount@ervinhillstrategy.com]
From: Jackson, Ryan
Sent: Thur 4/27/2017 11:43:04 PM
Subject: RE: For EPA mtg Ryan

Sure, who'll be in it? When are you looking for? This is much different than on the hill.

From: John Blount [mailto:john.blount@ervinhillstrategy.com]
Sent: Thursday, April 27, 2017 1:56 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: John Blount <john.blount@ervinhillstrategy.com>
Subject: For EPA mtg Ryan

Here is what we would like to meet on.

John Blount

SVP, Global Government Affairs

Ervin | Hill Strategy

410 First Street, SE

Suite 300

Washington, D.C. 20003

202.425.4618-cell

To: Hale, Michelle[hale.michelle@epa.gov]
Cc: mjunk@cityoftulsa.org[mjunk@cityoftulsa.org]
From: Jackson, Ryan
Sent: Thur 6/8/2017 8:46:47 AM
Subject: Re: additional portraits

Great deal. We've landed in Rome.

_____
Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Jun 7, 2017, at 5:43 PM, Hale, Michelle <hale.michelle@epa.gov> wrote:

Just the Portrait Gallery -- they had the Henry Clay. So, yes, we still are getting the landscapes.

Sent from my iPhone

On Jun 7, 2017, at 4:35 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

Damn it.

Junk, can you help us with Gilcrease?

_____
Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Jun 7, 2017, at 4:32 PM, Hale, Michelle <hale.michelle@epa.gov> wrote:

From: Isaacson, Beth [mailto:IsaacsonB@si.edu]
Sent: Wednesday, June 7, 2017 4:30 PM
To: Hale, Michelle <hale.michelle@epa.gov>
Cc: Kelly, Claire <KellyC@si.edu>
Subject: RE: additional portraits

Hi Michelle,

What a busy time! Sorry for the delay but the Chief curator was out as I mentioned, and then in a meeting all day Tuesday.

So, the bottom line is this – we have been bombarded with requests from the new administration for portraits and after discussing with the curators have decided to limit the number of objects on loan to any "high-ranking government official" to two. We also need to make sure that we have objects available for our own exhibition needs and a long-term loan of four years can be a constraint.

I hope the Administrator enjoys the portraits he has and I am sorry for the bad news.

Beth

From: Hale, Michelle [mailto:hale.michelle@epa.gov]
Sent: Monday, June 05, 2017 10:32 AM
To: Isaacson, Beth <IsaacsonB@si.edu>
Subject: RE: additional portraits

Hi, Beth, any word?

From: Isaacson, Beth [mailto:IsaacsonB@si.edu]
Sent: Friday, May 26, 2017 3:40 PM
To: Hale, Michelle <hale.michelle@epa.gov>
Cc: Grimsley, Molly <GrimsleyM@si.edu>
Subject: RE: additional portraits

Hi Michelle,

We may have a Henry Clay in storage but I do not know the condition of the painting. The chief curator is out until the first week in June so this will have to wait until she returns.

Have a good holiday weekend,

Beth

From: Hale, Michelle [mailto:hale.michelle@epa.gov]
Sent: Thursday, May 25, 2017 5:21 PM
To: Isaacson, Beth <IsaacsonB@si.edu>
Cc: Grimsley, Molly <GrimsleyM@si.edu>
Subject: Re: additional portraits

How about Henry Clay?

Sent from my iPhone

On May 25, 2017, at 4:54 PM, Isaacson, Beth <IsaacsonB@si.edu> wrote:

> Hi Michelle,
>
> I just heard from our chief curator and she is not willing to lend Sir Winston Churchill right now because she is not sure when we might need him again for our exhibition purposes.
>
> Beth
>
> **From:** Hale, Michelle [mailto:hale.michelle@epa.gov]
> **Sent:** Thursday, May 25, 2017 4:06 PM
> **To:** Isaacson, Beth <IsaacsonB@si.edu>
> **Subject:** RE: additional portraits

If we get another one – we will hang it on the wall farthest from the windows – I remember we can't hang anything over the fireplace due to the lighting.

From: Isaacson, Beth [mailto:IsaacsonB@si.edu]
Sent: Thursday, May 25, 2017 4:02 PM
To: Hale, Michelle <hale.michelle@epa.gov>
Cc: Grimsley, Molly <GrimsleyM@si.edu>
Subject: RE: additional portraits

One Daniel Boone in on display here in the gallery and the other is on a long-term loan already.

We only have the one painting of Winston Churchill so I will have to check on that with the curators and historians and let you know.

Where would you put the painting? If I recall correctly we have issues with too much light in the office…

From: Hale, Michelle [mailto:hale.michelle@epa.gov]
Sent: Thursday, May 25, 2017 3:50 PM
To: Isaacson, Beth <IsaacsonB@si.edu>
Subject: RE: additional portraits

I see that there are several Daniel Boone and Winston Churchill portraits. Are they available for loan?

From: Isaacson, Beth [mailto:IsaacsonB@si.edu]
Sent: Thursday, May 25, 2017 3:47 PM
To: Hale, Michelle <hale.michelle@epa.gov>
Subject: RE: additional portraits

Hi Michelle,

We do not have a limit, per se, but we have had many requests with the change of administration so we are running out of paintings. ☺ That being said, we do not have a selection of portraits in a "lending program" -you would either have to give me names or look up on our website http://npg.si.edu/portraits to search for portraits. We do not lend photographs, prints or drawings (actually any work on paper) and we do not lend objects on view here at the gallery.

Let me know what you want to do,

Beth

<image001.png>

Beth Isaacson

Exhibition Assistant

Smithsonian

National Portrait Gallery

IsaacsonB@si.edu | 202.633.8282

Mailing Address

MRC 973

PO Box 37012

Washington, DC 20013-7012

Street Address

750 Ninth Street NW, Suite 410

Washington, DC 20001

<image002.png> <image003.png> <image004.png> <image005.png>

npg.si.edu

From: Hale, Michelle [mailto:hale.michelle@epa.gov]
Sent: Thursday, May 25, 2017 3:25 PM
To: Isaacson, Beth <IsaacsonB@si.edu>
Subject: additional portraits

Beth,

Could you let me know what the limit is on portraits that we can obtain from the National Portrait Gallery? We love the Marshall and Monroe and would like to get some more if possible and if available. Do you have a list of the portraits that are available in your lending program?

Michelle Hale

Executive Assistant to the Administrator

Environmental Protection Agency

1200 Pennsylvania Ave., NW,

WJCS, Suite 3000

Washington, D.C. 20460

(202) 564-1430

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To: Richard.Yamada@mail.house.gov[Richard.Yamada@mail.house.gov]; Steven Koonin[Ex. 6 - Personal Privacy]
From: Jackson, Ryan
Sent: Tue 6/20/2017 1:33:49 PM
Subject: Introductions

Gentlemen, I wanted to make introductions but also see when would be convenient for us all to get on the phone preferably this week to talk about next steps.

For me tomorrow is very open, but I'll certainly make time. Richard has been on staff now for one week so we are up and running to staff this out.

Thanks.

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

Ex. 6 - Personal Privacy

To: Myron Ebell[Myron.Ebell@cei.org]
From: Jackson, Ryan
Sent: Mon 4/17/2017 6:29:49 PM
Subject: RE: Some talking points on the Paris Climate Treaty

Thanks and thanks for comments in the Post article. Very appropriate in this crazy atmosphere.

From: Myron Ebell [mailto:Myron.Ebell@cei.org]
Sent: Monday, April 17, 2017 2:15 PM
To: Myron Ebell <Myron.Ebell@cei.org>
Subject: Some talking points on the Paris Climate Treaty

Talking Points on the Paris Climate Treaty

•□□□□□□□ President Trump campaigned on the promise to "cancel the Paris climate agreement and stop all payments of U.S. tax dollars to UN global warming programs." The agreement is designed to transfer wealth from the United States to developing countries, and would cost **trillions** of dollars to implement.

•□□□□□□□ The Paris Agreement is an unfair deal that allows countries like China and India – which have far fewer environmental protections in place than does the U.S. – to continue to increase their greenhouse gas emissions, while we take very costly steps to dramatically decrease ours.

•□□□□□□□ The promises made by the Obama administration in entering the agreement would cost American workers hundreds of thousands of jobs, and our economy hundreds of billions of dollars – harming America's competitiveness in the global marketplace, and handing an advantage to China and other nations.

o Because the Paris Agreement requires member countries to increase their emission reduction commitments every five years, staying in the agreement would mean even more harm to American workers, families, and the economy over time.

o This stands in direct conflict with President Trump's plan to create 25 million new American jobs, re-establishing the United States as a global leader in manufacturing and an engine of economic growth.

•□□□□□□□ Some argue that we should remain in the Paris Agreement to keep our "seat at the table." However, the fundamental goal of the Paris Agreement is to drive participating nations toward emissions reductions that are mathematically incompatible with economic growth.

o Furthermore, remaining in the agreement and reducing our Nationally Determined Contribution (NDC) is inconsistent with the construct of the agreement itself. Provisions exist only for participating nations to strengthen their commitments, not weaken them.

o Even providing for a rescission of our current NDC, continued U.S. participation in the agreement ensures a future administration will once again put forward unattainable, economically damaging NDCs.

o It is also unrealistic to believe that the U.S. could extract concessions regarding the development and use of fossil fuels, particularly given the negative reaction by other members at the recent G7 Energy meeting to a proposal to include reference to fossil fuels in a joint statement of the G7 nations.

•□□□□□□□ In stark contrast to the previous administration, President Trump has made clear that his priorities include energy policies that maximize the use of America's vast untapped resources; environmental policies that focus on protecting and preserving our air, water, and wildlife; and regulatory policies that put Americans back to work, unleashing our nation's full economic potential. **The Paris Climate Treaty stands as an obstacle to each of those goals.**

Myron Ebell

Director, Center for Energy and Environment

Competitive Enterprise Institute

1310 L Street, N. W., Seventh Floor

Washington, DC 20005, USA

Tel direct: (202) 331-2256

Tel mobile: (202) 320-6685

E-mail: Myron.Ebell@cei.org

Stop continental drift!

To: David Schwietert[DSchwietert@autoalliance.org]
From: Jackson, Ryan
Sent: Thur 4/27/2017 11:40:52 PM
Subject: RE: CA letter to Gov

I sure will. Thanks. Really good meeting today.

From: David Schwietert [mailto:DSchwietert@autoalliance.org]
Sent: Thursday, April 27, 2017 2:33 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: re: CA letter to Gov

Understanding you are busy this afternoon, could you call me regarding the Administrator's plan to send the letter tomorrow

I spoke with Brittany after the meeting and mentioned that you recommended that she send me the draft letter

I followed up on email but haven't seen anything

Thanks,

Dave

202-680-3150

To: Hale, Michelle[hale.michelle@epa.gov]
Cc: mjunk@cityoftulsa.org[mjunk@cityoftulsa.org]
From: Jackson, Ryan
Sent: Wed 6/7/2017 10:18:09 PM
Subject: Re: additional portraits

Oh good. I thought we were not getting those. The landscapes will be nice. Sorry, Michael. False alarm. I thought we were getting nothing else. We are good.

_____
Ryan Jackson
Chief of Staff
U.S. EPA
(Ex. 6 - Personal Privacy

On Jun 7, 2017, at 5:43 PM, Hale, Michelle <hale.michelle@epa.gov> wrote:

Just the Portrait Gallery -- they had the Henry Clay. So, yes, we still are getting the landscapes.

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Beth

<image001.png>

Beth Isaacson

Exhibition Assistant

Smithsonian

National Portrait Gallery

IsaacsonB@si.edu | 202.633.8282

Mailing Address

MRC 973

PO Box 37012

Washington, DC 20013-7012

Street Address

750 Ninth Street NW, Suite 410

Washington, DC 20001

<image002.png> <image003.png> <image004.png> <image005.png>

npg.si.edu

From: Hale, Michelle [mailto:hale.michelle@epa.gov]
Sent: Thursday, May 25, 2017 3:25 PM
To: Isaacson, Beth <IsaacsonB@si.edu>
Subject: additional portraits

Beth,

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Michelle Hale

Executive Assistant to the Administrator

Environmental Protection Agency

1200 Pennsylvania Ave., NW,

WJCS, Suite 3000

Washington, D.C. 20460

(202) 564-1430

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To: lgetto@uschamber.com[lgetto@uschamber.com]
From: Jackson, Ryan
Sent: Tue 6/20/2017 12:09:33 AM

I need to reach you concerning Administrator Pruitt's appearance at a US Chamber event tomorrow. He may not be able to make it due to health issues and I need to ask about a proxy. My cell is Ex. 6 - Personal Privacy Ex. 6 - Personal Privacy

---

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

To: J. Steven Hart[jshart@wms-jen.com]
From: Jackson, Ryan
Sent: Mon 4/17/2017 6:28:05 PM
Subject: RE: Jimmy's EPA Application [WARNING: DKIM validation failed]

On it.

From: J. Steven Hart [mailto:jshart@wms-jen.com]
Sent: Friday, April 14, 2017 2:51 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Vicki Hart <vhart@hhs.com>
Subject: Fwd: Jimmy's EPA Application [WARNING: DKIM validation failed]

I seldom talk to Scott but Vicki does. She has talked to Scott about this kid who is important to us. He told Vicki to talk to you about how to handle this.

I am not sure personally that this is a good idea for Jimmy unless he is working near you. Sticking him down in the bowels is death at EPA.

His family is all Naval Academy by the way.

From: Jimmy Guiliano [mailto: **Ex. 6 - Personal Privacy**
Sent: Monday, March 27, 2017 6:36 PM
To: J. Steven Hart
Subject: Jimmy's EPA Application

Hi Mr. Hart,

Attached are the relevant sections of my EPA application.

There was also drop down menu section asking which areas/agencies I desired to work. For agency, I selected EPA. For positions I selected Policy positions, Financial/Research Positions, and for policy areas I selected Environmental, Economy, Technology, Banking/Financials.

Thank you for taking the time to help me with this.

Sincerely,

Jimmy

Disclaimer

This message, and any attachments to it, are from Williams & Jensen, PLLC and are intended only for the addressee. Information contained herein is confidential, privileged and exempt from disclosure pursuant to applicable federal or state law. If the reader of this message is not the intended recipient, you are notified that any use, dissemination, distribution, copying or communication of this message is strictly prohibited. If you have received this message in error, please notify the sender immediately by return email and delete the message and any attachments. Thank you

To: Sydney Hupp Ex. 6 - Personal Privacy
From: Jackson, Ryan
Sent: Thur 4/27/2017 11:25:56 PM

Will you send an email that there's no 8am meeting tomorrow?

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

Ex. 6 - Personal Privacy

To: Hale, Michelle[hale.michelle@epa.gov]; mjunk@cityoftulsa.org[mjunk@cityoftulsa.org]
From: Jackson, Ryan
Sent: Wed 6/7/2017 9:12:53 PM
Subject: Re: additional portraits

Oh oh wait so we can still get the 3 more?

I misunderstood. I think.

_____
Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Jun 7, 2017, at 4:41 PM, Hale, Michelle <hale.michelle@epa.gov> wrote:

And remember we have 3 landscapes coming from the other Smithsonian facility.

From: Jackson, Ryan
Sent: Wednesday, June 7, 2017 4:35 PM
To: Hale, Michelle <hale.michelle@epa.gov>; mjunk@cityoftulsa.org
Subject: Re: additional portraits

Damn it.

Junk, can you help us with Gilcrease?

_____

Ryan Jackson

Chief of Staff

U.S. EPA

Ex. 6 - Personal Privacy

On Jun 7, 2017, at 4:32 PM, Hale, Michelle <hale.michelle@epa.gov> wrote:

From: Isaacson, Beth [mailto:IsaacsonB@si.edu]
Sent: Wednesday, June 7, 2017 4:30 PM
To: Hale, Michelle <hale.michelle@epa.gov>
Cc: Kelly, Claire <KellyC@si.edu>
Subject: RE: additional portraits

Hi Michelle,

What a busy time! Sorry for the delay but the Chief curator was out as I mentioned, and then in a meeting all day Tuesday.

So, the bottom line is this – we have been bombarded with requests from the new administration for portraits and after discussing with the curators have decided to limit the number of objects on loan to any "high-ranking government official" to two. We also need to make sure that we have objects available for our own exhibition needs and a long-term loan of four years can be a constraint.

I hope the Administrator enjoys the portraits he has and I am sorry for the bad news.

Beth

From: Hale, Michelle [mailto:hale.michelle@epa.gov]
Sent: Monday, June 05, 2017 10:32 AM
To: Isaacson, Beth <IsaacsonB@si.edu>
Subject: RE: additional portraits

Hi, Beth, any word?

From: Isaacson, Beth [mailto:IsaacsonB@si.edu]
Sent: Friday, May 26, 2017 3:40 PM

To: Hale, Michelle <hale.michelle@epa.gov>
Cc: Grimsley, Molly <GrimsleyM@si.edu>
Subject: RE: additional portraits

Hi Michelle,

We may have a Henry Clay in storage but I do not know the condition of the painting. The chief curator is out until the first week in June so this will have to wait until she returns.

Have a good holiday weekend,

Beth

From: Hale, Michelle [mailto:hale.michelle@epa.gov]
Sent: Thursday, May 25, 2017 5:21 PM
To: Isaacson, Beth <IsaacsonB@si.edu>
Cc: Grimsley, Molly <GrimsleyM@si.edu>
Subject: Re: additional portraits

How about Henry Clay?

Sent from my iPhone

On May 25, 2017, at 4:54 PM, Isaacson, Beth <IsaacsonB@si.edu> wrote:

> Hi Michelle,
>
> I just heard from our chief curator and she is not willing to lend Sir Winston Churchill right now because she is not sure when we might need him again for our exhibition purposes.
>
> Beth
>
> **From:** Hale, Michelle [mailto:hale.michelle@epa.gov]

Sent: Thursday, May 25, 2017 4:06 PM
To: Isaacson, Beth <IsaacsonB@si.edu>
Subject: RE: additional portraits

If we get another one – we will hang it on the wall farthest from the windows – I remember we can't hang anything over the fireplace due to the lighting.

From: Isaacson, Beth [mailto:IsaacsonB@si.edu]
Sent: Thursday, May 25, 2017 4:02 PM
To: Hale, Michelle <hale.michelle@epa.gov>
Cc: Grimsley, Molly <GrimsleyM@si.edu>
Subject: RE: additional portraits

One Daniel Boone in on display here in the gallery and the other is on a long-term loan already.

We only have the one painting of Winston Churchill so I will have to check on that with the curators and historians and let you know.

Where would you put the painting? If I recall correctly we have issues with too much light in the office…

From: Hale, Michelle [mailto:hale.michelle@epa.gov]
Sent: Thursday, May 25, 2017 3:50 PM
To: Isaacson, Beth <IsaacsonB@si.edu>
Subject: RE: additional portraits

I see that there are several Daniel Boone and Winston Churchill portraits. Are they available for loan?

From: Isaacson, Beth [mailto:IsaacsonB@si.edu]
Sent: Thursday, May 25, 2017 3:47 PM
To: Hale, Michelle <hale.michelle@epa.gov>
Subject: RE: additional portraits

Hi Michelle,

We do not have a limit, per se, but we have had many requests with the change of administration so we are running out of paintings. ☺ That being said, we do not have a selection of portraits in a "lending program" -you would either have to give me names or look up on our website http://npg.si.edu/portraits to search for portraits. We do not lend photographs, prints or drawings (actually any work on paper) and we do not lend objects on view here at the gallery.

Let me know what you want to do,

Beth

<image001.png>

Beth Isaacson

Exhibition Assistant

Smithsonian

National Portrait Gallery

IsaacsonB@si.edu | 202.633.8282

Mailing Address

MRC 973

PO Box 37012

Washington, DC 20013-7012

Street Address

750 Ninth Street NW, Suite 410

Washington, DC 20001

<image002.png> <image003.png> <image004.png> <image005.png>

npg.si.edu

From: Hale, Michelle [mailto:hale.michelle@epa.gov]
Sent: Thursday, May 25, 2017 3:25 PM
To: Isaacson, Beth <IsaacsonB@si.edu>
Subject: additional portraits

Beth,

Could you let me know what the limit is on portraits that we can obtain from the National Portrait Gallery? We love the Marshall and Monroe and would like to get some more if possible and if available. Do you have a list of the portraits that are available in your lending program?

Michelle Hale

Executive Assistant to the Administrator

Environmental Protection Agency

1200 Pennsylvania Ave., NW,

WJCS, Suite 3000

Washington, D.C. 20460

(202) 564-1430

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To: Gary Hoitsma[hoitsmag@carmengroup.com]
From: Jackson, Ryan
Sent: Thur 11/16/2017 3:24:39 PM
Subject: RE: Wayne Nastri -- SCAQMD

Pruitt will be traveling.

I can meet with him or our new AA for air can, but I just don't see this coming together. I'm sorry about that.

From: Gary Hoitsma [mailto:hoitsmag@carmengroup.com]
Sent: Thursday, November 16, 2017 7:52 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Fwd: Wayne Nastri -- SCAQMD

How about something the week after Thanksgiving? Will that work?

Begin forwarded message:

From: Gary Hoitsma <hoitsmag@carmengroup.com>
Date: November 6, 2017 at 10:31:53 AM EST
To: "Jackson, Ryan" <jackson.ryan@epa.gov>
Subject: RE: Wayne Nastri -- SCAQMD

SCAQMD's Air Quality Management Plan—challenges to meet Ozone and PM deadlines. Importance of DERA, Targeted Airshed grant programs. SCAQMD's work in developing advanced clean vehicle technologies, including natural gas, electric, hydrogen. Possible Trump Admin Infrastructure plan—can it help address clean air/other environmental infrastructure needs?

From: Jackson, Ryan [mailto:jackson.ryan@epa.gov]
Sent: Monday, November 06, 2017 10:21 AM
To: Gary Hoitsma
Subject: RE: Wayne Nastri -- SCAQMD

Ok. What is the subject on it?

From: Gary Hoitsma [mailto:hoitsmag@carmengroup.com]
Sent: Monday, November 6, 2017 10:17 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Wayne Nastri -- SCAQMD

Ryan,

Let's try again with Wayne Nastri of South Coast Air Quality Management District. Brief meeting with the Administrator.

Here are possible date windows that would work: Nov. 13-17, Nov. 27-30, Dec. 4-7. Will work with you to make it an easy positive meeting. Appreciate if we can put something on the calendar.

Thanks,

Gary

From: Jackson, Ryan [mailto:jackson.ryan@epa.gov]
Sent: Wednesday, October 18, 2017 8:41 AM
To: Gary Hoitsma
Subject: Re: Today?

I can't do it this trip. Next time.

Ryan Jackson

Chief of Staff

U.S. EPA

Ex. 6 - Personal Privacy

On Oct 18, 2017, at 8:17 AM, Gary Hoitsma <hoitsmag@carmengroup.com> wrote:

Any chance to squeeze Wayne Nastri in today for quick meeting? We're flexible

anytime. Just let me know.

Thanks,

Gary

202-285-4307

To: DeLaquil, Mark[mdelaquil@bakerlaw.com]
Cc: Brown, Byron[brown.byron@epa.gov]; Davis, Patrick[davis.patrick@epa.gov]
From: Jackson, Ryan
Sent: Mon 6/19/2017 5:35:26 PM
Subject: Re: CERCLA Financial Responsibility Proposal

I'm sorry yes any of us can meet with you on this. Good to see you the other day.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Jun 15, 2017, at 1:07 PM, DeLaquil, Mark <mdelaquil@bakerlaw.com> wrote:

Dear Ryan,

I hope all is well. I am reaching out concerning EPA's CERCLA financial responsibility proposal. I represent Asarco LLC, which will be filing comments on the proposal. Asarco would also appreciate the opportunity to discuss its concerns with you or another appropriate EPA official.

Duane Yantorno, Asarco's Corporate Manager for State and Federal Regulatory Affairs, will be in Washington from Arizona in late July so I am hoping to schedule the meeting for either July 25, the morning of July 26, or July 28.

Please let me know if any of those dates work schedule-wise. If not, I can propose alternative dates. Also, if there is any other information I can provide to assist, please let me know.

One last note so that you are fully informed, in February I raised the possibility of a meeting with Kevin Minoli. We tabled the issue at that time due to the extension of the comment period.

Best regards,

Mark

Mark DeLaquil
Partner

<image002.jpg>
Washington Square
1050 Connecticut Ave, N.W. | Suite 1100
Washington, DC 20036-5304
T +1.202.861.1527

mdelaquil@bakerlaw.com
bakerlaw.com

<image004.jpg><image006.jpg>

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BakerHostetler

To: fjguiliano@email.wm.edu[fjguiliano@email.wm.edu]
From: Jackson, Ryan
Sent: Mon 4/17/2017 6:27:42 PM

James, I received your information concerning your interest in a position at the EPA. Is there a time we could schedule a call to see where you may be most interested?

Much appreciated.

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

Ex. 6 - Personal Privacy

To: Traylor, Patrick D.[patrick.traylor@hoganlovells.com]
From: Jackson, Ryan
Sent: Thur 4/27/2017 1:22:34 PM
Subject: RE: Catching Up

Sure, and thanks. Let me get back with you on timing maybe in a call Friday. Let me figure that out a little.

-----Original Message-----
From: Traylor, Patrick D. [mailto:patrick.traylor@hoganlovells.com]
Sent: Thursday, April 27, 2017 9:18 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Catching Up

Ryan:

You should be receiving an email from Justina very soon giving me an all-clear on the ethics front.

Can we schedule a time today to talk about next steps and timing? I can make myself available at your convenience.

Best,
Patrick

About Hogan Lovells
Hogan Lovells is an international legal practice that includes Hogan Lovells US LLP and Hogan Lovells International LLP. For more information, see www.hoganlovells.com.

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To: Angie Cooper - Global Public Policy[Angie.Cooper@walmart.com]
Cc: Willis, Sharnett[Willis.Sharnett@epa.gov]
From: Jackson, Ryan
Sent: Wed 6/7/2017 9:10:45 PM
Subject: Re: Intro

Yes for sure. Sorry for the delay.

Ryan Jackson
Chief of Staff
U.S. EPA

Ex. 6 - Personal Privacy

On Jun 7, 2017, at 4:58 PM, Angie Cooper - Global Public Policy <Angie.Cooper@walmart.com> wrote:

Hi Ryan –

I wanted to reconnect and see if we might be able to find a time to touch base. Would you be available to meet on the afternoon of Wednesday, June 21st or Thursday June 22nd?

Let me know if either date works or if there is a time that week that might work better.

Thanks,

Angie

Angie Cooper

Senior Director Global Public Policy
Office 479.277.1530 Cell 479.200.2024

Angie.Cooper@walmart.com

To: dimitri.karakitsos@hklaw.com[dimitri.karakitsos@hklaw.com]; michal_freedhoff@epw.senate.gov[michal_freedhoff@epw.senate.gov]; Black, Jonathan (Tom Udall)[Jonathan_Black@tomudall.senate.gov]; andrew_wallace@tomudall.senate.gov[andrew_wallace@tomudall.senate.gov]; adam_zipkin@booker.senate.gov[adam_zipkin@booker.senate.gov]; adrian_deveny@merkley.senate.gov[adrian_deveny@merkley.senate.gov]
From: Jackson, Ryan
Sent: Sun 4/16/2017 12:12:13 AM

We are finally doing a going away of sorts from Inhofe at the usual stomping ground of Aqua Al 2 on May 9 starting at 7 and going until May 10. You guys are more than welcome.

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

Ex. 6 - Personal Privacy

To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Ryan Jackson Ex. 6 - Personal Privacy
From: Jackson, Ryan
Sent: Thur 4/27/2017 2:30:23 AM
Subject: Re: Ducks Unlimited Reception May 1

Absolutely. Thanks.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Apr 26, 2017, at 10:19 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi there,

Ex. 5 - Attorney Work Product

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Ryan Jackson Ex. 6 - Personal Privacy
Sent: Wednesday, April 26, 2017 2:32 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Fwd: Ducks Unlimited Reception May 1

The administrator and I would like to attend this too.

We like ducks.

Ryan Jackson

Ex. 6 - Personal Privacy

Begin forwarded message:

> **From:** Margaret Everson <meverson@ducks.org>
> **Date:** April 26, 2017 at 2:09:25 PM EDT
> **To:** Ryan Jackson Ex. 6 - Personal Privacy
> **Subject: FW: Ducks Unlimited Reception May 1**
>
> Ryan,
>
> With all your spare time, will you be able to join us in the festivities?
>
> Best,
>
> Margaret

To: Hale, Michelle[hale.michelle@epa.gov]; mjunk@cityoftulsa.org[mjunk@cityoftulsa.org]
From: Jackson, Ryan
Sent: Wed 6/7/2017 8:35:15 PM
Subject: Re: additional portraits

Damn it.

Junk, can you help us with Gilcrease?

_____
Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Jun 7, 2017, at 4:32 PM, Hale, Michelle <hale.michelle@epa.gov> wrote:

From: Isaacson, Beth [mailto:IsaacsonB@si.edu]
Sent: Wednesday, June 7, 2017 4:30 PM
To: Hale, Michelle <hale.michelle@epa.gov>
Cc: Kelly, Claire <KellyC@si.edu>
Subject: RE: additional portraits

Hi Michelle,

What a busy time! Sorry for the delay but the Chief curator was out as I mentioned, and then in a meeting all day Tuesday.

So, the bottom line is this – we have been bombarded with requests from the new administration for portraits and after discussing with the curators have decided to limit the number of objects on loan to any "high-ranking government official" to two. We also need to make sure that we have objects available for our own exhibition needs and a long-term loan of four years can be a constraint.

I hope the Administrator enjoys the portraits he has and I am sorry for the bad news.

Beth

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Cc: Grimsley, Molly <GrimsleyM@si.edu>
Subject: RE: additional portraits

Hi Michelle,

We may have a Henry Clay in storage but I do not know the condition of the painting. The chief curator is out until the first week in June so this will have to wait until she returns.

Have a good holiday weekend,

Beth

From: Hale, Michelle [mailto:hale.michelle@epa.gov]
Sent: Thursday, May 25, 2017 5:21 PM
To: Isaacson, Beth <IsaacsonB@si.edu>
Cc: Grimsley, Molly <GrimsleyM@si.edu>
Subject: Re: additional portraits

How about Henry Clay?

Sent from my iPhone

On May 25, 2017, at 4:54 PM, Isaacson, Beth <IsaacsonB@si.edu> wrote:

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Subject: RE: additional portraits

If we get another one – we will hang it on the wall farthest from the windows – I remember we can't hang anything over the fireplace due to the lighting.

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To: Hale, Michelle <hale.michelle@epa.gov>
Cc: Grimsley, Molly <GrimsleyM@si.edu>
Subject: RE: additional portraits

One Daniel Boone in on display here in the gallery and the other is on a long-term loan already.

We only have the one painting of Winston Churchill so I will have to check on that with the curators and historians and let you know.

Where would you put the painting? If I recall correctly we have issues with too much light in the office…

From: Hale, Michelle [mailto:hale.michelle@epa.gov]
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To: Isaacson, Beth <IsaacsonB@si.edu>
Subject: RE: additional portraits

I see that there are several Daniel Boone and Winston Churchill portraits. Are they available for loan?

From: Isaacson, Beth [mailto:IsaacsonB@si.edu]
Sent: Thursday, May 25, 2017 3:47 PM
To: Hale, Michelle <hale.michelle@epa.gov>
Subject: RE: additional portraits

Hi Michelle,

We do not have a limit, per se, but we have had many requests with the change of administration so we are running out of paintings. ☺ That being said, we do not have a selection of portraits in a "lending program" -you would either have to give me names or look up on our website http://npg.si.edu/portraits to search for portraits. We do not lend photographs, prints or drawings (actually any work on paper) and we do not lend objects on view here at the gallery.

Let me know what you want to do,

Beth

<image001.png>

Beth Isaacson

Exhibition Assistant

Smithsonian

National Portrait Gallery

IsaacsonB@si.edu | 202.633.8282

Mailing Address

MRC 973

PO Box 37012

Washington, DC 20013-7012

Street Address

750 Ninth Street NW, Suite 410

Washington, DC 20001

<image002.png> <image003.png> <image004.png> <image005.png>

npg.si.edu

From: Hale, Michelle [mailto:hale.michelle@epa.gov]
Sent: Thursday, May 25, 2017 3:25 PM
To: Isaacson, Beth <IsaacsonB@si.edu>
Subject: additional portraits

Beth,

Could you let me know what the limit is on portraits that we can obtain from the National Portrait Gallery? We love the Marshall and Monroe and would like to get some more if possible and if available. Do you have a list of the portraits that are available in your lending program?

Michelle Hale

Executive Assistant to the Administrator

Environmental Protection Agency

1200 Pennsylvania Ave., NW,

WJCS, Suite 3000

Washington, D.C. 20460

(202) 564-1430

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To: Johnston, A. Todd[atjohnston@cement.org]
From: Jackson, Ryan
Sent: Sat 4/15/2017 10:57:54 PM
Subject: RE: Time

Yes, for sure. I'll get back with you on a time.

From: Johnston, A. Todd [mailto:atjohnston@cement.org]
Sent: Wednesday, April 12, 2017 11:54 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Time

I know you're swamped, but it'd be great if we could come by in the next week or so to bring you up to speed on a few issues. Any open timeslots?

Todd

A. Todd Johnston

Executive Vice President

Portland Cement Association

202-719-1974 (o)

202-253-4464 (c)

To: Steven E Koonin[sek9@nyu.edu]
From: Jackson, Ryan
Sent: Thur 4/27/2017 1:18:50 AM
Subject: RE:

Thank you. Please nevermind. I was worried about scheduling for Friday, but it's not an issue. We are really looking forward to visiting with you.

From: Steven E Koonin [mailto:sek9@nyu.edu]
Sent: Wednesday, April 26, 2017 2:22 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Re:

3474074733

Steven E. Koonin

Director, NYU-CUSP

On Apr 26, 2017, at 13:59, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

> Dr. Koonin I think I've misplaced your cell phone. Could I reach out to you today to concerning scheduling? The White House is making demands on us which may take the Administrator to NY on Friday.

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

(202) 564-6999

To: Steven Koonin Ex. 6 - Personal Privacy
From: Jackson, Ryan
Sent: Wed 6/7/2017 8:01:19 PM
Subject: Re: Climate Red-Blue Prospectus

Yes. So glad you think so. So I was hoping to use him in part to help which is the purpose for the timing. But let's simply do something by phone. I was thinking we could make introductions but so glad that's no necessary. Would there be a good time to simply set up a call? Maybe just June 20?

_____

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Jun 7, 2017, at 2:23 PM, Steven Koonin Ex. 6 - Personal Privacy wrote:

June 20, as I mentioned. It then gets tougher to be there in person. Could manage July 6 or 7 or Aug 1 or Aug 2.

SEK

PS Just got a note from Richard Yamada telling me he's coming over as AA for ORD. Good choice.

From: Jackson, Ryan [mailto:jackson.ryan@epa.gov]
Sent: Wednesday, June 7, 2017 1:16 PM
To: Steven Koonin Ex. 6 - Personal Privacy
Subject: Re: Climate Red-Blue Prospectus

What about after June 12?

_____

Ryan Jackson

Chief of Staff

U.S. EPA

Ex. 6 - Personal Privacy

On Jun 7, 2017, at 12:20 PM, Steven Koonin Ex. 6 - Personal Privacy wrote:

Possible I'd have some time early afternoon on Friday. I'll know for sure by tomorrow AM. Would that work for you?

Or I could do something before 3 pm on Tuesday, June 20. Of course, a phone call would be much easier, with many more opportunities.

SEK

From: Jackson, Ryan [mailto:jackson.ryan@epa.gov]
Sent: Wednesday, June 7, 2017 11:44 AM
To: Steven Koonin Ex. 6 - Personal Privacy
Subject: RE: Climate Red-Blue Prospectus

Steve, are you in DC any time in the near future?

From: Steven Koonin Ex. 6 - Personal Privacy
Sent: Monday, May 29, 2017 8:00 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Re: Climate Red-Blue Prospectus

Ryan- Good news.

I can be available on the phone

- anytime today (Monday)

- tomorrow morning before 1000

- pretty much anytime Wednesday after 1000

- many opportunities on days after that

My mobile is 3474074733. If you let me know when you might call, I can be sure to be in a place where I can talk.

Steve

Sent from my iPad

On May 28, 2017, at 17:13, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

> Steve, the Administrator remains very excited about conducting this exercise. He had bounced this and other ideas off others he has worked with for some time and others in the Administration. We would like to proceed further with the red-blue exercise. Although I do not yet have an AA for ORD, I will have a Deputy AA for ORD starting in mid-June. He will have a few initial duties, but helping start this process will be one of them. I would also like staff in ORD to help on this to get the cooperation of both political and career on this project.
>
> We have determined that the best way to process your paperwork is to compensate you as an "administratively determined" position which is unique in the federal hiring process to EPA. There is no vetting other than OPM paperwork which allows us to have you on the payroll in short order.
>
> I would like to discuss with you how go about next steps when convenient. Thanks again for your help with this. We are looking forward to it.
>
> Ryan.

From: Steven Koonin Ex. 6 - Personal Privacy
Sent: Wednesday, May 3, 2017 9:57 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Climate Red-Blue Prospectus

Ryan:

Much enjoyed meeting with you and the Administrator last Friday.

As promised, I attach a prospectus for a Climate Science Red-Blue Exercise. As I've watched the media since our meeting, I've become even more convinced that this would be a very good thing to do.

Many of the design choices are deliberate, but perhaps their rationale isn't evident. Would be happy to discuss further – this is only a first draft.

Steve

To: Wheeler, Andrew R.[Andrew.Wheeler@FaegreBD.com]
From: Jackson, Ryan
Sent: Thur 11/9/2017 3:01:37 PM
Subject: Re: Lindsey

Recent evidence to the contrary.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Nov 9, 2017, at 10:01 AM, Wheeler, Andrew R. <Andrew.Wheeler@FaegreBD.com> wrote:

> I really really like money.
>
> Sent from my iPhone
>
> On Nov 9, 2017, at 9:53 AM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>
>> You're golden. It's why we pursued this. One of many reasons. This will be good. Glad you hate making money.
>>
>> ---
>>
>> Ryan Jackson
>> Chief of Staff
>> U.S. EPA
>> Ex. 6 - Personal Privacy
>>
>> On Nov 8, 2017, at 10:19 PM, Wheeler, Andrew R. <Andrew.Wheeler@FaegreBD.com> wrote:
>>
>>> Everyone seemed to think I did a really good job including inhofe, capito and mr Murray. Carper and Cardin both said really nice things about me.
>>>
>>> Troy and Liz were both happy.
>>>
>>> Sent from my iPhone
>>>
>>> On Nov 8, 2017, at 9:37 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>>>
>>>> Nice. How did you feel about it today.

Only saw a couple stories on how you work to save coal mining jobs and how you didn't write murray's 3 pager.

Seems like it was successful.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Nov 8, 2017, at 8:00 PM, Wheeler, Andrew R. <Andrew.Wheeler@FaegreBD.com> wrote:

FYI

Sent from my iPhone

Begin forwarded message:

From: "Bono, Mary" <Mary.Bono@faegrebd.com>
Date: November 8, 2017 at 7:18:42 PM EST
To: "Wheeler, Andrew R." <Andrew.Wheeler@FaegreBD.com>
Subject: Lindsey

At dinner with Lindsey Graham. He said he's looking forward to voting for you.

Mary
The Honorable Mary Bono
Principal
Faegre Baker Daniels Consulting
Former Member of Congress
1050 K Street NW Suite 400
Washington DC 20001 USA
+1 202 589 2857
Twitter: @MaryBonoUSA

To: Geoffrey Moody[GMoody@afpm.org]
From: Jackson, Ryan
Sent: Sat 4/15/2017 10:55:20 PM
Subject: RE: AFPM Meeting Request

Yeah, we are on it. It would be good. I know Chet. Good people.

From: Geoffrey Moody [mailto:GMoody@afpm.org]
Sent: Wednesday, April 12, 2017 5:03 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: AFPM Meeting Request

Ryan, I hope things are well. As we discussed last week, I would like to request a meeting for AFPM's president, Chet Thompson, with Administrator Pruitt in early May. Chet would like to reintroduce himself, discuss some of the issues that are top of mind for our refining and petrochemical members, and of course explore any ways AFPM can be helpful to the Administrator. By way of background, Chet was EPA Deputy General Counsel under President G.W. Bush.

Separately, we also have our Executive Committee meeting on June 15th in D.C. If I'm not overstepping, would it be possible to explore a second meeting with Administrator Pruitt and senior executives from our companies for that afternoon?

Thanks,

Geoff Moody

Vice President

Government Relations

American

Fuel & Petrochemical

Manufacturers

1667 K Street NW

Suite 700

Washington, DC 20006

202.457.0480 office

202.552.8489 direct

202.457.0486 fax

gmoody@afpm.org

Learn more about AFPM at afpm.org

To: louis.renjel@duke-energy.com[louis.renjel@duke-energy.com]
From: Jackson, Ryan
Sent: Thur 4/27/2017 1:04:38 AM
Subject: FW: Request for phone call with Administrator Pruitt

Can you help with this?

From: Hupp, Sydney
Sent: Wednesday, April 26, 2017 12:43 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Dickerson, Aaron <dickerson.aaron@epa.gov>
Subject: FW: Request for phone call with Administrator Pruitt

Can I set up?

Sydney Hupp

Executive Scheduler

Office of the Adminsitrator

202.816.1659 (c)

From: Ghanta, Venu G [mailto:Venu.Ghanta@duke-energy.com]
Sent: Wednesday, April 26, 2017 12:20 PM
To: Hupp, Sydney <hupp.sydney@epa.gov>
Cc: scheduling <scheduling@epa.gov>
Subject: Request for phone call with Administrator Pruitt

Hi Sydney-

Hope this note finds you well. Duke Energy's CEO, Lynn Good, met with Administrator Pruitt

at CERAWeek back in March. They had a great discussion, and we wanted to schedule a follow-up call to go into more detail on some of the issues raised.

Would either May 18 or May 22 sometime between 2:30 and 5 pm work? I think 15-30 minutes for the phone call would be sufficient.

Thanks, Venu

Venu Ghanta

Federal Environmental & Energy Policy Director

Duke Energy

325 7th Street NW, Suite 300, Washington, DC 20004

Office: 202-824-8013

Cell: 202-699-2337

venu.ghanta@duke-energy.com

To: Ariel Emanuel[AEmanuel@wmeentertainment.com]
From: Jackson, Ryan
Sent: Wed 6/7/2017 6:07:33 PM
Subject: Re:

I don't know how you get around the ICI conversion. However I'm in Cincinnati presently with the Administrator and will be in Italy at the G7 for the remainder of the week.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Jun 7, 2017, at 12:11 PM, Ariel Emanuel <AEmanuel@wmeentertainment.com> wrote:

Anything going on?

Ariel Emanuel | WME
AEmanuel@wmeentertainment.com
310.248.3064

To: Nolan, Rich[RNolan@nma.org]
From: Jackson, Ryan
Sent: Sat 4/15/2017 10:42:11 PM
Subject: FW: EPA to Reconsider ELG Rule

FR notice Tuesday

From: Bowman, Liz
Sent: Thursday, April 13, 2017 5:59 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: EPA to Reconsider ELG Rule

CONTACT:
press@epa.gov

FOR IMMEDIATE RELEASE
April 13, 2017

EPA to Reconsider ELG Rule

EPA takes another action to implement President Trump's vision

WASHINGTON – EPA announced the agency's decision to review and reconsider the final rule that amends the effluent limitations guidelines and standards for the steam electric power generating category under the Clean Water Act (ELG Rule), which has been estimated to cost $480 million per year and has a reported average cost of $1.2 billion per year during the first five years of compliance.

"This action is another example of EPA implementing President Trump's vision of being good stewards of our natural resources, while not developing regulations that hurt our economy and kill jobs," said EPA Administrator Scott Pruitt.

EPA issued an administrative stay to delay the compliance deadlines for the ELG Rule during the pendency of the ongoing litigation challenging the rule in order to give the agency the opportunity to consider and review the rule. EPA will also be sending a letter to the petitioners who requested reconsideration of the rule, to notify them that the rule has been administratively stayed and is under review.

"Some of our nation's largest job producers have objected to this rule, saying the requirements set by the Obama administration are not economically or technologically feasible within the proscribed time frame. It is in the public's best interest to reconsider the rule and assess the wide-ranging and sweeping objections that the agency received," said Administrator Pruitt.

R058

If you would rather not receive future communications from Environmental Protection Agency, let us know by clicking here.

Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460 United States

To: sek9@nyu.edu[sek9@nyu.edu]
From: Jackson, Ryan
Sent: Wed 4/26/2017 5:59:26 PM

Dr. Koonin I think I've misplaced your cell phone. Could I reach out to you today to concerning scheduling? The White House is making demands on us which may take the Administrator to NY on Friday.

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

Ex. 6 - Personal Privacy

To: Johnston, A. Todd[atjohnston@cement.org]
From: Jackson, Ryan
Sent: Mon 6/19/2017 4:13:14 PM
Subject: FW: Signed - National Emission Standards for HAPs from Portland Cement Industry
Signed - Direct Final Rule - Portland Cement.pdf
Signed - Proposed Rule - Portland Cement.pdf

6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-HQ-OAR-2016-0442; FRL-XXXX-XX-OAR]

RIN 2060-AT57

National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry: Alternative Monitoring Method

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is taking direct final action to amend the National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry. This direct final rule provides a compliance alternative for sources that would otherwise be required to use a hydrogen chloride (HCl) continuous emissions monitoring system (CEMS) to demonstrate compliance with the HCl emissions limit. This compliance alternative is needed due to the current unavailability of the HCl calibration gases used for CEMS quality assurance purposes.

DATES: This rule is effective on **[Insert date 12 days after date of publication in the Federal Register]** without further notice, unless the EPA receives significant adverse comment by **[Insert date 10 days after date of publication in the Federal Register].** If the EPA receives significant adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2016-0442, at *http://www.regulations.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you

consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets*.

FOR FURTHER INFORMATION CONTACT: Mr. Brian Storey, Sector Policies and Programs Division (D243-04), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, 27711; telephone number: (919) 541-1103; fax number: (919) 541-5450; and email address: *storey.brian@epa.gov*.

SUPPLEMENTARY INFORMATION:

Organization of This Document. The information in this preamble is organized as follows:

I. General Information
A. Why is the EPA using a direct final rule?
B. Does this direct final rule apply to me?
C. What should I consider as I prepare my comments for the EPA?
II. What are the amendments made by this direct final rule?
III. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
B. Paperwork Reduction Act (PRA)
C. Regulatory Flexibility Act (RFA)
D. Unfunded Mandates Reform Act (UMRA)
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act (NTTAA)
J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
K. Congressional Review Act (CRA)

I. General Information

A. Why is the EPA using a direct final rule?

The EPA is publishing this direct final rule without a prior proposed rule because we view this as a noncontroversial action and do not anticipate significant adverse comment. However, in the "Proposed Rules" section of this **Federal Register**, we are publishing a separate document that will serve as the proposed rule to amend the National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry, if the EPA receives significant adverse comments on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

If the EPA receives significant adverse comment on all or a distinct portion of this direct final rule, we will publish a timely withdrawal in the **Federal Register** informing the public that some or all of this direct final rule will not take effect. We would address all public comments in any subsequent final rule based on the proposed rule.

B. Does this direct final rule apply to me?

Categories and entities potentially regulated by this direct final rule include:

Category	NAICS Code[1]
Portland cement manufacturing facilities	327310

[1] North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this direct final rule. To determine whether your facility is affected, you should examine the applicability criteria in 40 CFR 63.1340. If you have questions regarding the applicability of any aspect of this action to a particular entity, consult either the air permitting authority for the entity or your EPA Regional representative as listed in 40 CFR 63.13.

C. What should I consider as I prepare my comments for the EPA?

Do not submit information containing CBI to the EPA through *http://www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD-ROM that you mail to the EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, a copy of the comments that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. Send or deliver information identified as CBI only to the following address: OAQPS Document Control Officer (C404-02), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA-HQ-OAR-2016-0442.

II. What are the amendments made by this direct final rule?

Under the rule published in 2013 (78 FR 10006, February 12, 2013), the owner or operator of a kiln subject to the emission limits for HCl in 40 CFR 63.1343 may demonstrate compliance by one of the following methods:

- Option 1 - An owner or operator of a kiln may demonstrate compliance by operating a CEMS meeting the requirements of performance specification (PS) 15, PS-18, or any other PS for HCl CEMS in appendix B to part 60, with compliance based on a 30-kiln operating day rolling average.
- Option 2 - If the kiln is controlled using a wet scrubber, tray tower, or dry scrubber, the owner or operator, as an alternative to using a CEMS, may demonstrate compliance with the HCl limit using one of two options, described below.

Under Option 2, a performance test must be conducted by the owner or operator using Method 321. While conducting the Method 321 performance test (note Method 321 is the HCl stack testing performance method required by this rule), the owner or operator must simultaneously measure a control device parameter in order to establishe a site-specific parameter limit that must be continuously monitored to determine compliance. If the kiln is controlled using a wet scrubber or tray tower, the owner or operator must also monitor the pressure drop across the scrubber and/or liquid flow rate and pH during the HCl performance test. If the kiln is controlled using a dry scrubber, the sorbent injection rate must be monitored during the performance test. As an alternative under Option 2, the owner or operator may establish sulfur dioxide (SO_2) as the operating parameter by measuring SO_2 emissions using a CEMS simultaneously with the Method 321 test and establishing the site-specific SO_2 limit that must then be continuously monitored to determine compliance with the HCl limit.

The 2013 rule requires that if a source chooses to (or is required to) monitor HCl emissions using a CEMS (Option 1), they must do so in accordance with PS-15, PS-18, or any other PS for HCl CEMS in appendix B to part 60 of this chapter. (See 40 CFR part 60, appendix B.) Quality assurance procedures for HCl CEMS require that they be capable of reading HCl

concentrations that span a range of possible emission levels below as well as above expected HCl emission concentrations. These quality assurance procedures require the use of National Institute of Standards and Technology (NIST)-traceable calibration gases for HCl.

Following our decision to create PS-18 and Procedure 6 for HCl continuous monitoring in 2012, the EPA worked with NIST and commercial gas vendors on development of NIST-traceable HCl gas standards to support the PS-18 in the 2013 rulemaking. While some of the low HCl concentration (< 10 parts per million, or ppm) NIST-traceable gases have been available on a limited basis since 2013, the full range of HCl concentrations required to support all HCl emissions monitoring technologies (including integrated path that requires concentrations 100 times higher) are not widely available at this time.

The approach used by NIST in 2013 was to certify the Research Gas Material (RGM) cylinders as primary gas standards. These cylinders contain HCl gas and are provided to NIST by vendors for NIST certification, and subsequently used by the vendors as transfer standards to prepare the Gas Manufacturer Intermediate Standards (GMIS). The GMIS cylinders are then used to produce NIST-traceable gas cylinders that are sold commercially.[1] The initial approach used by NIST to certify the RGM cylinders was not viable in the long term as the instrumentation used by NIST largely depleted the HCl RGM gas volume, leaving little gas in the cylinder for the vendors to use in preparing GMIS materials. Because of this concern, NIST initiated development of an improved RGM certification procedure. The development has been hampered by the challenges presented in handling HCl gas. HCl gas is extremely reactive and difficult to handle in both gas cylinders and analytically. As such, it has taken considerable time

[1] *EPA Traceability Protocol for Assay and Certification of Gaseous Calibration Standards*, U.S. EPA, Office of Research and Development, EPA/600/R-12/531, May 2012.

for NIST to optimize the analytical equipment and approach to achieve the necessary uncertainty requirements (e.g., <1 percent uncertainty).

In addition, the commercial establishment of NIST-traceable gases is dependent on collaboration between NIST and the specialty gas vendors. There are a limited number of vendors providing the stable, accurate, low and high concentration cylinder gases to NIST to certify as RGMs. Once the RGMs are available, the specialty gas vendors must complete a series of procedures to establish the certainty of their products which adds to the time to achieve wide commercial availability.

As a result, on July 25, 2016 (81 FR 48356), the EPA provided an additional compliance alternative for sources that would otherwise be required to use an HCl CEMS (Option 1). The alternative was provided for a period of 1 year. In the alternative, the HCl CEMS was still required to be installed and operated, but actual compliance with the HCl emissions limit was determined by a three-run stack test. The HCl CEMS still provided a continuous readout of HCl emissions, but because the CEMS was not calibrated with the required NIST-traceable calibration gases, the HCl measurement was not considered to be sufficiently accurate on an absolute basis for compliance. However, it was found to be sufficient to indicate any relative change in HCl emissions occurring subsequent to the compliance test. Therefore, the HCl CEMS under the compliance alternative functioned as a continuous parameter monitoring system (CPMS), as in the case of the particulate matter (PM) CPMS requirement (see 78 FR 10014-10015, 10019-10020, February 12, 2013).

It is the EPA's understanding that the availability of NIST-traceable calibration gases for HCl has not changed since the compliance alternative approval in 2016. Thus, the EPA intends

to extend the use of this compliance alternative until such time as the NIST-traceable calibration gases for HCl become readily available.

Under this extension of the compliance alternative, the owner or operator will demonstrate initial compliance by conducting a performance test using Method 321 and will monitor compliance with an operating parameter limit through use of the HCl CEMS operating as a HCl CPMS. For the HCl CPMS, the owner or operator will use the average HCl CPMS indicated output, typically displayed as parts per million by volume (ppmv), wet basis HCl recorded at in-stack oxygen concentration during the HCl performance test to establish the operating limit. To determine continuous compliance with the operating limit, the owner or operator will record the indicated HCl CPMS output data for all periods when the process is operating and use all the HCl CPMS data, except data obtained during times of monitor malfunctions. Thus, continuous compliance with the operating limit will be demonstrated by using all valid hourly average data collected by the HCl CPMS for all operating hours to calculate the arithmetic average operating parameter in units of the operating limit (indicated ppm) on a 30-kiln operating day rolling average basis, updated at the end of each new kiln operating day. An exceedance of the kiln 30-day operating limit would trigger evaluation of the control system operation and resetting the operating limit based on a new correlation with performance testing. For kilns with inline raw mills, performance testing and monitoring HCl to establish the site specific operating limit must be conducted during both raw mill on and raw mill off conditions.

As is the case for the PM CPMS requirements (see 40 CFR 63.1349(b)(1)(i)), this alternative for HCl compliance monitoring includes a scaling factor of 75 percent of the emission standard as a benchmark (2.25 ppmv, dry basis at 7-percent oxygen). Sources that choose this

option will conduct a Method 321 test to determine compliance with the HCl emissions standard and during this testing will also monitor their HCl CPMS output in indicated ppm to determine where their HCl CPMS output would intersect 75 percent of their allowed HCl emissions, and set their operating level at that ppm output. This scaling procedure alleviates re-testing concerns for sources that operate well below the emission limit and provides greater operational flexibility while assuring continuous compliance with the HCl emission standard. For sources whose Method 321 compliance tests place them at or above 75 percent of the emission standard, their operating limit is determined by the average of three Method 321 test runs (for sources with no inline raw mill) or the time weighted average of six Method 321 test runs (for kilns with inline raw mills). By adopting a scaling factor as well as the use of 30 days of averaged HCl CPMS measurements, the parametric limit in no way imposes a stringency level higher than the level of the HCl emissions standard and will avoid triggering unnecessary retests for many facilities, especially for the lower-emitting sources.

III. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders*.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulation

(40 CFR part 63, subpart LLL) and has assigned OMB control number 2060-0416. This action does not change the information collection requirements.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. This action does not create any new requirements or burdens and no costs are associated with this direct final action.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175. It will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law. The EPA is aware of one tribally owned Portland cement facility currently subject to 40 CFR part 63, subpart LLL that will be subject to this direct final rule. However, the provisions of this direct final rule are not expected to impose new or substantial direct compliance costs on tribal governments since the provisions in this direct final rule are extending the use of an alternative to the HCl monitoring provisions, including an option

which provides operational flexibility. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of "covered regulatory action" in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does **not** have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). This action does not affect the level of protection provided to human health or the environment.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: JUN 19 2017.

E. Scott Pruitt,
Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency is amending title 40, chapter I, part 63 of the Code of Federal Regulations (CFR) as follows:

PART 63 — NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart LLL—National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry

2. Section 63.1349 is amended by deleting paragraph (b)(6)(v)(H) to read as follows:

§ 63.1349 Performance testing requirements.

* * * * *

(H) * * *

* * * * *

3. Section 63.1350 is amended by adding paragraph (l)(4) to read as follows:

§ 63.1350 Monitoring requirements.

* * * * *

(l) * * *

* * * * *

(4) If you monitor continuous performance through the use of an HCl CPMS according to paragraphs (b)(6)(v)(A) through (G) of §63.1349, for any exceedance of the 30-kiln operating day HCl CPMS average value from the established operating limit, you must:

* * * * *

6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-HQ-OAR-2016-0442; FRL-XXXX-XX-OAR]

RIN 2060-AT57

National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry: Alternative Monitoring Method

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to amend the National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry. In the "Rules and Regulations" section of this **Federal Register**, we are publishing a direct final rule, without a prior proposed rule, that temporarily revises the testing and monitoring requirements for hydrochloric acid (HCl) due to the current unavailability of HCl calibration gases used for quality assurance purposes. If we receive no adverse comment, we will not take further action on this proposed rule.

DATES: Written comments must be received by **[Insert date 10 days after date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2016-0442, at *http://www.regulations.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a

written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets*.

FOR FURTHER INFORMATION CONTACT: Mr. Brian Storey, Sector Policies and Programs Division (D243-04), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, 27711; telephone number: (919) 541-1103; fax number: (919) 541-5450; and email address: *storey.brian@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Why is the EPA issuing this proposed rule?

This document proposes to take action on amendments to the National Emission Standards for Hazardous Pollutants From the Portland Cement Manufacturing Industry. We have published a direct final rule to amend 40 CFR part 63, subpart LLL, by revising the testing and monitoring requirements for HCl in the "Rules and Regulations" section of this **Federal Register** because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this action in the preamble to the direct final rule.

If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment on a distinct portion of the direct final rule, we will withdraw that portion of the rule and it will not take effect. In this instance, we would address all public comments in any subsequent final rule based on this proposed rule.

If we receive adverse comment on a distinct provision of the direct final rule, we will publish a timely withdrawal in the **Federal Register** indicating which provisions we are withdrawing. The provisions that are not withdrawn will become effective on the date set out in the direct final rule, notwithstanding adverse comment on any other provision. We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time.

The regulatory text for this proposal is identical to that for the direct final rule published in the "Rules and Regulations" section of this **Federal Register**. For further supplementary information, the detailed rationale for this proposal and the regulatory revisions, see the direct final rule published in the "Rules and Regulations" section of this **Federal Register**.

II. Does this action apply to me?

Categories and entities potentially regulated by this proposed rule include:

Category	NAICS Code[1]
Portland cement manufacturing facilities	327310

[1] North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this proposed rule. To determine whether your facility is affected, you should examine the applicability criteria in 40 CFR 63.1340. If you have any questions regarding the applicability of any aspect of this action to a particular entity, consult either the air permitting authority for the entity or your EPA Regional representative as listed in 40 CFR 63.13.

III. Statutory and Executive Orders

For a complete discussion of the administrative requirements applicable to this action, see the direct final rule in the "Rules and Regulations" section of this **Federal Register**.

Dated: JUN 19 2017.

E. Scott Pruitt,
Administrator.

To: Steven Koonin Ex. 6 - Personal Privacy
From: Jackson, Ryan
Sent: Wed 6/7/2017 5:15:39 PM
Subject: Re: Climate Red-Blue Prospectus

What about after June 12?

_____
Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Jun 7, 2017, at 12:20 PM, Steven Koonin < Ex. 6 - Personal Privacy > wrote:

Possible I'd have some time early afternoon on Friday. I'll know for sure by tomorrow AM. Would that work for you?

Or I could do something before 3 pm on Tuesday, June 20. Of course, a phone call would be much easier, with many more opportunities.

SEK

From: Jackson, Ryan [mailto:jackson.ryan@epa.gov]
Sent: Wednesday, June 7, 2017 11:44 AM
To: Steven Koonin Ex. 6 - Personal Privacy
Subject: RE: Climate Red-Blue Prospectus

Steve, are you in DC any time in the near future?

From: Steven Koonin Ex. 6 - Personal Privacy
Sent: Monday, May 29, 2017 8:00 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Re: Climate Red-Blue Prospectus

Ryan- Good news.

I can be available on the phone

- anytime today (Monday)

- tomorrow morning before 1000

- pretty much anytime Wednesday after 1000

- many opportunities on days after that

My mobile is 3474074733. If you let me know when you might call, I can be sure to be in a place where I can talk.

Steve

Sent from my iPad

On May 28, 2017, at 17:13, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

> Steve, the Administrator remains very excited about conducting this exercise. He had bounced this and other ideas off others he has worked with for some time and others in the Administration. We would like to proceed further with the red-blue exercise. Although I do not yet have an AA for ORD, I will have a Deputy AA for ORD starting in mid-June. He will have a few initial duties, but helping start this process will be one of them. I would also like staff in ORD to help on this to get the cooperation of both political and career on this project.
>
> We have determined that the best way to process your paperwork is to compensate you as an "administratively determined" position which is unique in the federal hiring process to EPA. There is no vetting other than OPM paperwork which allows us to have you on the payroll in short order.

I would like to discuss with you how go about next steps when convenient. Thanks again for your help with this. We are looking forward to it.

Ryan.

From: Steven Koonin Ex. 6 - Personal Privacy
Sent: Wednesday, May 3, 2017 9:57 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Climate Red-Blue Prospectus

Ryan:

Much enjoyed meeting with you and the Administrator last Friday.

As promised, I attach a prospectus for a Climate Science Red-Blue Exercise. As I've watched the media since our meeting, I've become even more convinced that this would be a very good thing to do.

Many of the design choices are deliberate, but perhaps their rationale isn't evident. Would be happy to discuss further – this is only a first draft.

Steve

To: CBrittingham@cassidy.com[CBrittingham@cassidy.com]
From: Jackson, Ryan
Sent: Sat 12/2/2017 12:23:13 AM
CERCLA 108 Final Action Signed 120117.pdf

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

Ex. 6 - Personal Privacy

6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 320

[EPA-HQ-SFUND-2015-0781; FRL-9971-50-OLEM]

RIN 2050-AG61

Financial Responsibility Requirements under CERCLA Section 108(b) for Classes of Facilities in the Hardrock Mining Industry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is announcing its decision on its proposed regulations for financial responsibility requirements applicable to hardrock mining facilities that were published on January 11, 2017. EPA has decided not to issue final regulations because the Agency has determined that final regulations are not appropriate. This decision is based on EPA's interpretation of the statute and analysis of its record developed for this rulemaking. EPA has analyzed the need for financial responsibility based on risk of taxpayer funded cleanups at hardrock mining facilities operating under modern management practices and modern environmental regulations, i.e., the type of facilities to which financial responsibility regulations would apply. That risk is identified by examining the management of hazardous substances at such facilities, as well as by examining federal and state regulatory controls on that management and federal and state financial responsibility requirements. With that focus, the record demonstrates that, in the context of CERCLA section 108(b), the degree and duration of risk associated with the modern production, transportation,

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treatment, storage or disposal of hazardous substances by the hardrock mining industry does not present a level of risk of taxpayer funded response actions that warrant imposition of financial responsibility requirements for this sector. This determination reflects EPA's interpretation of the statute, EPA's evaluation of the record for the proposed rule, and the public comment received by EPA.

The decision not to issue final regulations will address the concerns of those federal and state regulators and members of the regulated community who commented that the proposed requirements were unnecessary and would, therefore, impose an undue burden on the regulated community. This decision will provide assurance to state regulators who were concerned that the proposed requirements would be disruptive of state mining programs. This decision also will address the information provided by the insurance industry regarding the lack of availability of financial instruments that meet the requirements of section 108(c)(2). This decision is based on the record for this rulemaking, and does not affect the process for site-specific risk determinations, or determinations of the need for a particular CERCLA response, at individual sites, nor does this decision affect EPA's authority to take appropriate CERCLA response actions. Decisions on risk under other environmental statutes would continue under those statutes. This final rule is the Agency's final action on the proposed rule.

DATES: This final rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-HQ-SFUND-2015-0781. All documents in the docket are listed on the https://www.regulations.gov web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by

statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through https://www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Office of Resource Conservation and Recovery, Mail Code 5303P, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; Barbara Foster, (703) 308-7057, Foster.Barbara@epa.gov; or Michael Pease, (703) 308-0008, Pease.Michael@epa.gov.

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I. Executive Summary

A. Purpose of the Regulatory Action

Section 108(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), also known as Superfund, directs EPA to develop regulations that require classes of facilities to establish and maintain evidence of financial responsibility consistent with the degree and duration of risk associated with the production, transportation, treatment, storage, or disposal of hazardous substances. The statute further requires that the level of financial responsibility be established to protect against the level of risk the President, in his discretion, believes is appropriate, based on factors including the payment experience of the Fund. The President's authority under this section for non-transportation-related facilities has been delegated to the EPA Administrator.[1]

In a *Federal Register* notice dated July 28, 2009,[2] EPA identified the classes of facilities within hardrock mining[3] as the classes for which it would first develop financial responsibility requirements based on consideration of many factors, including factors unrelated to modern facilities, such as legacy contamination, and factors not demonstrating risk, in and of themselves, such as Toxic Release Inventory (TRI) reports under Superfund Amendments and Reauthorization Act of 1986 (SARA) section 313.

On January 11, 2017, the Agency published proposed financial responsibility requirements applicable to hardrock mining facilities. The proposal identified two goals for section 108(b) regulations – the goal of providing funds to address CERCLA liabilities at sites,

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[1] See EO 12580, 52 FR 2923 (January. 23, 1987).

[2] Identification of Priority Classes of Facilities for Development of CERCLA Section 108(b) Financial Responsibility Requirements, 74 FR 37213, July 28, 2009.

[3] For purposes of this final rule, EPA includes within the term "hardrock mining" the facilities included in the definition of that term developed for purposes of the *Priority Notice*, that is, facilities that extract, beneficiate, or process metals (e.g., copper, gold, iron, lead, magnesium, molybdenum, silver, uranium, and zinc), and non-metallic non-fuel minerals (e.g., asbestos, gypsum, phosphate rock, and sulfur).

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and the goal of creating incentives for sound practices that will minimize the likelihood of need for a future CERCLA response. As discussed below, EPA now believes that these goals have been met for the hardrock mining classes of facilities.

The proposal identified for public comment a range of options and supporting information, as described in the proposed rule preamble.[4] The proposed rule set forth, in proposed 40 CFR Part 320 subparts A through C, requirements for a comprehensive financial responsibility program under section 108(b) that would be applicable to hardrock mining facilities as well as to future industry sectors for which requirements under section 108(b) are later developed. In addition, the proposed rule set forth, in proposed Part 320 subpart H, requirements specifically applicable to hardrock mining facilities.

EPA provided information and analysis demonstrating releases and potential releases of hazardous substances at hardrock mining facilities. EPA also discussed the relationship of section 108(b) to other federal law and to state law.[5] However, despite making a commitment to do so in the 2009 Priority Notice, in the development of the proposed rule the Agency did not consider other federal and state programs when determining the need for section 108(b) regulations.[6] Instead, the proposed rule would have considered other programs only after financial responsibility requirements are imposed, as a means to reduce such requirements. EPA now believes that it is appropriate to consider such programs at the outset, when evaluating both the degree and duration of risk associated with the production, transportation, treatment, storage, or disposal of hazardous substances as well as when evaluating the risk of taxpayer financed response costs.

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[4] See 82 FR 3388, January 11, 2017.
[5] 82 FR 3402-03 (concluding that section 108(b) applies even when a facility is subject to financial responsibility requirements under federal law).
[6] 74 FR 37219 and n. 50.

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EPA's final action on the proposed rule is a decision not to promulgate it. As explained below, EPA has reconsidered whether the rulemaking record supports the proposed rule in light of the Agency's interpretation of the statute, the Agency's evaluation of the record, and the information and data received through public comment. As a result of this reconsideration, EPA has determined that the rulemaking record it assembled does not support imposing financial responsibility requirements under section 108(b) on current hardrock mining operations. This determination is based on information in the record on the degree and duration of risk posed by modern production, transportation, treatment, storage or disposal of hazardous substances at mining sites operating under modern regulations that demonstrates that financial responsibility requirements are not necessary to address the risk of taxpayer financed response actions at hardrock mines. EPA has reconsidered its assessment of the risks posed by hardrock mining operations presented in the proposed rule, and determined that that assessment did not adequately consider the degree to which existing federal and state regulatory programs and improved mining practices at modern mines reduce the risk that there would be unfunded response liabilities at currently operating mines. Furthermore, EPA notes that even under the analysis in the proposed rule, the projected level of risk of EPA-funded response actions was relatively low ($15 to $15.5 million per year), and was significantly less than the projected cost to industry of providing the additional financial responsibility that would have been required by the proposed rule ($111 – $171 million per year).

The Agency's decision that a section 108(b) rule for the hardrock mining industry is not appropriate relies on the record developed for this rulemaking as well as information submitted by commenters on three key points, which in combination demonstrate significantly reduced risk at current hardrock mining operations: (1) the reduction in risks due to the requirements of

existing federal and state mining programs and voluntary protective practices of current hardrock mining owners and operators, (2) the reduced costs to the taxpayer resulting from effective hardrock mining programs, enforcement actions, and owner or operator responses, including financial assurance requirements pursuant to these other programs, and (3) the resulting reduction in the risk of the need for federally financed response actions at hardrock mines. The record thus evaluated also supports EPA's determination that federal and state regulation and practices at modern facilities reduce the risks posed by operating facilities and, therefore, the imposition of section 108(b) financial responsibility requirements is not appropriate.

This determination also addresses concerns regarding disruption and duplication of state and federal financial responsibility requirements, the difficulty in tailoring financial responsibility to a specific level of risk, as well as concerns raised by the financial industry regarding challenges in providing financial instruments that meet the requirements of the statute and the proposed rule. As discussed below, the proposed rule created the potential for the preemption of state financial responsibility requirements. In addition, EPA acknowledges that the formula through which EPA had proposed to determine the level of financial assurance relied on information unrelated to risks of taxpayer financed costs posed by the current facilities to which the proposed rule would apply. Finally, as discussed below, members of the financial industry commented that section 108(c)(2), which allows direct claims against a guarantor providing evidence of financial responsibility, is at odds with relevant commercial law and practice and would significantly deter the financial industry from providing such instruments and services.

This final rule does not affect, limit, or restrict EPA's authority to take a response action or enforcement action under CERCLA at any individual hardrock mining facility, including the

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currently operating facilities described elsewhere in this final rule and in the Technical Support Document for this final rule,[7] and to include requirements for financial responsibility as part of such response action. The set of facts in the rulemaking record related to the individual facilities discussed in this final rule support the Agency's decision not to issue financial responsibility requirements under section 108(b) for currently operating hardrock mining facilities as a class, but a different set of facts could demonstrate a need for a CERCLA response at those sites. This final rule also does not affect the Agency's authority under other authorities that may apply at hardrock mining facilities, such as the Clean Water Act (CWA), the Resource Conservation and Recovery Act (RCRA), the Clean Air Act (CAA), and the National Environmental Policy Act (NEPA).

B. Summary of the Major Provisions of the Regulatory Action

EPA is not requiring evidence of financial responsibility under section 108(b) at hardrock mining facilities in this action. Thus, there are no regulatory provisions associated with this final action.

C. Costs and Benefits of the Regulatory Action

The Regulatory Impact Analysis for the proposed rule demonstrated that the projected level of taxpayer liability that would have been avoided by the proposed rule was relatively small, and that the costs of meeting the proposed financial responsibility requirements were an order of magnitude greater than the costs avoided by the federal government as a result of such requirements. EPA is not requiring evidence of financial responsibility under section 108(b) at hardrock mining facilities in this action. EPA therefore has not conducted a Regulatory Impact Analysis for this action.

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7 See: EPA, "CERCLA Section 108(b) Hardrock Mining Final Rule Technical Support Document," December 1, 2017.

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II. Authority

This final rule is issued under the authority of sections 101, 104, 108 and 115 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C §§ 9601, 9604, 9608 and 9615, and Executive Order 12580. 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

III. Background Information

A. Overview of Section 108(b) and other CERCLA Provisions

CERCLA, as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), establishes a comprehensive environmental response and cleanup program. Generally, CERCLA authorizes EPA[8] to undertake removal or remedial actions in response to any release or threatened release into the environment of "hazardous substances" or, in some circumstances, any other "pollutant or contaminant." As defined in CERCLA section 101, removal actions include actions to "prevent, minimize, or mitigate damage to the public health or welfare or to the environment," and remedial actions are "actions consistent with [a] permanent remedy[.]" Remedial and removal actions are jointly referred to as "response actions." CERCLA section 111 authorizes the use of the Superfund Trust Fund (the Fund) established under title 26, United States Code, including financing response actions undertaken by EPA. In addition, CERCLA section 106 gives EPA[9] authority to compel action by liable parties in response to a release or

[8] Although Congress conferred the authority for administering CERCLA on the President, most of that authority has since been delegated to EPA. *See* Exec. Order No. 12580, 52 Fed. Reg. 2923 (Jan. 23, 1987). The executive order also delegates to other federal agencies specified CERCLA response authorities at certain facilities under their "jurisdiction, custody or control." This can include CERCLA authorities at mines located on federal lands under the jurisdiction of BLM and the Forest Service.

[9] CERCLA sections 106 and 122 authority is also delegated to other federal agencies in certain circumstances. *See* Exec. Order No. 13016, 61 FR 45871 (Aug. 28, 1996).

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threatened release of a hazardous substance that may pose an "imminent and substantial endangerment" to public health or welfare or the environment.

CERCLA section 107 imposes liability for response costs on a variety of parties, including certain past owners and operators, current owners and operators, and certain transporters of hazardous substances. Such parties are liable for any costs of removal or remedial action incurred by the federal government, so long as the costs incurred are "not inconsistent with the national contingency plan," (NCP).[10] Section 107 also imposes liability for natural resource damages and health assessment costs.[11] As has been the case since CERCLA's enactment, these provisions of CERCLA are available according to their terms, to the federal government and other parties, regardless of whether an owner or operator has provided evidence of financial responsibility under section 108(b).

In accordance with CERCLA, in 1990 EPA issued the current version of the NCP.[12] These regulations provide the organizational structure and procedures for preparing for, and responding to, discharges of oil and releases of hazardous substances, pollutants, and contaminants. The NCP is codified at 40 CFR Part 300. Among other provisions, the NCP provides procedures for hazardous substance response including site evaluation, removal actions, remedial investigation/feasibility studies (RI/FS), remedy selection, remedial design/remedial action (RD/RA), and operation and maintenance.[13] The NCP also designates federal, state, and tribal trustees for natural resource damages, and identifies their responsibilities under the NCP.[14] Under the NCP, EPA undertakes response actions that address or prevent risk to human health

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[10] See CERCLA § 107 (a)(4)(A).
[11] See CERCLA § 107 (a)(4)(C) – (D).
[12] See 55 FR 8666, March 8, 1990.
[13] See 40 CFR 300, Subpart E.
[14] See 40 CFR 300, Subpart G.

and the environment from the release of hazardous substances, pollutants or contaminants. A determination whether a release of hazardous substances, pollutants or contaminants presents a risk to be addressed under other sections of CERCLA or under other law is a separate determination from whether under section 108(b) risk associated with the management of hazardous substances at current hardrock mining operations warrants imposition of financial responsibility requirements. Nothing in this final action restricts EPA's other authorities. The Agency's decision not to issue final regulations under section 108(b) applicable to hardrock mining facilities does not change or substitute for EPA's procedures for site-specific evaluations of risk, and for determining the need for response, in accordance with the NCP.

Section 108(b) establishes an authority to require owners and operators of classes of facilities to establish and maintain evidence of financial responsibility. Section 108(b)(1) directs EPA to develop regulations requiring owners and operators of facilities (in addition to those under Subtitle C of the Solid Waste Disposal Act and other federal law) to establish evidence of financial responsibility "consistent with the degree and duration of risk associated with the production, transportation, treatment, storage, or disposal of hazardous substances." In turn, section 108(b)(2) directs that the level of financial responsibility shall be initially established, and, when necessary, adjusted to protect against the level of risk that EPA in its discretion believes is appropriate based on the payment experience of the Fund, commercial insurers, courts settlements and judgments, and voluntary claims satisfaction. Section 108(b)(2) does not, however, preclude EPA from considering other factors in addition. The statute prohibited promulgation of such regulations before December 1985.

In addition, section 108(b)(1) provides for publication within three years of the date of enactment of CERCLA of a "priority notice" identifying the classes of facilities for which EPA would first develop financial responsibility requirements. It also directs that priority in the development of requirements shall be accorded to those classes of facilities, owners, and operators that present the highest level of risk of injury.

B. History of this Rulemaking

In November 2003, EPA initiated a study of the Superfund program, commonly referred to as the "120 Day Study."[15] This "120 Day Study" resulted in more than 100 recommendations. In 2005, EPA initiated an Action Plan for implementing the recommendations of the 120-Day Study of the Superfund Program. Under that plan, EPA conducted an analysis to determine whether action under section 108(b) was appropriate (Recommendation 12). This analysis resulted in two detailed studies specifically designed to help identify classes of facilities for priority consideration under section 108(b), carried out from 2006 through 2008. The report of these studies, labeled "draft" and dated February 2009, are titled: "CERCLA 108(b) Financial Responsibility, Phase 1: Preliminary Analysis" (hereinafter Phase 1 Report) and "CERCLA 108(b) Financial Responsibility, Phase 2 Preliminary Analysis" (hereinafter Phase 2 Report).[16] Another analysis,[17] referred to as the 40 TSD Study, also recommended by the 120-Day Study (Recommendations 10 and 11), on the sufficiency of financial assurance requirements imposed on hazardous waste treatment, storage, and disposal (TSD) facilities regulated under RCRA also provides relevant information.

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[15] See *Superfund: Building on the Past, Looking to the Future* (Washington DC: April 22, 2004), EPA-HQ-SFUND-2015-0781-0501.

[16] EPA-HQ-SFUND-2009-0265-0019 and EPA-HQ-SFUND-2009-0265-0020.

[17] See "Analysis of 40 Potential TSDs: Potential RCRA Treatment, Storage, and Disposal Facilities Proposed to the Superfund National Priority List after 1990," Office of Solid Waste, January 19, 2007

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In the Phase 1 and Phase 2 analyses, EPA interpreted the financial responsibility requirements of section 108(b) to apply to currently operating facilities and current or future risks. Accordingly, in the analyses performed from 2006 through 2008, the Agency attempted to exclude historic practices and legacy contamination resulting from such practices by using 1990 as a date to distinguish between modern and legacy practices. The Agency stated that it used 1990 because by that date most of the regulations under RCRA relating to management of hazardous waste had been promulgated. This approach was consistent with the 40 TSD study, which excluded facilities proposed to the National Priorities List (NPL) before 1990 to exclude facilities with legacy contamination that predated the RCRA hazardous waste regulatory program. However, because EPA determined in 1986 under section 3001(b)(3)(C) of RCRA that solid waste from the extraction and beneficiation of ores and minerals do not present sufficient risk to warrant regulation under subtitle C of RCRA,[18] 1990 is not a precise date for the advent of modern regulation of mining. As discussed below, commenters noted that state and federal mining regulations developed over a period of time. For mining regulated under state law, commenters suggest the mid-1990s represent the advent of modern mining regulation.[19]

In 2009, the Agency changed its interpretation of the statute. A July 2, 2009, memorandum attached to the Phase 1 and Phase 2 reports states that EPA decided that the reports were deficient because they excluded sites listed on the NPL before 1990. Accordingly, EPA did not finalize the reports and did not proceed to an analysis of the federal and state regulatory requirements and the modern practices of any specific industry sector.[20] Instead, in a *Federal*

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[18] 51 FR 24496 (July 3, 1986).
[19] State mining laws are discussed below.
[20] EPA-HQ-SFUND-2009-0265-0019 and EPA-HQ-SFUND-0265-0020.

Register notice dated July 28, 2009,[21] EPA identified certain classes of facilities within the hardrock mining sector as the classes for which it would first develop financial responsibility requirements. EPA based that identification on consideration of many factors, including factors unrelated to risk posed by the production, transportation, treatment, storage, and disposal of hazardous substances at facilities that would be regulated under the proposed rule, such as legacy contamination, and non-risk based information, such as Toxic Release Inventory reports under SARA section 313. This notice represented a substantial departure from previous EPA interpretation of the statute to exclude legacy activities when determining the need for financial responsibility requirements under section 108(b).[22]

In the 2009 Priority Notice, EPA identified hardrock mining facilities as a priority without considering the impacts of modern federal and state regulations. Instead, EPA stated: "EPA will carefully examine specific activities, processes, and/or metals and minerals in order to determine what proposed financial responsibility requirements may be appropriate. As part of this process, EPA will conduct a close examination and review of existing Federal and State authorities, policies, and practices that currently focus on hardrock mining activities."[23]

On January 11, 2017, the Agency published proposed financial responsibility requirements applicable to hardrock mining facilities.[24] The proposed rule adopted two goals for section 108(b) regulations -- to provide funds to address CERCLA liabilities at sites, and to create incentives for sound practices that will minimize the likelihood of need for a future CERCLA response.

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[21] Identification of Priority Classes of Facilities for Development of CERCLA Section 108(b) Financial Responsibility Requirements, 74 FR 37213, July 28, 2009.
[22] Compare EPA's Phase I and Phase II reports (EPA-HQ-SFUND-2009-0265-0019 and EPA-HQ-SFUND-0265-0020) to 74 FR 37213.
[23] 74 FR 37219.
[24] 82 FR 3388 (January 11, 2017).

The proposal identified for public comment a range of options and supporting information, as described in the proposed rule preamble. The proposed rule set forth, in proposed Part 320 subparts A through C, requirements for a comprehensive financial responsibility program under section 108(b) that would be applicable to hardrock mining facilities, as well as to future industry sectors for which requirements under section 108(b) are later developed. In addition, the proposed rule set forth, in proposed Part 320 subpart H, requirements specifically applicable to hardrock mining facilities.

The proposed rule provided information and analyses on releases and potential releases of hazardous substances at hardrock mining facilities. The proposed rule identified several classes of hardrock mining facilities that were excluded from the financial responsibility requirements because they involved a lower risk, and sought comment on whether additional classes should be excluded from the scope of a final rule.[25] The proposed rule also discussed the relationship of section 108(b) to other federal law and to state law.[26] However, contrary to the commitment made in the 2009 Priority Notice, the proposed rule did not consider reductions in risk as a result of such laws when determining the need for financial responsibility requirements. Instead, the proposed rule would have established such requirements at a level based on the activities already covered by reclamation bonds as well as the cost of cleaning up historic mining sites and then, based on information provided by the facility, would have allowed reductions in the amount of financial responsibility,[27] or release from the requirement for financial responsibility entirely.[28]

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[25] 82 FR 3456-59; Hoffman Memo, "Mining Classes Not Included in Identified Classes of Hardrock Mining," June 2009. See 82 FR 3455 n. 145. See exclusions from the rule at proposed 40 CFR 320.60(a)(2). EPA solicited comments on whether to identify additional exclusions based on a finding of minimal risk, citing iron ore, phosphates and uranium mines as examples. 82 FR 3456.
[26] 82 FR 3402-03.
[27] Proposed 40 CFR 320.63.
[28] Proposed 40 CFR 320.27.

EPA received over 11,000 public comment submissions on the proposed rule. Other federal agencies, state agencies, and industry representatives overwhelmingly opposed financial responsibility requirements under section 108(b) for the hardrock mining industry. Environmental groups urged adoption of the proposed rule. EPA also received a large number of identical comments from individuals through multiple letter-writing campaigns, advocating both for and against adoption of the rule. Among other concerns, commenters objecting to the proposed rule expressed the view that the Agency's assessment of the information relating to risks posed by hardrock mining operations as presented in the proposed rule was deficient because the Agency: (1) relied on inappropriate evidence, such as data that did not demonstrate risk, and evidence not relevant to the facilities to be regulated under the rule; and (2) failed to consider relevant evidence, such as the role of federal and state mining programs and voluntary protective mining practices in reducing risks at current[29] hardrock mining operations, and the reduced costs to the taxpayer resulting from effective hardrock mining programs, including existing financial responsibility requirements, and owner or operator responses.

EPA has considerable discretion under the statute and, as explained below, has reconsidered whether the rulemaking record supports the proposed rule in light of EPA's interpretation of the statute, review of the record, and the information and data received through public comment. As a result, EPA has determined that the assessment of the information relating to risks posed by hardrock mining operations as presented in the proposed rule was not supported by the record. This reassessment relies on the information in the record on three key points: (1) the reduction in risks due to the requirements of existing federal and state mining programs and protective practices of current hardrock mining owners and operators, (2) the reduced costs to the

[29] A discussion of which mining operations are considered "current" or "modern" can be found in section IV.D.1. of this final rule.

taxpayer resulting from effective hardrock mining programs, including existing financial responsibility requirements, and owner or operator responses, and (3) the resulting reduction in the risk of the need for federally financed response actions at hardrock mines.

C. Recent Litigation under Section 108(b)

On March 11, 2008, Sierra Club, Great Basin Resource Watch, Amigos Bravos, and Idaho Conservation League filed a suit against then EPA Administrator Steven Johnson and then Secretary of the U.S. Department of Transportation Mary E. Peters, in the U.S. District Court for the Northern District of California. Sierra Club, et al. v. Johnson, No. 08- 01409 (N. D. Cal.). On February 25, 2009, that court ordered EPA to publish the Priority Notice required by section 108(b)(1) later that year. The court later dismissed the remaining claims. [30]

EPA continued to work on a proposed rule for the next several years. However, developing a regulation that meets the statutory requirements presented a significant challenge.[31] Dissatisfied with the pace of EPA's progress, in August 2014, the Idaho Conservation League, Earthworks, Sierra Club, Amigos Bravos, Great Basin Resource Watch, and Communities for a Better Environment filed a new lawsuit in the U.S. Court of Appeals for the District of Columbia Circuit, seeking a writ of mandamus requiring issuance of section 108(b) financial responsibility rules for the hardrock mining industry and for three other industries -- chemical manufacturing; petroleum and coal products manufacturing; and electric power generation, transmission, and distribution.[32] Companies and organizations representing business interests in the hardrock mining and other sectors also sought to intervene in the case.

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[30] See *Sierra Club v. Johnson,* 2009 U.S. Dist. LEXIS 68436 (N.D. Cal. Aug. 5, 2009).

[31] See the discussion regarding instrument availability in section IV., and the discussions in section VII of some of the obstacles to developing a rule under section 108(b).

[32] In re: Idaho Conservation League, et al., No. 14-1149.

Following oral argument, the court issued an Order in May 2015 requiring the parties to submit, among other things, supplemental submissions addressing a schedule for further administrative proceedings under section 108(b). The Court's May 19, 2015 Order encouraged the parties to confer regarding a schedule and, if possible, to submit a jointly agreed upon proposal. Petitioners and EPA agreed to a schedule calling for the Agency to sign for publication in the *Federal Register* a proposed rule for the hardrock mining industry by December 1, 2016, and a notice of its final action on the proposal by December 1, 2017. The parties submitted this schedule to the court, and on January 29, 2016, the court granted the parties' joint motion and issued an order that mirrored the submitted schedule in substance.[33] With this action the Agency has now satisfied both of these obligations.

D. Hardrock Mining Priority Notice

As described above, section 108(b)(1) requires the President to identify those classes of facilities for which requirements will be first developed and to publish notice of such identification in the *Federal Register*. On July 28, 2009, EPA issued a "Priority Notice" entitled "Identification of Priority Classes of Facilities for Development of Section 108(b) Financial Responsibility Requirements."[34] In the 2009 Priority Notice, EPA explained how it then chose to evaluate indicators of risk and its related effects, to inform its decision on the classes of facilities for which it would first develop requirements.[35] The 2009 Priority Notice pointed to eight factors that EPA considered,[36] and stated that its review of those factors and the associated

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[33] In re Idaho Conservation League, 811 F.3d 502.
[34] See 74 FR 37213 (July 28, 2009).
[35] See Id. at 37214.
[36] These eight factors were: (1) annual amounts of hazardous substances released to the environment; (2) the number of facilities in active operation and production; (3) the physical size of the operation; (4) the extent of environmental contamination; (5) the number of sites on the CERCLA site inventory (including both NPL sites and

information in the docket led the Agency to conclude that hardrock mining facilities present the type of risk that, in light of its evaluation, justified them being the first for which EPA would develop section 108(b) requirements.[37] The 2009 Priority Notice satisfied the notice requirement in section 108(b)(1).

E. Hardrock Mining Proposed Rule

On January 11, 2017, EPA proposed requirements in a new 40 CFR Part 320 that owners and operators of hardrock mining facilities subject to the rule demonstrate and maintain financial responsibility as specified in the proposed rule.

The proposed rule identified two goals for section 108(b) regulations – the goal of providing funds to address CERCLA liabilities at sites, and the goal of creating incentives for sound practices that will minimize the likelihood of need for a future CERCLA response. The proposed rule explained that first, when releases of hazardous substances occur, or when a threat of release of hazardous substances must be averted, a Superfund response action may be necessary. Therefore, the costs of such response actions can fall to the taxpayer if parties responsible for the release or potential release of hazardous substances are unable to assume the costs.[38] Second, the likelihood of a CERCLA response action being needed, as well as the costs of such a response action, are likely to be higher where protective management practices were not utilized during facility operations.[39]

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non-NPL sites); (6) government expenditures; (7) projected cleanup expenditures; and (8) corporate structure and bankruptcy potential (74 FR 37214, July 28, 2009).

[37] Id.

[38] The proposed rule discussion acknowledged the existence of federal and state financial responsibility requirements but took the position that they do not duplicate CERCLA financial responsibility requirements. 83 FR 3402. For example, the proposed rule claimed that state regulations include but are not limited to hazardous substance releases. 83 FR 3403.

[39] As discussed below, the Agency now believes that protective management practices must be considered when determining the need for financial responsibility requirements.

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The proposed rule discussed information assembled by EPA in the record for the action, which, as discussed below, included information on legacy practices and legacy contamination, as well as information not related to risk. Based on that record, EPA had proposed to presume that hardrock mining facilities as a class present the type of risks that section 108(b) addresses. The proposed rule then proceeded to establish a methodology to determine a level of financial responsibility in accordance with a proposed formula. The formula then allowed adjustments to the level of those requirements if a facility could demonstrate site specific conditions that rebut the presumption that the hardrock mining facilities that would be regulated under the rule pose a risk.[40]

EPA proposed limiting the applicability of the rule to owners and operators of facilities that are authorized to operate or should be authorized to operate on the effective date of the rule (hereinafter referred to as "current hardrock mining operations").[41] EPA explained its interpretation of the statute on this issue.[42] The proposed rule also relied, in part, on the grounds that these owners and operators are more likely to further the regulatory goals of section 108(b) requirements than are owners and operators of facilities that are closed or abandoned. EPA also proposed limiting the applicability of the rule to current hardrock mining operations because those facilities are readily identifiable and, since they are ongoing concerns, they are more likely to be able to obtain the kind of financial responsibility necessary under the regulation.[43] EPA continues to believe that this focus upon current hardrock mining operations is appropriate.

IV. Statutory and Record Support for this Final Rule

A. Statutory Interpretation

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[40] See proposed 40 CFR 320.63.
[41] See proposed 40 CFR 320.2.
[42] 82 FR 3404 – 05.
[43] The proposed rule also excluded 55 specific substances (see footnote 25 infra).

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Section 108(b) provides EPA only general instructions in paragraphs (b)(1) and (b)(2), on how to determine what financial responsibility requirements to impose for a particular class of facility. Section 108(b)(1) directs EPA to develop regulations requiring owners and operators of facilities to establish evidence of financial responsibility "consistent with the degree and duration of risk associated with the production, transportation, treatment, storage, or disposal of hazardous substances. Section 108(b)(2) directs that the level of financial responsibility shall be initially established, and, when necessary, adjusted to protect against the level of risk that EPA in its discretion believes is appropriate based on the payment experience of the Fund, commercial insurers, courts settlements and judgments, and voluntary claims satisfaction. Section 108(b)(2) does not indicate that this list of factors is exclusive. Read together, it is clear that the statutory language on determining the degree and duration of risk presented by a class, and in setting the level of financial responsibility as it determines is appropriate, confers a significant amount of discretion upon the Agency. EPA discusses these key phrases in turn below.

Section 108(b)(1) directs EPA to develop regulations requiring owners and operators of classes of facilities that EPA identifies, to establish evidence of financial responsibility "consistent with the degree and duration of risk associated with the production, transportation, treatment, storage, or disposal of hazardous substances." Thus, the statute indicates that EPA is to evaluate risk from a selected class. However, EPA does not interpret this direction to require a precise calculation of risk associated with the selected classes of facilities. Standard dictionary definitions of the term "consistent" include merely "being in agreement" or "compatible."[44] Moreover, section 108(b) requirements are necessarily imposed in the absence of any response action, although it is through such response actions that the precise level of risk associated with a

[44] 301 Webster's II New Riverside University Dictionary (1988).

particular site is ascertained. The statute thus confers upon EPA wide latitude to determine, for purposes of a section 108(b) rulemaking proceeding, what the degree and duration of risk presented by the identified class is. Section 108(b)(2) in turn directs that the level of financial responsibility shall be initially established, and, when necessary, adjusted to protect against the level of risk that EPA in its discretion believes is appropriate based on the payment experience of the Fund, commercial insurers, courts settlements and judgments, and voluntary claims satisfaction. This statutory direction does not specify a particular methodology for the evaluation, indicating simply that the level of financial responsibility be established to protect against the level of risk that EPA "in [its] discretion believes is appropriate." Thus, this decision is committed to the discretion of the Administrator. While the statute does provide a list of information sources in section 108(b)(2) on which EPA is to base its decision – the payment experience of the Superfund, courts settlements and judgments, and voluntary claims satisfaction – that list is not exclusive, nor does the statute specify how the information from these sources is to be used, for example, by indicating how the categories are to be weighted relative to one another. As discussed elsewhere in this final rule and in the Technical Support Document, the record and comments received by EPA, provide details about the payment history of the Fund, experience with enforcement actions and court settlements resulting in operational changes, and voluntary actions by companies to reduce risks at specific sites that were used by the Administrator in his judgement to evaluate the risks from current hardrock mining operations. EPA has, therefore, taken multiple considerations into account, including information in these categories which, taken together, inform the exercise of its statutory discretion.

Among the types of information the statute authorizes EPA to consider are the existence of federal and state regulations and financial responsibility requirements. Section 108(b)(1)

directs EPA to promulgate financial responsibility requirements "for facilities in addition to those under subtitle C of the Solid Waste Disposal Act and other Federal law." According to the 1980 Senate Report on legislation that was later enacted as CERCLA, Congress felt it was appropriate for EPA to examine those additional requirements when evaluating the degree and duration of risk:

> The bill requires also that facilities maintain evidence of financial responsibility consistent with the degree and duration of risks associated with the production, transportation, treatment, storage, and disposal of hazardous substances. These requirements are in addition to the financial responsibility requirements promulgated under the authority of section 3004(6) of the Solid Waste Disposal Act. It is not the intention of the Committee that operators of facilities covered by section 3004(6) of that Act be subject to two financial responsibility requirements for the same dangers.[45]

While the report language addresses section 3004(6) of RCRA specifically, EPA believes that it is consistent with Congressional intent for EPA to consider other potentially duplicative Federal financial responsibility requirements when examining the "degree and duration of risk" or the "level of risk" when determining whether and what financial responsibility requirements are appropriate. EPA also believes that it is consistent with Congressional intent for EPA to consider state laws before imposing federal financial responsibility requirements on facilities. Consideration of state laws *before* developing financial responsibility regulations is consistent with section 114(d) of CERCLA, which prevents states from imposing financial responsibility requirements for liability for releases of the same hazardous substances *after* a facility is regulated under section 108 of CERCLA. Just as Congress clearly intended to prevent states from imposing duplicative financial assurance requirements after EPA had acted to impose such requirements under Section 108, EPA believes it reasonable to also conclude that Congress did

[45] S. Rept. 96-848 (2d Sess, 96th Cong.), at 92.

not mean for EPA to disrupt existing state programs that are already successfully regulating industrial operations to minimize risk, including the risk of taxpayer liability for response actions under CERCLA, and that specifically include appropriate financial assurance requirements under State law. Both reviews (of state and other Federal programs) help to identify whether and at what level there is current risk that is appropriate to address under section 108 of CERCLA.

EPA also believes that, when evaluating whether and at what level it is appropriate to require evidence of financial responsibility, EPA should examine information from hardrock mining facilities operating under modern conditions. These modern conditions include state and federal regulatory requirements and financial responsibility requirements that currently apply to operating facilities.

This reading of section 108(b) is consistent with statements in the legislative history of the statute. The 1980 Senate Report states that the legislative language that became section 108(b) "requires those engaged in businesses involving hazardous substances to maintain evidence of financial responsibility commensurate with the risk which they present."[46] This reading of section 108(b) is also supported by testimony given by EPA before Congress during consideration of legislation that led to CERCLA. In 1979, Thomas C. Jorling, the EPA Assistant Administrator for Water and Waste Management, testified before a Senate subcommittee that new financial responsibility requirements in a hazardous substance liability law would be important to increase "standards of care" with respect to management of such substances. Mr. Jorling testified that this goal is not "relevant" to sites where "it is already too late; emergency assistance and containment are required."[47] EPA notes that nothing in Mr. Jorling's testimony

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[46] S. Rept. 96-848 (2d Sess, 96th Cong.), at 92.

[47] *See* Statement of Thomas C. Jorling, Assistant Administrator for Water and Waste Management, USEPA regarding S.1341/S.1480 (Sen. Comm. on Env't and Public Works, Subcommittees on Resource Protection and Environmental Pollution, June 20, 1979).

suggests that there are not other potential mechanisms, such as successful regulatory programs under state and other Federal laws, that can ensure appropriate "standards of care."

This statutory interpretation was also reflected in the proposed rule. The proposed rule would have applied to currently operating facilities.[48] As explained in the preamble to the proposal, EPA sought to document the extent to which hardrock mining facilities as a class continued to present risk associated with hazardous substance management.[49] Moreover, this direction to identify requirements "consistent with" the risks found also led EPA to recognize that imposition of financial responsibility requirements under section 108(b) would not be necessary for facilities that present minimal current risks[50] and to seek comment on whether other classes of facilities should be excluded.[51]

Despite its focus on currently operating facilities, the proposed rule relied on a record of releases of hazardous substances from facilities and payments to respond to such releases that does not present the same risk profile as the modern facilities to which the rule would apply.[52] As a result, EPA has determined that the analysis of risk presented in the proposed rule is inconsistent with the scope of the proposed rule and EPA's intended approach under the statute.

The final rule does not seek to rely on historical practices, many of which would be illegal under current environmental laws and regulations,[53] to identify the degree and duration of risk posed by the facilities that would be subject to financial responsibility requirements. Instead, in this final rule EPA has considered modern federal and state regulation of hazardous

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[48] See proposed 40 CFR 320.2 and 82 FR 3404-05.
[49] See 82 FR 3470 – 80.
[50] See exclusions from the rule at proposed 40 CFR 320(a)(2), as well as the opportunity to obtain a release from financial responsibility requirements at proposed 40 CFR 320.27. Both were proposed based on an evaluation of the level of risk posed by the facilities. 82 FR 3455-59.
[51] 82 FR 3456.
[52] 82 FR 3460-61.
[53] See, for example, Clean Water Act effluent limitations applicable to mining, discussed below.

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substance production, transportation, treatment, storage, or disposal at hardrock mining facilities. As discussed below, the record does not document significant risks associated with such facilities. Further, this final rule does not rely on the cost of responding to historic mining activities and instead reflects the reduction in the risk of federally financed response actions at modern hardrock mining facilities that result from modern practices and modern regulation. With a few exceptions, discussed below, EPA has made minimal expenditures for modern hardrock mining operations. In addition, EPA engaged in significant discussions with, and received significant comments from, commercial insurers and other financial instrument providers. These providers have submitted information indicating that the availability of financial responsibility instruments would likely be limited for regulated entities, should EPA require companies to obtain them. Thus, to the extent that risks remain at current hardrock mining operations, the information provided by commenters has further convinced EPA that it is not appropriate to establish financial responsibility requirements on this class of facilities.

Nor does EPA believe that issuing final financial responsibility requirements is necessary to achieve the stated goals of the proposed section 108(b) rules for hardrock mining, namely, the goal to increase the likelihood that regulated entities will provide funds necessary to address CERCLA liabilities if and when they arise, and the goal to create an incentive for sound practices. EPA's economic analysis showing that the proposed rule would avoid governmental costs of only $15 - $15.5 million a year supports this conclusion. Based on these estimates, commenters objected that the projected annualized costs to industry ($111 – $171 million) are an order of magnitude higher than the avoided costs to the government ($15 – 15.5 million) sought by the rule. Further, given the fact that federal and state laws, including potential liability under CERCLA, have already created an incentive for sound practices, promulgating financial

responsibility regulations for hardrock mining facilities under section 108(b) also is not necessary to advance that goal.

This final rule is based on the record assembled for this action. This decision does not substitute for any site-specific determinations of risk made in the context of individual CERCLA site responses. Those decisions will continue to be made in accordance with preexisting procedures. EPA has reached these conclusions on the record for this rulemaking, including public comments.

The major concerns raised by commenters are described below in Sections C and D. Section E below, and the Technical Support Document for this final rule, discuss case examples in EPA's record that correspond to these major concerns. It should be noted that much of the public comment received on the proposed rule addressed specific provisions of the proposal. Because EPA has decided not to issue regulatory text under section 108(b) for hardrock mining facilities, or the general provisions in proposed subparts A through C, comments on specific regulatory provisions are outside the scope of this final rule.

B. Evaluation of the Administrative Record

EPA has reevaluated the administrative record for this rulemaking regarding risk at current hardrock mining operations in light of its interpretation of the statute discussed above, and has determined that that record does not support the proposed rule and supports, instead, a final Agency action of no rule. This determination is based on an evaluation of the three primary reports that the proposed rule relied on to identify risk to be addressed by section 108(b): Evidence of CERCLA Hazardous Substances and Potential Exposures at Section 108(b) Mining and Mineral Processing Sites (hereinafter referred to as the "Evidence Report"); Releases from Hardrock Mining Facilities (hereinafter referred to as the "Releases Report"); and

Comprehensive Report: An Overview of Practices at Hardrock Mining and Mineral Processing Facilities and Related Releases of CERCLA Hazardous Substances (hereinafter referred to as the "Practices Report").[54] This determination also is based on EPA's consideration of the reduction of risk as a result of federal and state regulatory and financial assurance requirements. Finally, this determination is based on the record of payments from the Superfund Trust Fund to address hazardous substance releases from modern mining facilities.

1. Reports on Risks posed by Hardrock Mining Facilities

Evidence Report

As described in the preamble to the proposed rule, the Evidence Report documents EPA's preliminary efforts from 2009–2012 to examine CERCLA site-specific documents for estimated exposures of human and ecological receptors to CERCLA hazardous substances from mining and mineral processing sites cleaned up under Superfund in the past. This report also collected available information on potential exposures of human and ecological receptors to CERCLA hazardous substances from mining and mineral processing sites that were operational in 2009 (the most current available data at the time the evaluation took place). The proposed rule relied on the following conclusions from the Evidence Report:

> "Overall, the compiled information demonstrates that sites requiring cleanup under Superfund in the past, and sites operational in 2009 share characteristics related to the potential release of CERCLA hazardous substances and the exposure of human and ecological receptors, and illustrated the applicability of EPA's CERCLA experience to evaluating currently operating mines and processors."[55]

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[54] *See* Releases from Hardrock Mining Facilities, EPA-HQ-SFUND-2015-0781-0497; Comprehensive Report: An Overview of Practices at Hardrock Mining and Mineral Processing Facilities and Related Releases of CERCLA Hazardous Substances, EPA-HQ-SFUND-2015-0781-0144; and Evidence of CERCLA Hazardous Substances and Potential Exposures at Section 108(b) Mining and Mineral Processing Sites, EPA-HQ-SFUND-2015-0781-0505.
[55] 82 FR 3475.

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Upon review, EPA has now determined that those conclusions are not supported by the information provided in the Evidence Report. Further, these conclusions are not a primary factor in determining the "degree and duration of risk" presented by currently operating mines under modern environmental regulations. As a result, the Evidence Report does not support a rulemaking under section 108(b).

First, the Evidence Report compares releases of hazardous substances at 24 facilities on the NPL that continued to operate after 1980 (called post-1980 historical sites) to facilities operating in 2009. It does not specify whether or not 1980 can be considered a date by which mining facilities could be considered modern facilities subject to modern regulations. The report does not identify or consider whether the releases from the historical sites were due to pre-1980 activities and practices or whether the releases were caused by practices that are no longer typical of current mines. Instead, the report conflates risks posed by the historical facilities to risks posed by the 2009 facilities by comparing mining practices and contaminants of concern released at the facilities.

When comparing mining practices, the report does not take into account the fact that by 2009, practices at mining facilities were already heavily regulated. For example, the effluent limitation for processes that use cyanide to extract gold or silver is zero discharge.[56]

When comparing contaminants of concern, the Evidence Report identifies contaminants of concern at the historic sites through CERCLA response action documentation.[57] In contrast, at the 2009 operating sites, contaminants of concern are identified through reports of TRI releases and through discharge monitoring reports submitted pursuant to Clean Water Act

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[56] See 40 CFR 440.100(d).
[57] Evidence Report, at 9.

permits.[58] The report fails to acknowledge that the evidence presented regarding releases of hazardous substances from facilities operating in 2009 is not evidence of risk. "TRI data do not reveal whether or to what degree the public is exposed to listed chemicals."[59] Further, releases reported under Clean Water Act permits are regulated releases. The fact that the same hazardous substances may be present at historic modern hardrock mining facilities is simply a consequence of the type of ores and processes used at hardrock mines. The mere presence of hazardous substances is not equivalent to risk. Similarly, the existence of common environmental receptors at historic and modern mines is not determinative of risk. The presence of a receptor does not indicate that there are releases of hazardous substances at levels that cause risk. Rather, the primary determinant of risk is how current operations at the mine are conducted, including the current regulatory regime under which they operate. As documented in this final action, it is in this respect that most of the historic examples discussed in the proposed rule differ from the modern mines that would actually be subject to its requirements.

Finally, the Evidence Report admits that the releases identified as a cause of past fund expenditures are now regulated under the Clean Air Act and RCRA.[60]

As a result of these limitations, the Evidence Report fails to identify substantial risks associated with modern hardrock mining facilities and therefore does not support a rule that would impose financial responsibility requirements on the current hardrock mining sector.

Releases Report and Practices Report

Implicitly recognizing the limitations of the Evidence Report, as well as the inability to rely on reports that are decades old,[61] EPA developed two additional reports to attempt to

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[58] Evidence Report, at 17.
[59] See https://www.epa.gov/sites/production/files/2015-06/documents/factors_to_consider_6.15.15_final.pdf.
[60] Evidence Report, at 55-56.
[61] See the 1992 and 1997 reports cited at 82 FR 3475.

provide record support for a rule under section 108(b), the Releases Report and the Practices Report.

The Releases Report was intended to "substantiate the ongoing existence of environmental risk from releases to the environment from hardrock mining and mineral processing operations in spite of improved regulation of and practices instituted by the hardrock mining and mineral processing industry."[62] It purports to document releases from facilities "that had no previous significant legacy mining issues."[63]

The report lists sites that required CERCLA, CERCLA-like, and potential CERCLA actions, and describes the release and response narratively. However, the limitations of this report prevent it from supporting a determination that requirements under section 108(b) for hardrock mining facilities are appropriate. As discussed in section E, below, and in the Technical Support Document for this final rule,[64] the Releases Report included facilities with significant mining activity that pre-dated modern regulation, creating legacy contamination. The report also fails to address whether or not the releases resulted in the expenditure of federal dollars or appropriately distinguish releases that predate modern regulation and are now prohibited by law or otherwise regulated.

The Practices Report purports to present information on the potential for future releases at operating hardrock mining facilities.[65] However, the Practices Report acknowledges that it cannot be used to draw conclusions about future releases, stating that: "Many sites and facilities within the non-operating and currently operating samples have been active for a century or longer. When a post-1980 release occurred at these facilities, it was difficult to determine if the

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[62] Releases Report, at 1.
[63] 82 FR 3471.
[64] See: EPA, CERCLA Section 108(b) Hardrock Mining Final Rule: Technical Support Document, December 1, 2017.
[65] Practices Report, at 1.

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equipment or practice responsible for the release was newly constructed or part of the site's past operations."[66] The Practices Report acknowledges that "a number of factors limited the inferences that can be drawn from data about releases at currently operating facilities."[67]

Both reports also lack important information on whether or not the releases resulted in the expenditure of federal dollars or whether the releases identified are now prohibited by law or otherwise regulated. As noted in section E, below, and the Technical Support Document for this final rule, many of the releases discussed in those reports are being addressed by the responsible parties.

Despite the limitations of the Releases Report and the Practices Report, the proposed rule claimed that they validated the conclusions of earlier reports stating that: "EPA believes the results of this relatively recent effort to further document the state of current mining practices substantiates the findings from the other documents described herein [the Evidence Report and the reports from 1992 and 1997] and further reinforces the Agency's belief that currently operating hardrock mining and mineral processing facilities subject to this proposal continue to present risks of release of hazardous substances."[68]

As discussed above, upon reexamination, EPA now believes that none of these reports provide an appropriate basis for identification of the risk of hazardous substance releases at the facilities that would be regulated under the proposed rule or the risk of federally financed response actions at such facilities. Additional relevant information on many of the sites discussed in these reports which helped inform EPA's conclusions in this final rule is documented in section IV.E below and in the Technical Support Document.

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[66] Id., at 5.
[67] Practices Report, at 9.
[68] 82 FR 3475.

2. *Federal and State Regulatory Requirements.*

EPA has determined that modern regulation of hardrock mining facilities, among other factors, reduces the risk of federally financed response actions to a low level such that no additional financial responsibility requirements for this industry are appropriate. This section summarizes the regulations that support that determination.

a. Federal Environmental Statutes

The proposed rule proposed to regulate facilities that engage in the extraction, beneficiation, and processing of metals, (*e.g.*, copper, gold, iron, lead, magnesium, molybdenum, silver, uranium, and zinc) and non-metallic, non-fuel minerals (*e.g.*, asbestos, phosphate rock, and sulfur), other than placer mining, exploration only activities, and mines and processers disturbing less than five acres.[69] This scope includes mines, processors, and smelters.

While much mining and beneficiation is exempt from RCRA,[70] these activities are regulated under the Clean Water Act and the Clean Air Act. In addition, some waste material from covered mineral processing facilities is regulated under RCRA. Finally, permissions to mine on federal land are subject to review under the National Environmental Policy Act and may require the preparation of an Environmental Impact Statement.

Clean Water Act

The Clean Water Act (CWA) prohibits discharges to waters of the United States, unless in compliance with another portion of the Act.[71] Principal among those other provisions is the permitting program established under section 402 of the Act, the National Pollution Discharge

[69] See Proposed 40 CFR 320.60.
[70] See 51 FR 24496.
[71] 33 U.S.C. 1311.

Elimination System (NPDES).[72] Existing dischargers of toxic and nonconventional pollutants are required to install best available control technology that is economically achievable.[73] New dischargers must meet new source performance standards, based on the best available demonstrated control technology. If these technology-based standards do not fully protect water quality, then a facility must adopt additional controls to meet applicable water quality standards (water quality-based effluent limitations).[74]

Technology-based effluent limitations for hardrock mining are found at 40 CFR Part 440. The Ore Mining and Dressing Effluent Guidelines apply to facilities in twelve subcategories as follows:

Iron Ore

Aluminum Ore
Uranium, Radium and Vanadium Ores
Mercury Ore
Titanium Ore
Tungsten Ore
Nickel Ore
Vanadium Ore (Mined Alone and Not as a Byproduct)
Antimony Ore
Copper, Lead, Zinc, Gold, Silver, and Molybdenum Ores
Platinum Ores
Gold Placer Mining

The Background Document for the proposed financial responsibility formula states: "Nearly three-quarters of the 354 currently operating facilities report mining five commodities (gold, iron, copper, phosphate, and uranium), with gold mines alone making up nearly half of the universe."[75] Accordingly, subpart J, the Copper, Lead, Zinc, Gold, Silver, and Molybdenum

[72] 33 USC 1342.
[73] 33 USC 1311.
[74] 33 USC 1311(b)(1)(C).
[75] EPA-HQ-2015-0781-0500 at 3-11.

Ores Subcategory, is of particular relevance. Last amended in 1982 (effective January 1983), this subpart applies to:

(1) Mines that produce copper, lead, zinc, gold, silver, or molybdenum bearing ores, or any combination of these ores from open-pit or underground operations other than placer deposits;

(2) Mills that use the froth-flotation process alone or in conjunction with other processes, for the beneficiation of copper, lead, zinc, gold, silver, or molybdenum ores, or any combination of these ores;

(3) Mines and mills that use dump, heap, in-situ leach, or vat-leach processes to extract copper from ores or ore waste materials; and

(4) Mills that use the cyanidation process to extract gold or silver.[76]

Under this subpart, the following activities must meet an effluent limitation of zero discharge:

(1) Mine areas and mills processes and areas that use dump, heap, in situ leach or vat-leach processes to extract copper from ores or ore waste materials (40 CFR 440.103(c)); and

(2) Mills that use the cyanidation process to extract gold or silver (40 CFR440 103(d)). In addition, drainage from all mines in this subcategory and discharges from mills in this category that use a froth-flotation process must meet limitations for copper, zinc, lead, mercury, and cadmium.

Discharges to water from mineral mining and processing facilities are regulated under 40 CFR Part 436. Last amended in 1979, these regulations require best practicable control

[76] 40 CFR 440.100

technology for wastewater discharges from mine drainage, mineral processing operations and stormwater runoff. This Part includes subpart R, which applies to the mining and the processing of phosphate bearing rock, ore or earth for the phosphate content. These regulations regulate the pH of discharges from phosphate mines and limit discharges of total suspended solids from such mines to a daily maximum concentration of 60 mg/l.

The Clean Water Act regulates discharges of pollutants from smelters under 40 CFR Part 421 (Nonferrous Metals Manufacturing Category). Last amended in 1984, these regulations limit pH and the concentration of metals in discharges.

Clean Air Act

The Clean Air Act regulates air emissions from industrial processes like mining and mineral processing. These include National Emissions Standards for Hazardous Air Pollutants (NESHAPs) as well as New Source Performance Standards (NSPS).

The 2011 NESHAP for gold ore processing and production facilities controls mercury air emissions from these facilities. 40 CFR Part 63 Subpart EEEEEEE.

On June 12, 2002, EPA promulgated final air toxics standards for the Primary Copper Smelting major sources 40 CFR Part 63 Subpart QQQ. These regulations control emissions of arsenic, beryllium, cadmium, chromium, lead, manganese and nickel. On June 4, 1999, EPA promulgated a NESHAP for primary lead smelting (40 CFR Part 63 Subpart TTT) that controls emissions of lead. In 2007, EPA promulgated a NESHAP for zinc, cadmium and beryllium smelters (40 CFR Part 63 Subpart GGGGGG), and those regulations established a particulate matter standard. Under section 111 of the CAA, New Source Performance Standards (NSPS) applicable to metallic mineral-processing plants have been established (40 CFR 60 Subpart LL

control emissions of particulate matter). EPA's 1976 NSPS for primary lead smelting (40 CFR Part 60 Subpart R) controls emissions of particulate matter.

RCRA

While most hardrock mining and beneficiation waste is exempt from RCRA subtitle C,[77] mineral processing waste (other than twenty "special wastes") are not.[78] Thus, mineral processing facilities may be regulated under RCRA Subtitle C. The management of hazardous wastes is generally subject to strict minimum technology requirements.[79] Land disposal of hazardous wastes is prohibited unless treatment standards are met.[80]

National Environmental Policy Act

The National Environmental Policy Act (NEPA) requires an environmental review of major federal actions significantly affecting the quality of the human environment.[81] Major federal actions include the issuance of federal permits or permission to use federal lands.[82] Mining activities on federal lands are generally subject to NEPA. Accordingly, the potential environmental impacts of those activities are considered and publicly disclosed before they occur. These reviews include consideration of impacts to surface water, ground water, air, soils, ecosystems, wetlands, endangered species, and flood plains.

b. Federal Land Management Laws

The Bureau of Land Management (BLM) and the Forest Service (herein referred to at the Federal Land Management Agencies (FLMAs), have both promulgated regulations that apply to hardrock mining operations on land they manage.

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[77] 51 FR 24496 (July 3, 1986).
[78] See the list at https://www.epa.gov/hw/special-wastes#mining.
[79] 42 U.S.C. 6924(o).
[80] 42 U.S.C. 6924(d)-(g).
[81] 42 U.S.C. 4332.
[82] 40 CFR 1508.18.

BLM has promulgated regulations under the Federal Land Policy and Management Act (43 U.S.C. 1701 et seq.) that apply to hardrock mining operations on BLM land. These regulations include a requirement to develop a plan for reclamation of disturbed areas and a financial guarantee sufficient to fund completion of the reclamation plan.[83]

In order to obtain a permit to mine on public lands, the operator must submit a plan of operations that includes plans for water management, rock characterization and handling, spill contingency, and reclamation.[84] The plan of operations for the mine cannot be approved until thirty days after a final environmental impact statement has been prepared and filed with EPA.[85] The required reclamation plan must detail stabilization of land disturbed for mining, reclaiming and reshaping the land, wildlife rehabilitation, controlling potentially hazardous materials, and post-closure management.[86]

Like BLM, the Forest Service also requires a plan of operation that includes a plan for reclamation of mining disturbances on Forest Service lands.[87] The requirements for environmental protection are set forth in 36 CFR 228.8 and include compliance with all air quality, water quality, and solid waste standards; protection of scenic values; and reclamation to control erosion and water runoff, isolate, remove or control toxic materials, reshape and revegetate disturbed areas, and rehabilitate fisheries and wildlife habitat. The Forest Service requires a bond to cover the cost of stabilizing, rehabilitating, and reclaiming the area of operations.[88] Like a BLM plan of operations, approval of a Forest Service plan of operations also is subject to NEPA.

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[83] 43 CFR 3809.
[84] 43 CFR 3809.1-6.
[85] 43 CFR 3809.1-6.
[86] 43 CFR 3809.1-3(d).
[87] 36 CFR part 228.
[88] 36 CFR 228.13.

The Forest Service regulations allow the Forest Service to require a modification to the Plan of Operations and reclamation plan (36 CFR § 228.4(e)) and adjust the bond to cover the modified plan (36 CFR 228.13(c)).

EPA's conclusion that BLM and Forest Service regulations address risks at hardrock mining facilities is further supported by the comments submitted by these agencies, discussed below.

c. Other Existing Regulatory Requirements.

The proposed rule stated that addressing CERCLA liabilities is different from the mine reclamation bonding requirements required by BLM, the Forest Service, or state requirements that seek to ensure compliance with technical engineering requirements imposed through a permit, or to ensure proper closure or reclamation of an operating mine.[89] This discussion in the proposed rule was intended to highlight legal distinctions between the section 108(b) requirements and the requirements of other federal and state programs. However, even when developing the proposed rule, EPA acknowledged the overlap between the risks to be addressed by section 108(b) and existing federal and state regulations. EPA now recognizes that the existence of these other programs, whatever legal differences there may be in their intent and implementation, are critical to understanding "the degree and duration of risk associated with the production, transportation, treatment, storage, or disposal of hazardous substances" as well as the risk to taxpayers of being required to fund response activities under CERCLA, which are the primary factors relevant to EPA's determination of the need for and appropriate level of financial responsibility requirements under section 108(b).

[89] 82 FR 3403.

For example, 16 of the 27 sites discussed in the Releases Report are called "CERCLA-like" releases. Thus, according to the Releases Report, these sites present the same type of risk that is to be addressed under section 108(b). However, as discussed below and in the Technical Support Document for this final rule, we have documented no expenditure of funds by EPA for those "CERCLA-like" releases, which, as is explained in the Releases Report, are being addressed under other state and Federal programs, demonstrating that modern regulation adequately addresses the risk of Fund financed response action posed by these sites.[90]

Even the methodology used in the proposed rule to develop the proposed financial responsibility requirements shows that the actual physical risks addressed by modern regulations are essentially the same as the risks to be addressed by section 108(b). The Background Document for the financial responsibility formula demonstrates that the costs of existing federal and state reclamation and closure requirements were used to develop costs for the categories of response activities that are the building blocks of financial responsibility requirements under the proposed rule.[91] Thus, the proposed financial responsibility requirements largely address the same risks that are addressed by existing regulatory requirements.

This conclusion is further supported by comments submitted by the Forest Service, and a number of states opposing the proposed rule. The Forest Service demonstrated in their comments how their regulations address the same physical risks that are captured in the response categories that are the building blocks of the proposed section 108(b) financial responsibility

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[90] The limited number of sites referenced in the Releases Report for which there were CERCLA actions and EPA expenditures are discussed below.

[91] See CERCLA 108(b) Financial Responsibility Formula For Hardrock Mining Facilities, Background Document, Sept. 19, 2016 (EPA-HQ-2015-0781-0500), at 2-17, Table 2.2. See also 82 FR 3462 ("EPA found that such engineering cost data was readily available from cost estimates developed for state and Federal mining reclamation and closure plans, and associated documents.").

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formula.[92] The states of Alaska, Nevada, New Mexico, and South Dakota each provided a similar analysis for their state, and the Interstate Mining Compact Commission provided analyses for Arizona, South Dakota, and Utah.[93] The National Mining Association (NMA) also compiled similar information for 15 states.[94]

In conclusion, EPA is convinced by the arguments made by state and Federal commenters that the risks sought to be addressed by the proposed rule are already addressed by existing state and Federal programs. The proposed rule would have considered the risk reduction of existing regulations only as a means to reduce the amount of otherwise required financial responsibility and sought comment on several aspects of this approach. EPA is now convinced that those regulations obviate the need for additional financial responsibility requirements under section 108(b) on the hardrock mining sector. As stated by the Forest Service:

> "[T]he fact that EPA refers to existing regulations as a rationalization for building the requirements of a particular reduction [in financial responsibility] serves to underline that these existing regulations serve the purpose that EPA hopes is served by the proposed rule: to reduce the risk of a release of a hazardous or toxic substance. Therefore, the specific requirements in the reductions are unnecessary, because other programs with more site-specific presence than EPA has, are already requiring these actions, using site-specific conditions as criteria for design of the mitigations in question. Thus, the outcome is that EPA is attempting to regulate that which is already regulated."[95]

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[92] See comment from the Forest Service, EPA -HQ-SFUND-2015-0781-2400, at page 2.
[93] Alaska (Attachment 5/Attachment D to EPA-HQ-SFUND-2015-0781-2785); Nevada (Appendix to EPA-HQ-SFUND-2015-0781-2651); New Mexico (Attachment A at p. 17 of EPA-HQ-SFUND-2015-0781-2676); South Dakota (Attachment to EPA-HQ-SFUND-2015-0781-2419); IMCC (showing results for Arizona, South Dakota, and Utah at EPA-HQ-SFUND-2015-0781-2758 & EPA-HQ-SFUND-2015-0781-2757).
[94] EPA-HQ-SFUND-2015-0781-2794 at Appendix A.
[95] See comment EPA-HQ-SFUND-2015-0781-2400, at page 11.

3. *Risk of Payments from the Fund*

According to the preamble of the proposed rule, EPA estimated that the historical costs of responding to releases from 243 hardrock mining and minerals processing facilities totaled $12.9 billion, of which approximately $4 billion was paid for through EPA's Superfund program. EPA relied on this estimate to conclude that: "Such significant cleanup costs may be considered as an indication of the relative risks present at these sites, and the potential magnitude of environmental liabilities associated with this industry overall."[96]

As discussed above, EPA has now determined that as a result of modern regulations, the degree and duration of risk associated with the modern production, transportation, treatment, storage or disposal of hazardous substances by the hardrock mining industry does not present a level of risk of taxpayer funded response actions that warrant imposition of financial responsibility requirements for this sector.

EPA acknowledges that the Agency has incurred response costs at mining sites. However, as many commenters have noted, the vast majority of those costs have been to address legacy practices. EPA also acknowledges that there are a handful of examples of sites where EPA has incurred response costs, notwithstanding regulation under the Clean Water Act, or other state and federal law. However, the Agency does not believe that these few examples are an appropriate basis for regulation under CERCLA section 108(b).

The record for the proposed rule includes background information on response costs, expenditures, and settlements at 185 NPL sites and 134 non-NPL sites to inform the proposed financial responsibility formula.[97] To develop this information, EPA collected and reviewed data

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[96] 82 FR 3479.

[97] CERCLA 108(b) Financial Responsibility Formula For Hardrock Mining Facilities, Background Document, Sept. 19, 2016 (EPA-HQ-2015-0781-0500), at sections 2.1 and 2.2, and Appendix B. The formula also includes estimated

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available in the Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS), the Integrated Financial Management System (IFMS), and the Office of Enforcement and Compliance Assurance (OECA) settlements database, as well as a 2004 report of the EPA Inspector General, and a 2010 report from the Government Accountability Office.[98] As part of this analysis, EPA combined data from CERCLIS and IFMS into a Microsoft Access file to summarize Fund expenditures incurred at each hardrock mining facility for which EPA had data (as of 2011).[99] A link to an FTP site containing these files was provided in the docket.[100]

While the purpose of this data collection was to support the development of the financial responsibility formula, it also can be used to examine Fund expenditures at specific sites. For example, the results of a query of the Microsoft Access file on site expenditures results in a table that has data for only eight of the 27 sites identified in the Releases Report.[101] The discussion of why the releases at these sites do not support the proposed rule is discussed in the Technical Support Document accompanying this final rule.[102] Of the eight, seven are gold or gold and

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costs for natural resources damages and public health assessments. However, both are a function of a release that requires a response action. In the formula, health assessment costs are simply a fixed cost of $550,000 and the natural resource damages are assumed based on a percentage of the response costs. Id. at section 5 and page 6-2.

[98] Id. at 2-1. EPA was able to obtain cost information for 319 hardrock mining facilities.

[99] Id. at 2-2. If EPA itself had incurred expenditures at a hardrock mining facility, those expenditures would have been included in the data pulled from these databases.

[100] It also is available here: ftp://newftp.epa.gov/CERCLA108B

[101] See the site expenditure table from the D Site Exp.accdb file on the FTP site. These sites are Barite Hill, a gold and silver mine in South Carolina ($6.3 million), Brewer Gold, a gold and silver mine in South Carolina ($12.3 million), Cimarron Mine, a gold mine in New Mexico ($3.5 million), Formosa Mine, a copper and zinc mine in Oregon ($3.1 million), Gilt Edge mine, a gold and silver mine in South Dakota ($75 million), Grouse Creek mine, a gold mine in Idaho ($314,000), Silver Mountain, a gold and silver mine in Washington ($1.4 million), and Summitville, a gold and silver mine in Colorado ($226 million). These numbers are presented in nominal dollars and are current as of 2011. The Microsoft Access file on settlements available at the same FTP site shows past cost settlements totaling $12.7 million at Gilt Edge, response work and past cost settlements totaling over $9 million at Grouse Creek, and past cost and future cost settlements at Summitville totaling approximately $49 million. See the settlements table from the cerclis_historical_sites_41612.accdb file on the FTP site.

[102] The Technical Support Document addresses all but two of the eight sites discussed in the Releases Report for which there is a record of Fund expenditures. Silver Mountain is a gold and silver mine that operated beginning in

silver mines. Of the seven, six were operational after the effective date of Clean Water Act effluent limitations applicable to cyanide heap leach mining processes. Thus, regulation does not always prevent releases. In fact, the release at the Summitville Mine in Colorado was significant and the response was very costly. As discussed in the Technical Support Document accompanying this final rule, the costs of response at that site included costs of addressing acid mine drainage from legacy (since 1890) operations, unrelated to the releases from cyanide heap leach process. Further, Colorado has since changed its regulation to prevent a repeat of the releases that occurred from the heap leach process at Summitville. Thus, Summitville mine is not an example of current risk. However, it also is important to understand that, according to a 1996 retrospective review of Summitville prepared by an EPA Region 8 employee and the Colorado Department of Natural Resources, the Colorado-issued Clean Water Act permit, which assumed no discharge from the heap leach process, was based on an erroneous water balance calculation for the site. The permit assumed that evaporation would be greater than precipitation.[103] EPA's financial responsibility formula similarly relies on water balance data, and could be subject to the same type of error, demonstrating that neither regulation nor financial responsibility requirements are infallible.[104]

Issues with the financial responsibility formula in the proposed rule are also discussed in, January 19, 2017 comments submitted by the Small Business Administration (SBA) Office of

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1928 and that used a cyanide heap leach process before the promulgation of strict Clean Water Act regulations for those processes. See Releases Report, at 7. Grouse Creek was operated by Hecla Mining Company and the Microsoft Access files on the FTP site show only $314,000 in EPA expenditures and a greater amount in cost recoveries. Thus, these sites are not evidence of risk of Fund-financed response actions at currently operating sites.

[103] The Mining History and Environmental Clean-up at the Summitville Mine. Colorado Geological Society Open File Report 96-4. Available at http://2fdpn7hy0ht206jws2e9og41.wpengine.netdna-cdn.com/wp-content/uploads/2013/08/38.pdf

[104] EPA-HQ-2015-0781-0500, at section 3.4.

Advocacy. SBA used data in the record to compare the results of the proposed financial responsibility formula against actual site costs at six mining sites. The formula both underestimated, and in some cases greatly overestimated the costs of response. For example, at one mine the actual costs to address an open pit were $77,000, while the formula would have required financial responsibility in the amount of $197,900,000 for this response activity.[105] At another site, the formula would have required evidence of financial responsibility to cover interim operation and maintenance at a level of $69 million while the actual costs reported by the site operator who is paying for the response action pursuant to its reclamation plan were over $96 million.[106] EPA acknowledges that any formula with limited site specific information is necessarily a very imprecise means of determining potential response costs, and may significantly over or underestimate actual costs, as documented in the SBA comments. As noted by several commenters, financial assurance amounts established by state and other Federal regulatory programs are usually informed by site-specific assessments by on-the-ground regulators and are thus likely to better reflect actual response costs.

The conclusion that modern regulation has greatly reduced the risk of taxpayer financed response actions also is supported by the experience of other federal agencies. For example, in letters sent to Senator Murkowski, BLM and the Forest Service stated that no modern mines permitted since 1990 by either BLM or the Forest Service have been added to the NPL. When asked how many mining plans of operation BLM and Forest Service have approved since 1990, and how many of the corresponding sites have been placed on the NPL, BLM responded that it had approved 659 plans since 1990 and none had been added to the NPL and the Forest Service

[105] EPA-HQ-SFUND-2015-0781-1406, at 18.
[106] Id. (discussing Hycroft Resources, an active gold mine in Nevada). See also discussions of Hycroft in the Background Document for the financial capability formula. EPA-HQ-SFUND-2015-0781-0500.

reported approval of 2,685 plans since 1990 with no sites being placed on the NPL.[107] These data support a conclusion that federal financial responsibility programs (and related mining engineering and permitting requirements) have been effective at lowering risk, reducing taxpayer liability, and contrasts strongly with the historical record involving legacy mines.

States have had similar experience with their own programs. The state of Nevada, which has roughly one fourth of hardrock mines in the potentially regulated universe of mines developed by EPA for purposes of analysis in the proposed rule, has not had a case involving taxpayer funded response action since 1991, when the state's new rules were put in place.[108]

EPA considered these examples of the limited payment experience of the Fund, as well as the record relating to payments covered by federal and state financial responsibility instruments required under other federal and state law, and payments made pursuant to settlements and voluntary response actions[109] to further support EPA's determination that the degree and duration of risk associated with the modern production, transportation, treatment, storage or disposal of hazardous substances by the hardrock mining industry does not present a level of risk of taxpayer funded response actions that warrant imposition of financial responsibility requirements for this sector.

C. Comments Supporting a Final Rule

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[107] Letter dated June 21, 2011 from BLM Director Robert Abbey to Senator Lisa Murkowski, dated June 21, 2011; Letter dated July 20, 2011 from USDA Secretary Thomas Vilsack to Senator Lisa Murkowski, dated July 20, 2011. The letters were written in response to several questions posed by Senator Murkowski relating to hardrock mining programs on BLM and Forest Service lands.

[108] Nevada comments, at Appendix 3 (EPA-HQ-SFUND-2015-0781-2651).

[109] EPA considers this information to be encompassed by the categories of information set forth in section 108(b)(2) ("payment experience of the Fund, commercial insurers, courts settlements and judgments, and voluntary claims satisfaction").

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EPA received many comments on the proposed rule that expressed support for promulgation of financial responsibility requirements under section 108(b). Sixty comments from individual private citizens encouraged EPA to issue final requirements, as did four mass mailing letter campaigns sponsored by the Idaho Conservation League, Water Legacy, Friends of the Boundary Waters Wilderness, and Earthworks. The main comment in support of the rule came from Earthworks, representing 35 different environmental groups. [110]

Earthworks, et al commented that CERCLA financial assurance regulations are necessary to ensure enough funds are available to complete cleanup actions without shifting the burden to the general public. They also stated in their comments that the proposed regulations did not duplicate existing state rules, which they argued do not cover pipeline spills, tailings spills, tailings impoundment failures and other releases of hazardous materials which commonly occur at hardrock mines, and can result in substantial liabilities.[111] In a separate comment on the proposed rule, the Idaho Conservation League stated that the state of Idaho's financial assurance requirements do not authorize bonding for groundwater contamination and water treatment in perpetuity and that a section 108(b) rule is necessary to close that gap.[112]

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[110] Earthworks submitted comments on the proposed rule representing: Inform, Western Organization Resource Councils, Minnesota Center for Environmental Advocacy, Upper Peninsula Environmental Coalition, Natural Resources Council of Maine, Montana Environmental Information Center, Greater Yellowstone Coalition, Conservation Law Foundation, Northeastern Minnesotans for Wilderness, Friends of The Boundary Waters Wilderness, Northern Alaska Environmental Center, Save Our Sky Blue Waters, Gila Resources Information Project, Brooks Range Council, The Lands Council, Campaign to Save the Boundary Waters, Friends of The Clearwater, Rock Creek, Alliance, Save Our Cabinets, Patagonia Area Resources Council, Friends of the Kalmiopsis, Clean Water Alliance, Water Legacy, Park County Environmental Council, Great Basin Resource Watch, Wisconsin Resources Protection Council, Rivers Without Borders, Spokane Riverkeepers, Western Watersheds Project, Okanagan Highlands Alliance, Boise Chapter Great Old Broads for Wilderness, Copper Country Alliance, Nunamta Aulukestai, and Idaho Conservation League.

[111] See comment from Earthworks, et al, EPA-HQ-SFUND-2015-0781-2739, at page 2.

[112] See comment from Idaho Conservation League, EPA-HQ-SFUND-2015-0781-2700, at page 1.

In their comments on the proposed rule, Earthworks stated that: "Strong CERCLA 108(b) regulations are necessary to protect taxpayers from incurring the cost of mine clean-up, and to ensure that clean-up of hazardous materials at mine sites occur in a timely manner." To support their conclusion, they specifically mentioned a 2005 report by the Government Accountability Office (GAO) that concluded that EPA should "fully use its existing authorities to better ensure that those businesses that cause pollution also pay to have their contaminated sites cleaned up." [113] They also pointed to a 2004 report by EPA's Office of Inspector General (IG) that identified 29 specific sites where, according to the IG, cleanup work was delayed or scaled back in ways harmful to human health and the environment because of funding shortfalls.[114] In addition to this report, Earthworks identified in their comments other examples of cleanup efforts at mines that they stated remain uncompleted due to insufficient funds being available, or that took an inordinate amount of time to complete, exposing the public to dangerous substances. As discussed in the specific case studies and the accompanying Technical Support Document, a number of the examples cited by the IG and Earthworks are not representative of the risk posed by currently operating hardrock mining facilities.

EPA appreciates Earthworks' concern that insufficient funds leads to incomplete or slow cleanup and restoration of mine sites. Earthworks acknowledges that the universe of entities that EPA proposed to regulate under the proposed rule excluded mines that are no longer operating. They recommended that the universe be expanded to cover mine operations that are no longer active but still retain a responsible party. They state that, "Many past hardrock mining facilities are already and/or will be the site of CERCLA liabilities and necessary response actions. The

[113] Earthworks, *et. al*, EPA-HQ-SFUND-2015-0781-2739, page 5.
[114] Ibid. page 5, 6.

CERCLA 108(b) regulations should apply to these operations."[115] EPA disagrees with this comment, and notes that the Agency has determined the goals of a section 108(b) rule as described in the proposal have already been satisfied.

Earthworks also commented that "CERCLA 108(b) regulations are essential because they address risks and liabilities that aren't addressed in most other State or federal land management financial assurance programs, including spills, accidental releases, and tailings failures."[116] To support this conclusion, they point to several instances in ongoing mining operations where there are impacts to natural resources and/or groundwater due to ongoing mining operations which other federal or state rules fail to regulate. Earthworks also submitted comment claiming the need for financial responsibility for long-term water treatment. EPA recognizes that some historical mining operations have resulted in the need for long-term water treatment.[117] However, modern regulation of both process discharges and runoff, as well as reclamation requirements to control sources of contamination, significantly address those risks. Additionally, as discussed above, while EPA acknowledges that the risk of a release is never totally eliminated by the requirements of other programs, this residual risk is to be evaluated in light of EPA's discretion under the statute on whether to set section 108(b) requirements, and in light of the other information in the record for this action discussed elsewhere in this final rule. Viewed in this manner, such residual risk does not change EPA's conclusion that it is not appropriate to issue final section 108(b) requirements for current hardrock mining operations.

Water Legacy and Friends of the Boundary Waters Wilderness submitted separate comments expressing concern that Minnesota's financial assurance laws, for instance, are not

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[115] Ibid., page 11.
[116] Ibid., page 12.
[117] Ibid., page 2.

adequate to cover mine pit seepage, waste rock pile seepage, tailings dam seepage and/or catastrophic dam failures.[118] However, as is discussed in the site examples elsewhere in this final rule and accompanying Technical Support Document, commenters submitted information to demonstrate that most releases at currently operating facilities are being addressed by owners and operators, and that the costs of these incidents at modern operations are generally not falling to the taxpayer.

EPA received comments from three federally-recognized tribes and from three Alaska Native Claims Settlement Act (ANCSA) resource managers regarding section 108(b) financial responsibility. Tribal comments were generally in support of the proposed rule, and cited some concerns about the potential negative impacts of hardrock mining on commercial enterprises and on subsistence living, along with the need to more fully identify the benefits of the rule. A primary ANCSA concern was that the section 108(b) financial responsibility requirements would duplicate existing federal and state requirements, resulting in a negative impact on Alaska Natives and states, that receive royalties through the Regional and Village Corporations. These comments are discussed in section VIII.G.

D. Comments Opposing a Final Rule

1. Comments Regarding Appropriateness of Information Used

a. Use of Information Not Relevant to the Mines to be Regulated under the Rule

Many commenters on the proposed rule, including mining companies, trade associations, as well as state and federal agencies, commented that EPA's record incorrectly characterized the on-going environmental risk at operating hardrock mining facilities by relying on information related to mines that were constructed and operated before current regulatory requirements were

[118] See comment from Water Legacy, EPA-HQ-SFUND-2015-0781-2649, at page 3.

in place, rather than on information specific to current hardrock mining activities, which are highly regulated. Commenters argued that since the rule would not apply to inactive, non-operating sites, EPA should not rely on information related to such sites as part of its rulemaking record to justify the need for financial responsibility requirements for current hardrock mining operations. Several commenters disagreed with EPA's assertion in the proposed rule that the $4 billion spent by EPA through the Superfund for cleanup costs at historical hardrock mining facilities is an indication of the relative risk present at the facilities covered by the proposed rule. Commenters argued that the 2009 Priority Notice and the proposed rule did not differentiate between costs associated with the highly-regulated mining practices of today and pre-regulation practices in developing that number.

EPA agrees with commenters that information about facilities that present a level of risk similar to those proposed to be regulated is the most appropriate focus for the Agency's record for this action. EPA also agrees with commenters that because mining practices have changed significantly over the past several decades, information related to risk presented by mines that operated before those changes occurred may not reflect the level of risk presented by currently operating facilities that include controls such as surface water containment structures, engineered storage facilities, water treatment, impermeable liners, and leak detection and recovery systems. Finally, EPA agrees with commenters that the cost of addressing releases from mines that operated without the controls in place today should not be assumed to be comparable to the cost of addressing releases from current operations, where controls such as monitoring assure early detection.

Commenters objected to the use of 1980 in the Practices Report,[119] (CERCLA was enacted in December 1980) as the point when "historic" mining practices changed over to "modern" ones. They felt this ignored the evolution of mining practices that took place since 1980, in response to other environmental laws, as well as state mining regulations which were still in their infancy in 1980. Some commenters seemed to agree that EPA should consider "modern" mining practices to have begun post-1990, and some suggested that the mid-1990s was the true beginning of modern hardrock mining practices.

In evaluating the record for this rulemaking, EPA considered the issue of when mining operations became "modern" or "current." EPA recognizes that there are not nationally-applicable federal standards governing the operation of mines,[120] and that the current regulatory scheme of federal and state mining programs has evolved over time. Thus, the requirements of individual hardrock mining programs developed at different paces and sequences. One commenter provided a table demonstrating the evolution of hardrock mining programs over time, extending from 1972 to 2014, and including the adoption of regulations in Alaska, Arizona, Arkansas, Montana, New Mexico, Nevada, and Utah during that period of time.[121] EPA has therefore concluded that no particular date in the past reliably distinguishes between "historic" or "legacy" and "current" or "modern" mines nationwide, and that a better approach is to consider operations taking place under the current applicable regulatory scheme as "current" operations, and mine operations that took place before the enactment of the currently applicable and relevant requirements as "historic" or "legacy."

b. Use of Data that Did Not Directly Demonstrate Risk at Current Hardrock Mining Operations

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[119] EPA relied on this date numerous times in the Practices Report (e.g., pages 7,8,72,119126,127,133, 145).
[120] In 1986 EPA made a determination under section 3001(b)(3)(C) of RCRA that wastes from the extraction of ores did not pose a significant enough risk to warrant regulation under Subtitle C of RCRA. 51 FR 24496.
[121] See comment from Freeport-McMoRan, EPA-HQ-SFUND-2015-0781-2793, Attachment B.

Some commenters who opposed the rule objected to EPA's analysis of the information presented in the 2009 Priority Notice relating to hardrock mining risk. Commenters objected that EPA relied on inappropriate information to demonstrate risk at current hardrock mining operations, by focusing on data that does not address potential exposure to CERCLA hazardous substances, or the possibility that a CERCLA response action may occur in the future, that is -- Toxics Release Inventory (TRI), and data from the Hazardous Waste Biennial Report (BR).[122] Commenters argued that EPA's approach to identifying hardrock mining did not evaluate actual or potential risk.

EPA agrees with commenters that information regarding releases from hardrock mining facilities does not, in and of itself, demonstrate risk. For example, as noted in EPA's "Factors to Consider When Using Toxics Release Inventory Data" (2015), "TRI data do not reveal whether or to what degree the public is exposed to listed chemicals."[123] In fact, TRI data generally encompass releases that are permitted under the Clean Air Act (CAA), the Clean Water Act (CWA), or the Safe Drinking Water Act, as well as the lawful disposal of hazardous substances. Accordingly, EPA agrees that TRI data cannot help predict the risk associated with potential mismanagement and therefore cannot be used to support any determination under CERCLA section 108(b) that imposing financial responsibility requirements on a sector is appropriate. Similarly, EPA agrees that BRS data and National Response System (previously referred to as the Emergency Response Notification System (ERNS) data do not provide information on the risk, if any, posed by the management of hazardous substances at hardrock mines.

Another commenter stated that EPA's methodology for assessing risk was simply to describe some of the major mining practices that contributed to past CERCLA releases and

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[122] See, for example, comment from Comstock Mining, Inc., EPA-HQ-SFUND-2015-0781-2735, at page 31.
[123] See https://www.epa.gov/sites/production/files/2015-06/documents/factors_to_consider_6.15.15_final.pdf.

simplistically conclude that similar practices are used today. The commenter argued that this approach is not accurate because it fails to account for the major changes in mining practices and regulatory requirements that are applied to modern mines. EPA agrees that it is important to consider modern mining practices and current regulatory regimes and has adopted that approach in this final action.

2. Comments that EPA Failed to Consider Relevant Information

Commenters on the 2009 Priority Notice and the proposed rule objected that EPA failed to consider relevant information in the 2009 Priority Notice and the proposed rule, specifically on the role of federal and state regulatory programs and protective practices in reducing risks at current hardrock mining operations, and on information on reduced costs to the taxpayer from regulatory programs and cleanup by owners and operators. For example, the American Exploration and Mining Association (AEMA) commented that the Federal Land Management Agencies and the states have significantly evolved their financial assurance programs with specific emphasis on post-closure care and maintenance, thereby minimizing the long-term potential for releases of hazardous substances and un-bonded agency liability. AEMA further commented that existing financial responsibility programs are working at modern mines and there is no need for a costly EPA program.[124]

a. Comments Providing Information on the Role of Federal and State Programs and Protective Mining Practices in Reducing Risks at Current Hardrock Mining Operations

Many commenters who opposed the rule objected that EPA's analysis failed to consider the technical or engineering requirements specified by other regulatory programs or the requirements that financial assurance be established to ensure that required measures will be

[124] See comments from American Exploration and Mining Association at Docket ID Number EPA-HQ-SFUND-2015-0781-2657, page 2.

funded when needed. The commenters stated that both types of requirements significantly decrease the risks posed by modern mines, including both risks to the environment and risks that potential future liabilities will not be funded by mining companies.[125] EPA agrees that due to the increased regulation of hardrock mining practices over the past several decades, mining operations are conducted in a manner that does not present the same level of risk as practices of the past.

Commenters provided extensive information regarding the requirements of those programs including design standards, engineering controls, and environmental monitoring. Commenters argued that engineering controls and best practices reduce the degree and duration of risk associated with the modern production, transportation, treatment, storage, and disposal of hazardous substances to minimal levels and that no additional financial responsibility requirements are necessary to protect the taxpayer or the Superfund. Some of these federal and state programs are discussed below.

(1) Examples of federal programs

The regulations of the Bureau of Land Management (BLM) and the Forest Service, applicable to hardrock mining facilities, are described below.

Bureau of Land Management

BLM's surface management regulations at 43 C.F.R. subpart 3809 govern the majority of the hardrock mining operations on the public lands that would be subject to the proposed rule. These regulations were first promulgated in 1980 pursuant to the agency's authority under the

[125] Freeport-McMoRan Inc; Fertilizer Institute; MiningMinnesota; New Mexico Environment Department and New Mexico Energy, Minerals, and Natural Resources Department; Colorado Department of Natural Resources, Division of Reclamation, Mining and Safety; National Mining Association.

Mining Law of 1872,[126] and its mandate under section 302(b) of the Federal Land Policy and Management Act of 1976 to take any action to prevent "unnecessary or undue degradation" of the public lands.[127] BLM also regulates the development of solid minerals subject to other mineral disposal authorities, such as phosphate, through the issuance of permits and leases under 43 C.F.R. Part 3500. BLM's regulatory programs provide cradle-to-grave oversight of mining operations on the public lands. For example, BLM's subpart 3809 regulations require operators to obtain authorization from BLM to conduct any surface disturbance greater than casual use.[128] All operations under subpart 3809 must comply with the general and specific performance standards set forth in the regulations which govern, among other things, disposal of mining wastes and handling of acid-forming, toxic, or other deleterious materials.[129] In addition, subpart 3809 requires all operations to comply with applicable federal and state laws and regulations, including laws related to air and water quality.[130] For extractive mining operations and some exploration, operators under subpart 3809 must submit and obtain BLM approval of a plan of operations that includes plans for baseline data collection, water management, rock characterization and handling, spill contingency, and reclamation.[131] BLM's subpart 3809 regulations impose also requirements for design, operation, closure, and reclamation to ensure productive use of the land after mining. The required reclamation plan must detail stabilization of land disturbed for mining, reclaiming and reshaping the land, wildlife rehabilitation, controlling potentially hazardous materials, and post-closure management.

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[126] 30 U.S.C. §§ 22-54, as amended.
[127] 43 U.S.C. § 1732(b).
[128] 43 C.F.R. §§ 3809. 10, 3809.11.
[129] See 43 C.F.R. § 3809.420.
[130] See 43 C.F.R. §§ 3809.5, 3890.420(b)(4), (b)(5).
[131] 43 C.F.R. § 3809.401.

BLM's regulations also require operators to provide a financial guarantee before they can begin all hardrock mining operations.[132] Moreover, financial guarantees for mining operations must remain in effect until BLM determines that reclamation has been completed in accordance with the authorized operations and the agency releases the financial guarantee.[133] BLM's regulations also allow the agency to initiate forfeiture of the financial guarantee in the event the operator refuses or is unable to conduct reclamation.[134]

Forest Service

The U.S. Department of Agriculture (USDA) Forest Service regulations governing mining under the Mining Law of 1872 were promulgated in 1974[135] and can be found at 36 CFR part 228 subpart A. Disposal of minerals such as phosphates, sodium, potassium, and hardrock minerals on acquired National Forest System lands are subject to the mineral leasing laws and are regulated by BLM under 43 C.F.R. part 3500.

Under the Forest Service regulations at 36 C.F.R. part 228, subpart A, operators must submit and obtain approval of a plan of operations before conducting any operations that might cause significant disturbance of surface resources.[136] The regulations are designed to minimize adverse environmental impacts both during and after mining operations. The regulations prohibit releases of hazardous substances, and require financial guarantee that is calculated to reasonably insure that operations and reclamation are conducted to avoid releases, and to respond to releases that may occur.[137] USDA highlighted in its comments how well developed Plans of

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[132] *See* 43 C.F.R. §§ 3504.50, 3809.4500
[133] 43 C.F.R. §§ 3504.71, 3809.590.
[134] 43 C.F.R. §§ 3504.65, 3809.595.
[135] See comment from United States Forest Service, Docket ID: EPA-HQ-SFUND-2015-0781-2400 at page 10; comment from National Mining Association, EPA-HQ-SFUND-2015-0781-2794 at page 29.
[136] 36 C.F.R. § 228.4(a).
[137] See comment from United States Forest Service, Docket ID: EPA-HQ-SFUND-2015-0781-2400 at page 2.

Operations, site inspections, and monitoring reduce environmental risks before, during, and after mine closure. Specifically, USDA stated that an operator complies with Forest Service regulations by developing a Plan of Operations, which requires that the operator submit enough detail that the agency can analyze various risks associated with the proposed operation and, through the NEPA process, identify proper mitigation measures to reduce or eliminate those risks.[138] The regulations also require that, "all operations be conducted so as, where feasible, to minimize adverse environmental impacts on National Forest surface resources" (228.8). This allows the Agency to be very site-specific in its analysis of risk and mitigation.[139] A Plan of Operations must also include detailed reclamation and closure plans, which are reviewed and approved to minimize the potential future risk to the environment based on predicted outcomes.[140] USDA further stated that Plans of Operation must include hazardous materials inventory and handling procedures, spill prevention plans, and transportation mitigation measures.[141] USDA stated a Plan of Operations for a hardrock mining operation cannot be approved unless hazardous substances are managed so that the threat of present or future release is minimized.[142] During the mine permitting process, the Forest Service actively engages in memorandums of understanding and agreements with other State and Federal Agencies to ensure that all parties' permits are approved and implemented. Currently this can involve over forty separate permits and authorizations.

The Forest Service requires that mine operators provide a financial guarantee to assure complete reclamation and compliance with environmental laws under the following authorities:

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[138] Ibid.
[139] Ibid.
[140] Ibid., page 5.
[141] Ibid., page 4.
[142] Ibid., page 4.

16 U.S.C. 551; 30 U.S.C. 612; 36 CFR 228.8, 228.13.[143] USDA stated that regulatory requirements (36 CFR 228.13) require operators to provide a bond sufficient to insure stabilization, rehabilitation, and reclamation of the area of operations.[144] Environmental protection measures described in under 36 CFR 228.8 also include certification of compliance with all other applicable environmental standards.[145] Forest Service regulations at 36 CFR 228.4(e) allow the agency to require a modification to the Plan of Operations to allow for bond adjustments to address unforeseen environmental effects.[146] In its comments on the proposed rule the USDA stressed that financial guarantee requirements further reduce financial risk to the public. The operator must provide a financial guarantee that must be of a sufficient amount to ensure that, upon closure, the operation no longer presents long-term risks to the environment and a liability to the Forest Service and the public. [147] USDA further noted that any ongoing obligation to continue the protection of the environment is also provided for in a long-term financial assurance instrument required by the Forest Service.[148]

Commenters also noted the role the NEPA plays in identifying risks at mining operations. NMA stated that a federal plan of operation is also scrutinized under NEPA, usually requiring the preparation of an environmental impact statement, which evaluates potential environmental impacts of the mining operation, assesses alternatives, and requires the identification of mitigation measures to reduce potentially significant environmental impacts.[149] The Forest

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[143] Ibid., page 1.

[144] Ibid., page 3.
[145] Ibid., page 3.
[146] Ibid., page 5.
[147] Ibid., page 5.
[148] Ibid., page 5.
[149] See comment from National Mining Association, EPA-HQ-SFUND-2015-0781-2794 at page 30.

Service also offered several examples of the ways in which the NEPA process mitigates risk for mines which require the preparation of an environmental impact statement. Specifically, the Forest Service noted that it identifies closure requirements as part of the NEPA process after in-depth studies using site-specific data.[150] Moreover, Forest Service noted that proposed reclamation requirements and potential for releases at mines on NFS lands are examined and disclosed in NEPA documents prepared for Forest Service approval of the plan of operations, which are reviewed by EPA.[151] The Forest Service also noted that EPA reviews all NEPA documents, and comments on the adequacy of mitigation measures and reclamation plans in general. Once an operator incorporates source controls and mitigation measures into their plan, the Forest Service approves that plan, based on the expected outcomes and not the individual engineering standards used.[152] EPA notes that the NEPA process applies to all federal agencies and thus is not limited to only mines on NFS lands.

(2) Examples of state programs

A discussion of the mining programs of five states -- Nevada, New Mexico, Alaska, Colorado, and Montana -- is provided below. Of the 184[153] mining sites in the potentially regulated universe of mines developed by EPA for purposes of analysis in the proposed rule, roughly one fourth are located in Nevada, and roughly one tenth are located in New Mexico, Alaska, Colorado, and Montana combined. In addition to the examples discussed below, the record includes detailed information on the protectiveness of mining programs in Arizona, Utah,

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[150] See comment from United States Forest Service, Docket ID: EPA-HQ-SFUND-2015-0781-2400 at page 3.
[151] Ibid., page 5.
[152] Ibid., page 7
[153] This number does not include the stand-alone mineral processors in the potentially regulated universe of 221 hardrock mining facilities developed by EPA for purposes of analysis in the proposed rule.

South Dakota, and Idaho that were provided by those states and state organizations.[154] Additional information on state programs also was provided by other commenters.[155]

Nevada

The Bureau of Mining, Regulation, and Reclamation of Nevada requires closure and reclamation for hardrock mines under the Nevada Revised Statutes (NRS) 519A.010 - NRS 519A.280 and the Nevada Administrative Code (NAC) 519A.010 - NAC 519A.415.[156] Nevada's regulatory program was enacted in 1989-1990 and includes the authority for the Nevada Division of Environmental Protection (NDEP) to require financial assurance for long-term management of mine-impacted waters.[157] Commenters reported that Nevada's stringent regulations "impose extensive permitting, design, operation, monitoring, corrective action, closure, reclamation, and financial assurance requirements on hardrock mining operations in the State.[158] In addition, because many mines in Nevada operate on federal lands, Nevada and BLM and Forest Service have entered into Memoranda of Understanding to ensure coordination of financial assurance requirements across private and public lands.[159] Mines in Nevada estimate the amounts of their required financial assurance through use of Nevada's Standardized Reclamation Cost Estimator

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[154] See comment and attachments from Beth A. Botsis, Deputy Executive Director, Interstate Mining Compact Commission, comment number EPA-HQ-SFUND-2015-0781-2759; EPA-HQ-SFUND-2015-0781-2758; EPA-HQ-SFUND-2015-0781-2757), discussing the protectiveness of mining programs in Arizona, Utah, and South Dakota. Together, Arizona and Utah have 35 potentially regulated mines. See also, comment from Governor Butch Otter, noting that that most of the mines in Idaho are on federally managed land and thus would be subject to Forest Service or BLM regulations, comment number EPA-HQ-SFUND-2015-0781-2682. Idaho has nine potentially regulated mines.

[155] See the discussion of comments on state mining programs in below.

[156] See comment from Nevada Lithium Corp, Comment Number: EPA-HQ-SFUND-2015-0781-2681 at page 4.

[157] See comment from Nevada Division of Environmental Protection, comment number EPA-HQ-SFUND-2015-0781-2651 at page 1.

[158] See comment from Newmont Mining Corporation, comment number EPA-HQ-SFUND-2015-0781-2712 at page 46-47.

[159] See comment from Nevada Division of Environmental Protection, comment number EPA-HQ-SFUND-2015-0781-2651, at page 2, and Attachment.

(SRCE).[160] The SRCE is well-regarded amongst mining reclamation programs and is used by several other states and Federal agencies.[161]

Nevada's hardrock mining regulatory programs, including its reclamation surety program administered by NDEP, include stringent design standards, including standards in liner systems, dam safety, and tailings impoundments that are intended to manage and contain process wastes.[162] The regulations also specify treatment of spent ore heaps at closure to ensure surface and groundwater impacts are prevented.[163] NDEP provided comment that no modern mines that commenced operation after the promulgation of the Nevada mine reclamation financial assurance regulations have required public funding for proper closure or reclamation as evidence of the strength of Nevada's program.[164]

New Mexico

The New Mexico Mining Act ("Mining Act") was adopted in 1993 with the purposes of "promoting responsible utilization and reclamation of lands affected by exploration, mining or the extraction of minerals."[165] The Mining Act broadly defines "mining" and "minerals" to cover the extraction and processing of hardrock minerals.[166]

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[160] See comment from Nevada Lithium Corp, Comment Number: EPA-HQ-SFUND-2015-0781-2681, Page 4

[161] See comments from Women's Mining Coalition, Comment number EPA-HQ-SFUND-2015-0781-2705 at page 5, Pershing Gold Corporation, Comment number EPA-HQ-SFUND-2015-0781-2688 at page 6, Hecla Mining Company, Comment number EPA-HQ-SFUND-2015-0781-2688 at page 21, Mining and Metallurgical Society of America, comment number EPA-HQ-SFUND-2015-0781-2734 at page 3.

[162] See comment from Newmont Mining Corporation, comment number EPA-HQ-SFUND-2015-0781-2712 at page 48

[163] Ibid., page 49

[164] See comment from Nevada Division of Environmental Protection, comment number EPA-HQ-SFUND-2015-0781-2651 at page 2.

[165] See comments from New Mexico Environment Department and the New Mexico Energy, Minerals, and Natural Resources Department, Docket ID Number EPA-HQ-SFUND-2015-0781-2676-2 at page 4.

[166] Ibid. page 4

Mining operations in New Mexico, both "existing" and "new,"[167] are required to obtain permits which include closeout, or reclamation, plans.[168] These plans, which are developed in coordination with closure plans required under the Water Quality Act, address the areas disturbed by mining including impacts from any of the thirteen site features identified by EPA as the sources of releases or threatened releases at hardrock mining sites.[169] The reclamation and remediation of these site features, which include tailings, waste rock, leach piles and open pits, are addressed in the permits issued under the Mining Act and the Water Quality Act.

Mining operations in New Mexico are subject to significant compliance and enforcement provisions. The Mining Act mandates a specific set of minimum inspections for each class of facility including one inspection a month when a mine is conducting significant reclamation activities. 170 If the agency determines that a facility is in violation of the Act, regulations or the permit or is creating an imminent danger to public health or safety or is causing significant environmental harm, the agency can order a cessation of mining or undertake administrative or judicial enforcement proceedings. [171] Violations can result in civil penalties of up to $10,000 a day, and knowing or willful violations can bring criminal penalties. [172]

Financial assurance is an integral and inseparable part of New Mexico's regulation of hardrock mining and attendant reclamation requirements. Before a permit can be issued under the Mining Act, financial assurance must be filed with the agency. "The amount of the financial

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[167] "existing mining operations" were producing minerals prior to June 18, 1993, and "new mining operations" began producing minerals after that date. §69-36-3(E) and (I).
[168] See comments from New Mexico Environment Department and the New Mexico Energy, Minerals, and Natural Resources Department, Docket ID Number EPA-HQ-SFUND-2015-0781-2676-2 at page 5.
[169] 82 FR 3461, fn. 171
[170] See comments from New Mexico Environment Department and the New Mexico Energy, Minerals, and Natural Resources Department, Docket ID Number EPA-HQ-SFUND-2015-0781-2676-2 at page 5.
[171] Ibid., page 5.
[172] Ibid., page 5.

assurance shall be sufficient to assure the completion of the performance requirements of the permit, including closure and reclamation, if the work has to be performed by the director or a third-party contractor."[173] The financial assurance amount is based on a detailed engineering cost estimate to complete the approved reclamation plan and must be based on what it would cost the State, or the State's contractor, to complete the reclamation plan. Financial assurance must include costs for: contract administration; mobilization; demobilization; engineering redesign; profit and overhead; procurement costs; reclamation or closeout plan management; and contingencies.[174]

The New Mexico Environment Department (NMED) regulates mining operations under the New Mexico Water Quality Act ("Water Quality Act").[175] Enacted in 1967, the Water Quality Act requires the New Mexico Water Quality Control Commission ("WQCC" or "Commission") to adopt regulations to protect surface water and groundwater quality. The Commission must "adopt water quality standards for surface and ground waters of the state,"[176] and must also adopt regulations requiring a permit for "the discharge of any water contaminant."[177] The Commission authorizes NMED to place conditions on discharge permits to protect groundwater, and must deny a discharge permit if the discharge would cause or contribute to contaminant levels in excess of water quality standards at any place of present or potential future use.[178] The WQCC must adopt procedures for providing notice to interested persons and the opportunity for a public hearing, and must also adopt regulations "for the

[173] Ibid., page 5.
[174] Ibid., page 5.
[175] Ibid., page 6.
[176] Ibid., page 6.
[177] Ibid., page 6.
[178] Ibid., page 6.

operation and maintenance of the permitted facility, including requirements, as may be necessary or desirable, that relate to the continuity of operation, personnel training and financial responsibility. "[179] Finally, the Water Quality Act was amended in 2009 to direct the WQCC to adopt regulations for the copper industry, resulting in a comprehensive and prescriptive set of copper mine regulations,[180] and in accordance with the directives of the Water Quality Act, the Commission has adopted a body of implementing regulations codified in Title 20, Chapter 6 of the New Mexico Administrative Code.

The stated purpose of the Ground and Surface Water Protection Regulations is "to protect all ground water of the state of New Mexico which has an existing concentration of 10,000 [milligrams per liter] or less [total dissolved solids], for present and potential future use as domestic and agricultural water supply."[181] The regulations include three categories of groundwater quality standards: (1) maximum numerical standards for thirty-three contaminants for protection of human health; (2) maximum numerical standards for nine contaminants and a range for pH for protection of domestic water supplies; and (3) maximum numerical standards for five contaminants for protection of water for irrigation use.[182]

The regulations also address discharge permits,[183] prohibiting any person from causing or allowing a water contaminant to "discharge so that it may move directly or indirectly into groundwater" unless that person is discharging pursuant to a discharge permit issued by NMED.[184] The regulations provide for notice to the public of a proposed discharge permit, and

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[179] Ibid., page 6-7.
[180] Ibid., page 6.
[181] Ibid., page 6-7.
[182] Ibid., page 6-7.
[183] Ibid., page 6-7.
[184] Ibid., page 6-7.

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the opportunity to request a public hearing on the permit. [185] The regulations further provide that a discharge permit may include a closure plan to protect ground water after the cessation of the operations causing the discharge. The closure plan must include "a description of closure measures, maintenance and monitoring plans, post-closure maintenance and monitoring plans, financial assurance, and other measures necessary to prevent and/or abate ... contamination."[186]

The Copper Mine Rule[187] was promulgated in 2013 and the state indicated that it is the most prescriptive rule governing copper mining operations in the United States. The Copper Mine Rule establishes specific operational, monitoring, contingency, closure, and post-closure requirements for copper mines to ensure protection of water quality and prevent the release of contaminants into the environment during operations and following closure. The Copper Mine Rule is supplemental to the general discharge permit regulations, and is implemented through the issuance of ground water discharge permits.

The Copper Mine Rule covers all aspects of mine operation and closure. The permit application requirements for copper mine facilities result in a comprehensive document that identifies all mine units at the facility including: impoundments; pipelines; tanks; leach stockpiles; waste rock stockpiles; crushing, milling, concentrating, smelting and tailing impoundments; open pits; underground mines; and, truck and equipment washing units.[188] Each of these respective mine units is subject to prescriptive engineering design criteria to control and prevent the release of contaminants.[189]

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[185] Ibid., page 6-7.
[186] Ibid., page 6-7.
[187] Ibid., page 7.
[188] Ibid., page 8.
[189] Ibid., page 8.

Existing mine units in operation prior to promulgation of the Copper Mine Rule have extensive groundwater monitoring to determine their effectiveness in preventing the release of contaminants to the environment.[190] Discharge permit requirements for existing mine units include operation of groundwater interceptor systems, as well as seepage and surface runoff capture systems to ensure impacts are contained as close as is practicable.[191] The Copper Mine Rule requires development and implementation of a site-wide water management plan describing in detail how impacted storm water and groundwater at the site is contained and managed.[192] Construction and operation of new mine units or expansion of existing mine units is subject to detailed engineering design requirements that include lined leach stockpiles, double lined process water impoundments, leak detection systems, flow metering, and extensive groundwater monitoring.[193]

Proposals for new mine units such as waste rock stockpiles and tailing impoundments are required to include an aquifer evaluation to determine the nature and extent of any impacts to groundwater that may occur if these mine units are proposed to be unlined.[194] Based on the aquifer evaluation, the Copper Mine Rule requires a design report for proposed interceptor systems to ensure containment of groundwater impacted by the stockpile or tailing impoundment such that applicable standards will not be exceeded at monitoring well locations.[195] As previously stated, monitoring wells must be located as close as practicable to the various mine units being monitored.[196] Impacted water collected at a mine site typically is used in the process

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[190] Ibid., page 8.
[191] Ibid., page 8.
[192] Ibid., page 8.
[193] Ibid., page 8.
[194] Ibid., page 8.
[195] Ibid., page 8.
[196] Ibid., page 8.

water system, offsetting use of potable water. Any impacted water in excess of process water requirements must be treated prior to release. [197] In the event a demonstration of containment cannot be satisfactorily made, a liner system placed beneath waste rock or tailing impoundments may be required.[198]

The Copper Mine Rule also contains prescriptive requirements for closure of mine units that have the potential to impact water quality[199] including requirements for process solution reduction plans[200] and closure water management and water treatment plans. [201] There are prescriptive engineering design requirements for surface re-grading and cover design to ensure storm water is routed off and away from encapsulated mine waste, and that infiltration into mine waste is minimized.[202] It should be noted that the prescriptive closure design criteria are based on designs that have been implemented successfully not only at copper mines in New Mexico, but mimic successful closure design that has been consistently required and applied at other mine sites in New Mexico.

Under these regulations, any hardrock mine that has the potential to impact groundwater must obtain a permit from NMED. The Water Quality Act provides numerous enforcement mechanisms for violations of the provisions of the Act, the regulations, a water quality standard adopted pursuant to the Act, or a condition of a permit issued pursuant to the Act. [203] These include injunctive relief ordered by a district court; suspension or termination of a permit

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[197] Ibid., page 8.
[198] Ibid., page 8.
[199] Ibid., page 9.
[200] Ibid., page 9.
[201] Ibid., page 9.
[202] Ibid., page 9.
[203] Ibid., page 6-7.

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allegedly violated;[204] civil penalties of up to $15,000 per day of noncompliance for a violation of the Water Quality Act permit provisions at NMSA 1978, Section 74-6-5, including regulations adopted or a permit issued pursuant to that section;[205] up to $10,000 per day for each violation of the Water Quality Act or regulations other than Section 74-6-5; up to $25,000 per day for each day of continued noncompliance with a compliance order; and criminal penalties.[206]

The New Mexico state commenters indicated that NMED and the New Mexico Energy, Minerals, and Natural Resources Department work closely together pursuant to a Joint Powers Agreement in drafting and issuing permits for hardrock mining facilities to ensure that financial assurance and other permit requirements are consistent, integrated, and complementary. These agencies allow permitted facilities to submit a single financial assurance instrument, or set of instruments, that are jointly held by the agencies, meeting the financial assurance requirements of both statutes. They also have Memoranda of Understanding with BLM and the Forest Service to avoid duplication where federal land is involved. Through mining permits issued under the Mining Act, and groundwater discharge permits issued under the Water Quality Act, the Agencies have jointly required permittees to establish financial assurance for all operating hardrock mines in New Mexico, as well as many that are no longer operating.

Freeport McMoRan Inc. commented that there are existing, state-imposed financial assurance requirements, often amounting to hundreds of millions of dollars per mine, that might be sufficient to protect against risks,[207] and offered the example that EPA itself has adopted state reclamation requirements specified in New Mexico law, as the CERCLA remedy for the Questa mine site.

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[204] Ibid., page 6-7.
[205] Ibid., page 6-7.
[206] Ibid., page 6-7.
[207] See comments from Freeport McMoRan, Inc., EPA-HQ-SFUND-2015-0781-2402 at page 9.

Alaska

The Alaska Department of Environmental Conservation requires financial assurance to prevent releases from mines to water.[208] Financial assurance for reclamation at mines on state, private, municipal, and federal land is managed by the Alaska Department of Natural Resources under authority granted by the Alaska Mine Reclamation Act.[209] The act describes a general reclamation standard which "prevents unnecessary or undue degradation of land and water resources"[210] Under the mine permitting process undertaken for most large mines in Alaska, coordination with federal, state, and local governments is employed to review mine plans.[211] As evidence of the stringency of Alaska's requirements, AEMA offered comment that large mines in Alaska are required to undergo a comprehensive third-party environmental audit every five years.[212]

Alaska requires further safeguards for mines where the plan includes a dam. These requirements include operation and maintenance plans and contingencies in an emergency action plan.[213] Alaska made the "Guidelines for Cooperation with the Alaska Dam Safety Program" guidance available which outlines regulatory requirements applying to dams, including design standards, methods of analysis, [...] performance requirements and risk profile of the facility, operation, maintenance and monitoring requirements, emergency action planning and incident reporting, periodic safety inspections" as well as financial assurance.[214]

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[208] See comment from NOVAGOLD, comment number EPA-HQ-SFUND-2015-0781-2720 at page 2.
[209] See comment from Alaska Department of Environmental Conservation, comment number EPA-HQ-SFUND-2015-0781-2785 at page 9.
[210] See comment from Alaska Department of Environmental Conservation, comment number EPA-HQ-SFUND-2015-0781-2785 at page 9.
[211] Ibid., page 10-11.
[212] See comment from AEMA, comment number EPA-HQ-SFUND-2015-0781-2657 at page 10.
[213] See comment from Alaska Department of Environmental Conservation, comment number EPA-HQ-SFUND-2015-0781-2785 at page 10.
[214] Ibid., page 19.

Colorado

In 1976, the Colorado state legislature passed the Mined Land Reclamation Act[215] (MLRA) establishing a Mined Land Reclamation Board ("Board").[216] The MLRA provided far more structure for permitting mine sites and, importantly, oversight of reclaiming these sites. The MLRA's legislative declaration stated:

> "It is the declared policy of this state that the extraction of minerals and the reclamation of land affected by such extraction are both necessary and proper activities. It is further declared to be policy of this state that both such activities should be and are compatible. It is the intent of the general assembly by enactment of this article to foster and encourage the development of an economically sound and stable mining and minerals industry and to encourage the orderly development of the state's natural resources while requiring those persons involved in mining operations to reclaim land affected by such operations so that the affected land may be put to a use beneficial to the people of this state. It is the further intent of the general assembly by the enactment of this article to conserve natural resources, to aid in the protection of wildlife and aquatic resources, to establish agricultural, recreational, residential, and industrial sites, and to protect and promote the health, safety, and general welfare of the people of this state."[217]

In 1984, the Colorado Division of Reclamation, Mining, and Safety (DRMS) permitted the Summitville mine.[218] This was a high elevation mine located in the historic mining district of Summitville in Southwest Colorado. Errors were made in the permitting review and initial build out of this mine site. The financial assurance at Summitville was not site-specific but based on a formulaic approach, and ultimately proved to be far short of the actual reclamation cost.[219] The large cyanide heap leach operation almost immediately encountered problems with construction

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[215] C.R.S. § 34-32-101 et. seq.
[216] See comments from Colorado Division of Reclamation, Mining and Safety at Docket ID number EPA-HQ-SFUND-2015-0781-2774, page 3.
[217] Ibid., page 4.
[218] Ibid.
[219] Ibid.

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and water treatment.[220] Ultimately, the operator walked away from the site after a significant environmental release leaving the state with an insufficient financial assurance.

The state indicated that it learned from the errors at Summitville, and the state legislature subsequently passed major programmatic revisions to the MLRA in 1993, strengthening permitting and enforcement provisions.[221] Most importantly, the MLRA was specifically amended to create a new class of mining sites now known as Designated Mining Operations (DMOs) and to clearly require financial assurance for all sites based on site specific, not formulaic, criteria.[222]

The DMO amendment is the backbone of Colorado's hardrock regulatory program and requires operators to submit an Environmental Protection Plan with numerous technical elements that were previously not required in light of lessons learned from Summitville .[223] A DMO's Environmental Protection Plan now describes how the operator assures protection of all areas that have the potential to be affected by designated chemicals, toxic or acid forming materials, or acid mine drainage.[224] The plan must include an Emergency Response Plan and must implement any measures required by Colorado Parks and Wildlife for the protection of wildlife or Colorado Water Quality Control Division for the protection of water quality.[225] Other aspects of the DMO amendment required submission of information to evaluate the potential for adverse impacts associated with acid mine drainage or acid or toxic producing materials to leach facilities, heap leach pads, tailing storage or disposal areas, impoundments, waste rock piles, stockpiles

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[220] Ibid.
[221] Ibid.
[222] Ibid.
[223] Ibid., page 5
[224] Ibid.
[225] Ibid.

(temporary or permanent), land application sites and in-situ or conventional uranium mining operations.[226]

Further Environmental Protection Plans must include designated chemicals and materials handling plans, facilities evaluation, groundwater evaluation and protection measures, surface water control and containment facilities information, surface water quality data, hydrologic monitoring plans, detailed climate data to assist in facilities design, geotechnical and geochemical data and analysis, construction schedules including quality assurance and quality control measures, plant and soils analysis, tailings and sludge disposal plans.[227]

The financial assurance amendment required all hardrock mine facilities in Colorado, including prospecting operations, to post a financial assurance equal to the amount necessary for the state to reclaim a site if permit revocation and forfeiture were to occur.[228] The financial assurance amount is calculated during the permitting phase of a mine and updated throughout the life of the mine to account for any changes to the mining or reclamation plans or changes in reclamation costs.[229] As discussed above, DRMS did not calculate site-specific financial assurance prior to the 1993 amendments. As part of the 1993 amendments, language was removed that had allowed sites to be permitted for an established amount (depending on permit type) and language was inserted to mandate that DRMS require, on a site-specific calculation, the total amount of financial assurance necessary for the state to complete reclamation. DRMS now calculates financial assurance amounts during permitting and periodically (at a minimum every four years) through the life of the mine.[230]

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[226] Ibid.
[227] Ibid.
[228] Ibid.
[229] Ibid.
[230] Ibid.

The MLRA minimizes the adverse impacts of hardrock mining in Colorado by requiring every operator to obtain a permit and adhere to rigorous reclamation standards, both during and after mining.[231] Many of the MLRA's reclamation standards are designed to prevent the release of hazardous substances into the environment.[232] Pursuant to the MLRA, DRMS regulates mining in Colorado to protect the health, safety and welfare of the people of Colorado and to ensure that affected lands are appropriately reclaimed by those operating mines and mills.[233] See Section 34-32-102, C.R.S. Under Section 34-32-109, C.R.S., any operator of a mine or mill must obtain and maintain a reclamation permit. [234]To ensure that reclamation obligations are performed, Section 34- 32-117(1), C.R.S., provides that no mining and reclamation permit may be issued until the Board receives performance and financial warranties.[235] Pursuant to Section 34-32-117(3)(a), C.R.S., a financial warranty consists of a written promise to the Board to be responsible for reclamation costs together with proof of financial capability.[236] Each operator must submit a financial warranty sufficient to assure compliance with applicable reclamation standards, as incorporated in the operation's reclamation permit.[237] See Section 34-32-117, C.R.S. During the life of a mine, DRMS requires financial assurance for water quality treatment, as well.[238]

Under the MLRA, reclamation must be conducted, both during and after the mining operation, in accordance with a reclamation plan that meets certain performance standards. [239]

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[231] Ibid., page 6.
[232] Ibid.
[233] Ibid.
[234] Ibid.
[235] Ibid.
[236] Ibid.
[237] Ibid.
[238] Ibid.
[239] Ibid.

Many of the reclamation standards are designed to prevent releases of hazardous substances and prevent adverse impacts on surrounding properties. [240] See Section 34-32-116, C.R.S. (requiring measures to minimize disturbance to the hydrologic balance, protect outside areas from damage, and control erosion and attendant air and water pollution).[241] MLRA's financial assurances ensure that DRMS can complete reclamation according to those standards if the operator is unwilling or unable.[242] Regulatory financial assurances require enormous expertise, and must be established by fact-intensive case-by-case review.[243] DRMS calculates the financial assurance amount by developing and aggregating task-by-task cost estimates using current reference materials as well as the regional expertise of its staff. [244] Applicants may submit initial estimates; however, DRMS rigorously reviews those estimates. DRMS is also charged with continuously reviewing the adequacy of financial warranties and uses the same methods.[245]

DRMS and the Board have promulgated a robust set of rules and regulations specific to the oversight of the hardrock mining industry that implement the MLRA.[246] The rules contain specific performance requirements for hardrock mining to protect, for example, both surface and groundwater, impacts to wildlife, and offsite impacts including erosion controls. [247] The rules are evidence of how DRMS minimizes the risk associated with the potential for releases from hardrock mine facilities.[248]

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[240] Ibid.
[241] Ibid.
[242] Ibid.
[243] Ibid.
[244] Ibid.
[245] Ibid.
[246] Ibid., page 7.
[247] Ibid.
[248] Ibid.

Colorado's regulatory program is predicated on three essential independent but interrelated elements; permitting, inspection and enforcement [249] that allow DRMS to carefully plan for mining and reclamation through the permitting process which is anchored by a thorough financial warranty calculation.[250] It also allows DRMS to periodically review sites through inspections to determine compliance with their permits and, if necessary, take enforcement action to remedy non-compliance.[251]

The permitting process requires prospective operators to, among other things, assess baseline conditions for hydrology, soils, vegetation, land use, climate, geology, and plan for a number of other factors such as chemical and toxic materials handling plans, as they develop their mining and reclamation plans.[252] Many of these plans are required to be certified by a registered professional engineer to ensure design integrity and performance, particularly with respect to any environmental protection facility.[253] A financial warranty is then calculated utilizing the specific factors associated with these plans, including cost details associated with construction of environmental protection facilities and costs associated with demolition and removal of some of these same facilities and structures.[254] Other aspects included in these calculations address volumes of topsoil to be removed and replaced, volumes of overburden to be moved and regraded, waste piles and tailings impoundments to be constructed, capped and reclaimed and types and amounts of vegetation to be reestablished. [255]

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[249] Ibid.
[250] Ibid.
[251] Ibid.
[252] Ibid.
[253] Ibid.
[254] Ibid.
[255] Ibid.

Once an application is approved and the financial and performance warranties are posted, a permit is issued.[256] Upon permit issuance, the site inspection frequency is determined and the site is inspected at an appropriate frequency throughout its mining and reclamation life. [257] If a violation occurs at a permitted site, this matter is presented to the Board for adjudication which includes finding a violation, possibly issuing a cease and desist order, assessing civil penalties and requiring corrective actions to remedy the violation.[258] Failure by an operator to remedy a violation could lead to permit revocation and, ultimately, financial warranty forfeiture.[259]

Montana

In the state of Montana, hardrock mining is regulated by the Montana Department of Environmental Quality pursuant to the Montana Metal Mine Reclamation Act (MMR Act).[260] The intent of the legislation is to "provide adequate remedies for the protection of the environmental life support system from degradation and provide adequate remedies to prevent unreasonable depletion and degradation of natural resources"[261] and the "proper reclamation of mined land and former exploration areas not brought to mining stage is necessary to prevent undesirable land and surface water conditions detrimental to the general welfare, health, safety, ecology, and property rights of the citizens of the state."[262]

The state legislature has amended the MMR Act several times over the years, including reforms to address bankruptcies of mining companies. For example, in the 1999 legislative session following the bankruptcy of the Pegasus Gold Corp. the previous year, section 82-4-390

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[256] Ibid.
[257] Ibid.
[258] Ibid., page 8.
[259] Ibid.
[260] Montana Code Annotated section 82-4-301 et seq.; available at: http://leg.mt.gov/bills/mca/title_0820/chapter_0040/part_0030/sections_index.html.
[261] Montana Code Annotated, section 82-4-301(2)(a).
[262] Montana Code Annotated, section 82-4-301(3).

was added to the MMR Act to prohibit open pit mining for gold and silver using the heap leach or vat leach with cyanide ore-processing agents except for certain mines that were already in operation as of November 3, 1998. In another example, section 82-4-338 concerning performance bonding requirements was substantially amended in the 2007 legislative session and now authorizes the Department of Environmental Quality to take action, including accessing the financial assurance bond and suspending the permit, to abate an imminent danger to public health, public safety or the environment caused by violation of this law.[263]

Montana has also enacted state laws to protect water[264] and air[265] quality, to regulate hazardous and solid waste disposal,[266] and to assess environmental impacts.[267] The Department of Environmental Quality has developed regulations implementing the MMR Act that require compliance with the environmental laws contained in Title 75 of the Montana Code. For example, reclamation activities must assure long-term compliance with the air and water quality laws[268] and that operating permits must prevent acid mine drainage through the construction of earth dams or other devises to control water drainage.[269] In another example, permit modifications require an assessment of environmental impacts pursuant to the state equivalent of NEPA.[270]

In its comments on the proposed rule, the Montana Department of Environmental Quality stated that the proposed rule was unnecessary because the state's environmental laws and the

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[263] Montana Code Annotated, section 82-3-338(10).
[264] Montana Code Annotated, Title 75, Chapter 5.
[265] Montana Code Annotated, Title 75, Chapter 2.
[266] Montana Code Annotated, Title 75, Chapter 10.
[267] Montana Code Annotated, Title 75, Chapter 1.
[268] Montana Administrative Rules, 17.24.102(13)(f).
[269] Montana Administrative Rules, 17.24.115(1)(d).
[270] Montana Administrative Rules, 17.24.119.

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MMR Act sufficiently regulate environmental and financial risks posed by current mining operations in the state.[271]

Comments on state mining programs

Freeport-McMoRan Inc. commented that state regulatory programs are comprehensive, staffed by experienced professionals, and effective. In evaluating the risks of hardrock mining EPA did not take into account common elements of current mining regulation, including the detailed, mandatory closure and reclamation requirements designed to restore large land areas disturbed by mining to an appropriate post-mining land uses, the long- term water management requirements designed to protect and, if needed, remediate both groundwater and surface water resources, and operational requirements designed to prevent environmental problems in the first place.[272]

In its comments, the Fertilizer Institute (TFI) stated that, by applying the CERCLA program to facilities covered by existing federal and state reclamation and bonding programs, EPA is duplicating such programs.[273]

Newmont Mining, in its comments, noted that, given the administrative record compiled by the Agency and the excellent job that the FLMAs and States such as Nevada and Colorado already are doing in regulating the risk of unfunded CERCLA releases at hardrock mining facilities, the Agency must conclude that there is no need for another, expensive, duplicative, and preemptive rule to be layered on top of existing regulations.[274]

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[271] See comments of Montana Department of Environmental Quality at EPA-HQ-SFUND-2015-0781-2742.
[272] See comments from Freeport McMoRan Inc, EPA-HQ-SFUND-2015-0781-2793, pages 23-24.
[273] See comments from The Fertilizer Institute, EPA-HQ-SFUND-2015-0781-2633-34, page 63.
[274] See comments from Newmont Mining Corporation, EPA-HQ-SFUND-2015-0781-2712-207, page 195.

NMA commented that mining is comprehensively regulated by a vast range of federal, state, and local environmental laws and regulations, and that these laws and regulations provide "cradle to grave" coverage of virtually every aspect of mining from exploration to operations through mine reclamation and closure/post-closure.[275]

EPA generally agrees with these commenters that in the proposed rule it did not adequately consider the protectiveness and financial assurance requirements of current state regulatory programs in assessing the "degree and duration of risk associated with the production, transportation, treatment, storage, or disposal of hazardous substances" and the risk that taxpayers will be forced to fund CERCLA response actions, and has based this final action in part upon its more comprehensive consideration of those existing programs.

Protective mining practices

Commenters further argued that new facilities are specifically designed, constructed, operated, and closed in a manner to prevent environmental degradation and to avoid the types of problems that were caused by past practices. The information provided to EPA by commenters emphasized that an assessment of risks of damages to the environment should not focus on mines of an earlier era, and that the targeted regulated universe – currently operating mines using contemporary mining practices – pose comparatively minimal risks of releases.

NMA noted that new facilities are specifically designed, constructed, operated, and closed in a manner to prevent environmental degradation and avoid the types of problems that were caused by past practices.[276] NMA pointed out that historical operating practices that led to the need for largescale CERCLA type responses in the past (e.g., direct disposal of tailings into

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[275] See comments from National Mining Association, EPA-HQ-SFUND-2015-0781-2794, page 28.

[276] See comment from National Mining Association, EPA-HQ-SFUND-2015-0781-2794.

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streams, uncontrolled infiltration/discharge of mine impacted water, discharge of mine waste into dumps or impoundments without mitigating potential release mechanisms, etc.) are no longer utilized by the modern mining industry or compliant with current state and federal regulatory requirements. Rather, NMA notes that the mining industry routinely designs modern mining operations using detailed scientific and engineering investigations such as groundwater and surface water modeling, environmental risk assessments, and stability analyses which contribute to sound design and operating practices intended to protect human health and the environment.

NMA further stated that risks are further reduced at currently operating hardrock mining sites using technologies such secondary containment systems, seepage collection systems, surface water management systems, liners, and active monitoring systems to reduce or eliminate the risk of a release. In the event that a release or potential release is identified through installed monitoring systems, remedial actions are immediately implemented as required by regulatory programs using technologies such as interceptor wells, cutoff walls, and hydraulic capture zones.[277]

NMA stated that as federal and state mining programs and groundwater protections have matured, monitoring, reporting, and corrective action have become core components of hardrock mining programs and permits, citing, for example, BLM's current regulations, promulgated in 2001, which require operators to submit a comprehensive monitoring plan that demonstrates compliance with BLM's surface management regulations and other Federal and State environmental laws and regulations, provides early detection of potential problems, and supplies information that will assist in directing corrective actions should they become necessary.[278]

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[277] Ibid., Appendix B.
[278] See 43 C.F.R. 3809.401(b)(4).

Numerous other commenters, including MiningMinnesota, AEMA, Energy Fuels Resources, and General Moly, Inc. supported NMA's views, noting that advances in engineering controls, technology, mining industry best practices, and FLMA and state regulatory programs have lowered the "degree and duration of risk" to a point that CERCLA 108(b) financial responsibility requirements are not required.[279] These commenters further elaborated that the FLMA and state mine regulatory and financial assurance programs coupled with engineering controls and best practices reduce the degree and duration of risk associated the production, transportation, treatment, storage, or disposal of hazardous substances and that these FLMA and state reclamation and closure requirements require more than simply reshaping land and revegetation – by requiring a mine to be designed, built, operated and closed to prevent the release of hazardous substances and ensure no adverse environmental impacts through the entire mine life cycle, including closure and post-closure. As such, the commenters believe no additional financial responsibility requirements are necessary to protect the taxpayers or the Superfund Trust Fund.

The Idaho Mining Association (IMA) echoed the same message, noting that modern mining techniques and best practices in the mining industry use technology and appropriate controls in combination with FLMA and state programs to lower risk of release such that EPA's proposed rule is not necessary.[280]

For the planned Donlin Gold project in Alaska, Calista Corporation noted in its comments that one of the primary goals has been to avoid environmental and human health risks both from planned operations and potential unanticipated releases of hazardous substances such

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[279] See comments from MiningMinnesota, EPA-HQ-SFUND-2015-0781-2655 and from American Exploration and Mining Association (AEMA), EPA-HQ-SFUND-2015-0781-2657, and General Moly, Inc, EPA-HQ-SFUND-2015-0781-2715.

[280] See comment from the Idaho Mining Association, EPA-HQ-SFUND-2015-0781-2772.

as tailings, acid rock drainage, mercury, cyanide, and fuel oil. For example, the Donlin Gold tailings storage facility design is state-of-the-art and includes: (1) downstream, rock fill dam construction keyed into bedrock, (2) a geo-synthetic liner, and (3) dry closure to minimize long-term water management needs.[281]

Freeport-McMoRan provided numerous specific examples of how the hardrock mining industry has improved its management of environmental impacts:

- In the area of managing the acidic content of waste rock, the industry employs a far more sophisticated and technology-driven approach that includes a thorough geochemical analysis of the ore reserve body being mined. Using up-to-date information, trucks equipped with GPS systems are routed to specific designated disposal locations based on the acidic potential of the waste rock. These locations in turn are selected based on geochemical modeling that can project out far into the future. Potentially acid-generating material is disposed of in engineered facilities designed to minimize the potential for acid generation by encapsulation or neutralization and thereby reducing the potential for acid rock drainage and seepage.
- The changes to the design and operation of tailings ponds over the last 25 years are also quite extensive. At the operational level, qualified internal tailings-dedicated engineers and onsite leaders manage tailings stability. Sites with tailings dams follow established operations, maintenance and communication protocols. In this process, items regularly inspected and monitored are: phreatic level trends, deposition plans and adherence to good operational construction practices, water management controls (including pool sizes

[281] See comment from Calista Corporation, EPA-HQ-SFUND-2015-0781-2644.

and location relative to dam faces), seepage management, decant systems and other stability components.

- Prior to the revisions to state mining programs during the late 1980s and into the early 1990s, it was not uncommon for waste rock stockpiles, tailings impoundments, leach pads and ponds to be built with limited or no engineering and design review, limited quality control and questionable operational practices. For example, some leach pads were built on somewhat compacted sub-grade overlain with solvent welded poly-vinyl chloride (PVC) plastic sheeting, many times installed by mine site employees without specific expertise in the construction of these systems. These pads usually had ditches lined with Hypalon sheeting due to this material's superior ultraviolet light resistance compared to PVC. Many of these sites have been decommissioned, closed, and replaced by more environmentally robust options.
- Modern tailings disposal facilities are engineered and constructed utilizing environmental protection controls. These facilities are constructed utilizing geologic containment or engineered liners to contain the fluid portion of the tailings. As time passes following deposition, the solid fraction of the tailings consolidates, reducing the interstitial pore space and thereby decreasing the hydraulic permeability to a value that is often less than the liner material used during construction. These facilities are often equipped with controls, such as barge pump back systems and containment/collection wells at the toes of the units, to capture any seepage and allow for the recycling of captured water. Upon closure, these facilities take measures to minimize net infiltration into the tailings, such as by utilizing stormwater controls and ensuring that there is positive drainage during storm events. Tailings facilities are also covered and revegetated to produce a passive

evapotranspiration mechanism which further reduces net infiltration. These tailings disposal facilities are operated following Tailings Management Plans which are included in the application for environmental protection permits issued by state regulating agencies.

- Prior to the placement of waste rock, the proposed site is evaluated for environmental risks including upstream stormwater run-on, seeps and springs upwelling from beneath the proposed facility, proximity to streams and rivers and other site specific exposures. The waste rock facility must be designed and built in accordance with engineering and construction details required by a mine's state- issued permit, which must be based on geotechnical stability analyses. Stormwater management measures, such as diversion features to intercept water and direct it around the waste rock facility, and facility management plans that govern the placement of potentially-reactive material are also employed to limit contact with potentially acid-producing materials. Other management strategies that may be employed to limit contact with potentially acid-generating material may include blending with neutralizing rock, segregation in cells that are set back a prescribed distance from the base and edges of the facility and are covered or encapsulated in neutralizing material, and landform design to minimize stormwater ponding. Concurrent reclamation is also often incorporated to further reduce the potential for net infiltration into the waste rock facility and return the area to a productive post-mining land use. Waste rock facility inspections by the operator and regulatory inspectors are also performed on schedules based upon regulatory requirements imposed by laws, regulations and permit stipulations. These inspections include looking for seepage from the facility, slope stability, stormwater ponding and other prescribed conditions. Any

issues observed must be corrected per the regulatory and permit requirements imposed. These inspections are conducted during operation and continue through the closure period following reclamation of the facility.

Several commenters also commented on the usefulness of environmental management systems (EMSs) and best management practices (BMPs). For example, NMA commented that the introduction of EMSs in the 1990s was another key development for improved environmental performance - a framework that helps an organization meet its regulatory compliance requirements and otherwise achieve its environmental goals through consistent review, evaluation, and improvement of its environmental performance.[282] This consistent review and evaluation are intended to identify opportunities for continuous improvement in the environmental performance of the organization. NMA states that many HRM facilities have implemented EMS programs, noting that at EPA's request, it, in association with the Society for Mining, Metallurgy, and Exploration ("SME"), developed a model EMS guide to address the agency's concerns about the ability of smaller and medium size mining companies to develop and implement EMS programs. The objective of the EMS guide is to assist companies in achieving reliable regulatory compliance, reducing adverse impacts to the environment, improving environmental stewardship, and continually improving environmental performance. NMA notes the most commonly used framework for an EMS is the one developed by the International Organization for Standardization ("ISO") for the ISO 14001 standard. Established in 1996, this framework is the official international standard for an EMS and includes an optional third-party certification component, meaning an independent certification body audits an organization's practices against the requirements of the standard. Many HRM facilities have

[282] See comment from National Mining Association, EPA-HQ-SFUND-2015-0781-2794.

taken this extra certification step. The ISO 14001, first published in 1996, underwent significant revisions in both 2004 and 2015.

Freeport-McMoRan similarly commented that EPA did not consider the implementation of EMSs - under standards developed by reputable third-party organizations, such as the International Standards Organization and the International Council on Mining and Metals.[283] The commenter noted that such standards commit participants to continuing process improvement above and beyond minimum legal requirements. Likewise, standards for sustainability, such as ICMM's, require third party assurance and verification programs. Freeport-McMoRan stated these private initiatives supplement state programs, adding an additional layer of best practices and external review above and beyond what is legally required. The Arizona Department of Environmental Quality (ADEQ) supported this approach, noting the usefulness of its Voluntary Environmental Stewardship Program (VESP) and Voluntary Remediation Program (VRP) that are innovative systems not based on enforceable commitments required for reductions.[284] ADEQ also stated the usefulness of EMSs, ISO certification, third party inspection programs, or similar types of state and federal programs for reducing risk from mining operations and specifically noted that Freeport-McMoRan, with mines in Arizona, employs industry best practices of an ISO14000 environmental management system.

With respect to BMPs, the Forest Service commented that EPA acknowledges that "[t]oday, BMPs have been developed that can mitigate potential impacts from mining to meet EPA's goal '...that the engineering requirements will result in a minimum degree and duration of risk associated with the production, transportation, treatment, storage, or disposal, as applicable,

[283] See comment from Freeport-McMoRan, EPA-HQ-SFUND-2015-0781-2793.
[284] See comment from the Arizona Department of Environmental Quality (ADEQ), EPA-HQ-SFUND-2015-0781-2714.

of all hazardous substances present at that site feature.[285] However, comments submitted by Earthworks, *et al.* raise concern about the use of BMPs, noting that no data was provided to demonstrate that these rules have reduced, or prevented, releases of hazardous materials. Earthworks further noted that numerous reports document substantial impacts at modern hardrock mines, particularly those associated with the release of hazardous materials.[286]

EPA recognizes that substantial advances have been made in the development of mining practices and the implementation of federal and state regulatory programs to address releases at hardrock mining facilities. While the risk of a release is never totally eliminated, commenters provided information regarding state regulation of hardrock mining facilities, including detailed information on controls those programs require to prevent releases. This information indicates that state and voluntary programs improve in response to incidents. Barrick Gold commented that EPA cited some releases including at the Summitville and Zortman-Landusky mines, which the commenter stated cannot occur again because federal land management agencies and state regulators have strengthened requirements and practices to prevent the issues that occurred previously. Specifically, they stated that regulations and policy were modified to more carefully identify risks of acid rock drainage or other water contamination, to control potential sources though mine design and to assure those measures are implemented through permit and monitoring obligations. The Colorado Department of Natural Resources, Division of Reclamation, Mining, and Safety's comments support Barrick's statements, stating that "the state learned from the errors at Summitville, and the state legislature passed major programmatic revisions to the Mined Land Reclamation Act (MLRA)" that "strengthened permitting and

[285] See comment from USDA Forest Service, EPA-HQ-SFUND-2015-0781-2400.
[286] See comment from Earthworks *et. al*, EPA-HQ-SFUND-2015-0781-2739.

enforcement provisions. Most importantly, the MLRA was specifically amended [...] to clearly require financial assurance for all sites based on site specific, not formulaic, criteria." [287]

The Nevada Mining Association's comments reference Nevada's continual improvement of its regulatory programs to ensure effectiveness and efficiency. This comment argues that state programs are not static and rather make constant improvements. [288] Comments from the Small Business Administration Office of Advocacy explained that the bonding requirements of the Nevada program have been more recently upgraded, in part, because of the experience gained from administering mines through bankruptcies in the early 1990s[289] NMA notes improvements to federal and state programs made in response to bankruptcies in the mining industry experienced in the 1990s and early 2000s [290] One coordinated improvement of Federal Land Management Agencies and Nevada cited is the development of the SRCE mentioned above.

Additionally, a commenter operating in several states stated that EPA's evaluation of risk failed to consider important aspects of modern mining, including the deployment of voluntary industry programs (e.g., the International Council on Mining and Metals (ICMM) Sustainable Development Framework) and robust environmental management systems with third-party certification. [291] A commenter also noted the International Cyanide Management Code for the Manufacture, Transportation, and Use of Cyanide in the Production of Gold, which was developed under the guidance of the United Nations Environment Program. The code "focuses exclusively on the safe management of cyanide and cyanidation mill tailings and leach solutions. Companies that adopt the Cyanide Code must have their mining and processing operations that

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[287] See comment from Colorado Department of Natural Resources, EPA-HQ-SFUND-2015-0781-2774, page 3.
[288] See comment from the Nevada Mining Association, EPA-HQ-SFUND-2015-0781-2684, page 7.
[289] See comment from the Small Business Administration, EPA-HQ-SFUND-2015-0781-1406, page 4.
[290] See comment from the National Mining Association, EPA-HQ-SFUND-2015-0781-2794, page 64.
[291] See comment from Freeport-McMoRan Inc., EPA-HQ-SFUND-2015-0781-2402.

use cyanide to recover gold and/or silver audited by an independent third party to determine the status of Cyanide Code implementation." The requirements under the code include storage and mixing location and containment, secondary containment, lining for leach ponds, and spill prevention and containment.[292] Similarly, another commenter stated that EPA failed to adequately recognize the impacts of the development and adoption of industry BMPs, other voluntary programs, and environmental management systems. [293]

EPA acknowledges that the requirements of current federal and state programs can reduce risk at hardrock mining facilities, and that when determining the need for section 108(b) requirements for hardrock mining facilities at proposal, EPA did not adequately consider their impact. EPA agrees with commenters opposing the proposed rule that those reductions in risk should be considered in determining the need for final requirements under section 108(b) for current hardrock mining operations.[294] The Agency is thus convinced by those commenters and its own further investigations that the rulemaking record supporting requirements under section 108(b) for currently operating facilities was incomplete in not adequately considering the risk reductions currently obtained by other Federal and state regulatory programs. While EPA also acknowledges that the risk of a release is never totally eliminated by the requirements of other programs, this residual risk is to be evaluated in light of EPA's discretion under the statute on whether to set section 108(b) requirements, and in light of the other information in the record for today's action discussed elsewhere in this final rule. Viewed in this manner, such residual risk

[292] See Id., Appendix D page at 8.
[293] See comment from National Mining Association, EPA-HQ-SFUND-2015-0781-2794.
[294] As discussed above, this determination applies only to EPA's authority under section 108(b) and does not affect EPA's authority to take action under other sections of CERCLA or under other federal law at any facility, including at a facility discussed in this preamble.

does not change EPA's conclusion that it is not appropriate to issue final section 108(b) requirements for current hardrock mining operations.

Finally, it should be noted that in addition to the federal and state mining programs that regulate mine operation and closure, hardrock mining facilities are regulated under a number of other federal programs, discussed above, which contribute to reduction in risk at these facilities. For example, mines are generally required under the Clean Water Act regulations to obtain NPDES permits, and to meet federal water quality standards for point-source discharges to water sources from industrial operations. Requirements of the Safe Drinking Water Act include permitting and technical standards for underground injection wells that might be used in mineral extraction. And, requirements under the CAA apply National Emission Standards for Hazardous Air Pollutants to hazardous air releases from mining and processing operation sources.

b. Comments Providing Information on Reduced Costs to the Taxpayer Resulting from Effective Hardrock Mining Programs and Owner or Operator Responses

Commenters also argued that the reduced risk at modern hardrock mining facilities is evidenced by the fact that there are very few cases where modern hardrock mining facilities have been addressed by Superfund and/or at taxpayer expense.

Several commenters disagreed with EPA's assertion in the proposal that the estimated $4 billion spent by EPA through the Superfund for cleanup costs at historical hardrock mining facilities is an indication of the relative risk present at the facilities covered by the proposed rule. Commenters stated that EPA did not differentiate between costs associated with the highly-regulated mining practices of today and pre-regulation practices in developing that number. EPA agrees that the analysis discussed in the preamble to the proposed rule[295] did not adequately distinguish between legacy and current mines.

[295] See 82 FR 3479, January 11, 2017.

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Commenters argued that such analyses would further demonstrate that any risks from modern operations entail much less costly responses, and that the bulk of the observed historical response costs are attributable to pre-regulation practices.

In addition, many commenters stated that the risk that there will be inadequate funding to cover CERCLA liabilities at hardrock mining facilities in the future is adequately addressed by existing federal and state financial assurance programs. Commenters provided numerous examples of existing trust, bonds, and letters of credit (LOCs) available to pay for necessary actions at these sites.[296] Commenters also provided examples of facilities where the response costs have been paid for by owners and operators at no cost to taxpayers.[297]

Since a goal of section 108(b) requirements is to provide funds to address CERCLA liabilities at sites, evidence of such privately-funded responses contributes to support for the decision that financial responsibility requirements under section 108(b) for current hardrock mining operations are not appropriate.

E. Evidence Rebutting EPA's Site Examples

In developing the 2009 Priority Notice and the proposed rule, EPA cited examples of hardrock mining facilities where releases of hazardous substances have occurred, and in some cases where CERCLA or CERCLA-like actions were necessary, as evidence of risk associated with hardrock mining operations.[298] The examples fell into three categories: (1) examples now not relevant to the mines to be regulated under the rule, (2) examples reflecting a reassessment of

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[296] See a discussion of this issue in the Technical Support Document for this final rule: EPA, CERCLA Section 108(b) Hardrock Mining Final Rule: Technical Support Document, December 1, 2017.
[297] See a discussion of this issue in the Technical Support Document for this final rule, Ibid.
[298] *See* the Releases Report, the Practices Report, and the Evidence Report. NMA comments included a detailed critique of the Practices Report prepared by the Society for Mining Metallurgy and Exploration, Inc., as Appendix D to its comments.

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costs to the taxpayers based on new information, and (3) examples where program requirements were subsequently modified to address the problem.

Commenters on the proposed rule provided information to rebut the facts associated with the case studies and their significance in support of the 2009 Priority Notice and the proposed rule, by pointing out that response actions were due to legacy contamination, were privately funded, were covered by financial assurance under other law, or were the result of situations that have been subsequently addressed by state law.[299] The information provided by these case studies formed a significant portion of the record on which the 2009 Priority Notice and the proposed rule were based. This additional information provided by commenters has caused EPA to reevaluate its conclusions in the proposed rule regarding the level of potential taxpayer liability from modern mines operating under currently existing regulatory programs.

One example in each of the three categories is discussed below. A full discussion of the case studies and the evidence provided in rebuttal can be found in a support document entitled "CERCLA Section 108(b) Hardrock Mining Final Rule: Technical Support Document," which is available in the docket for this rulemaking.

1. Example of Sites Now Not Relevant to the Mines to be Regulated under the Rule

Commenters provided information demonstrating that several of the site examples relied upon in the proposed rule are not relevant to an evaluation of the risk at current hardrock mining operations because they relate to historic mining activities that do not reflect current mining practices or regulatory regimes at the state or federal level. EPA agrees that the historical mining practices, and environmental contamination that may have occurred as a result of such practices, are not an accurate representation of the risks associated with current hardrock mining

[299] In fact, comments submitted by NMA included a lengthy Appendix addressing the individual facilities cited by EPA. See comment EPA-HQ-SFUND-2015-0781-2794, Appendices C-1, C-2, and C-3.

operations. Many of the sites referenced in the proposed rule, the 2009 Priority Notice, and record of support, are not relevant to EPA's assessment of risk posed by current hardrock mining operations that are already subject to applicable federal and state regulatory regimes. Rio Tinto Kennecott Bingham Canyon Site in Utah is an example of a site that was now not relevant to current hardrock mining operations.

This mine was included in the preamble of the proposed rule as an example of the impacts that can occur from large-scale operations.[300] For example, the discussion of this mine references the large-scale disturbance of land, accumulation of waste rock, and leaching of hazardous substances and acid rock drainage, but it does not provide details about the history of the mine or context about whether certain activities are best characterized as legacy mining activities or ones that reflect current mining practices and regulatory regimes.

According to Rio Tinto's comments and EPA's record for the site, there has been active mining in the canyon since the 1860s and that the historic mining activities "based on a less sophisticated understanding of environmental sciences and substantially less regulation by emerging environmental protection laws inarguably left their mark."[301] According to the record for this action, EPA has secured more than $270 million to pay for response actions for this site through enforcement orders and consent decrees. Rio Tinto in its comments acknowledges that accidents do happen and that reporting, inspections, and enforcement can help prevent and

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[300] 82 FR 3388, 3472; see also, Comment submitted by Earthworks (EPA-HQ-SFUND-2015-0781-1072). The four-page report characterizes the mine as the "second most polluting mine in the US by toxic releases" based on TRI data; however, as noted the preamble to the final rule, TRI data are not an accurate representation of risk at a particular site. As the Earthworks comment notes, EPA and the state have reached an agreement to not finalize the proposal to list the site on the NPL and there have been several state and federal regulatory and enforcement actions at the site, which required the company to take steps to mitigate risks to human health, water, and other natural resources.

[301] EPA-HQ-SFUND-2015-0781-2747; see also, EPA-HQ-SFUND-2015-0781-0186.

address problems that do occur. In its comments, NMA stated that the cooperation between the mining company, EPA, and the state is a model for addressing legacy environmental contamination at mining sites.[302] EPA has touted the cooperative effort to clean up the site as a "major accomplishment of the Superfund program and law."[303] Further discussion of this mine can be found in the Technical Support Document for this final rule.[304] EPA agrees that this mine, which has an expansive footprint but whose current operations are subject to considerable oversight by regulatory authorities, is not a relevant example on which to base a rule under section 108(b).

2. Example Reflecting Reassessment of Costs to the Taxpayers Based on Additional Information

As discussed above, a goal of regulations under section 108(b) is to increase the likelihood that owners and operators will provide funds necessary to address the CERCLA liabilities at their facilities. In doing so, section 108(b) requirements assure that owners and operators, rather than the taxpayers, bear the costs associated with necessary responses to releases and potential releases of hazardous substances at their sites. Commenters on the proposed rule objected that EPA did not properly consider whether a release resulted in expenditure of taxpayer funds to determine the need for a rule under section 108(b). EPA's reconsideration of these case studies supports the determination that section 108(b) financial responsibility requirements at hardrock mining facilities are not necessary to provide funds to address CERCLA liabilities at sites. Many of the sites referenced in the proposed rule, the 2009 Priority Notice, and record of support, are not relevant to EPA's assessment of risk posed to the

[302] EPA-HQ-SFUND-2015-0781-2794, table C.
[303] See comment from the National Mining Association, EPA-HQ-SFUND-2015-0781-2747, Appendix F.
[304] See: EPA, CERCLA Section 108(b) Hardrock Mining Final Rule: Technical Support Document, December 1, 2017.

taxpayer because cleanup is being paid for by private parties. Golden Sunlight Mine in Montana is an example of such a site.

The Releases Report presented this mine as an example of a current mine with releases to the environment where a response action was necessary. NMA and Barrick Gold both commented that the releases from the tailings facility detected in 1993 were discovered by monitoring implemented at the behest of state mining permits at the site and corrective action was taken by the operator.[305] In the proposed rule, the agency described the actions by the owner/operator to immediately repair the bentonite cut-off wall to control seepage from the tailings impoundments. The facility has also installed an extensive system of monitoring wells and several hydrogeologic investigations have been undertaken to continue to monitor, evaluate, and control leakage from the tailings impoundment.

As discussed in the Technical Support Document and elsewhere in the preamble, Montana substantially reformed its mining laws over the past couple of decades. Montana Department of Environmental Quality commented on the proposed rule that Montana State Law "requires Hard Rock operators to submit to Montana Department of Environmental Quality a bond in an amount no less than the estimated cost to the state to ensure compliance with Montana's Air Quality Act, Montana's Water Quality Act, the Metal Mine Reclamation Act, and the permit issued by DEQ under the Metal Mine Reclamation Act (MMRA). The site is also subject to Montana's Environmental Policy Act (MEPA) which is patterned after NEPA). The mine has been the subject of several environmental assessments and one environmental impact statement for amendments to its operating permit. In addition, and at a minimum, Montana

[305] National Mining Association comments on proposed rule appendix table C-2 pg 6; Barrick Gold July 11, 2017 comments on proposed rule page 20.

Department of Environmental Quality is required to perform a comprehensive bond review every five years for each Hard Rock operation to ensure that the bonding level is appropriate."[306]

The Agency researched Montana's requirement to perform a comprehensive bond review every five years as it applies to the Golden Sunlight Mine. The agency found a final bond determination for Golden Sunlight Mine dated July 28, 2017 in which Montana DEQ determined that the current bonding level of $112,153,980 did not represent the present cost of compliance with the MMRA, the administrative rules, and Operating Permit No. 00065. After negotiations between Montana Department of Environmental Quality, the Bureau of Land Management, and the mine owner, and a 30-day comment period, the bond amount was increased to $146,564,163. The next comprehensive bond review will be in 2020.[307] Further discussion of this mine can be found in the Technical Support Document for this final rule.[308]

3. Example Where Program Requirements Were Subsequently Modified to Address the Problem

Commenters provided information to demonstrate that when problems have arisen at hardrock mining facilities, states have responded by improving their programs to prevent similar problems in the future and that there is, therefore, no need for financial responsibility requirements under section 108(b). Commenters provided examples of such state program modifications to rebut evidence provided in the record supporting the proposed rule. Barite Hill/Nevada Goldfields Facility in South Carolina is an example of a situation where program modifications reduced future risk.

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[306] EPA-HQ-SFUND-2015-0781-2742.

[307] See: EPA, CERCLA Section 108(b) Hardrock Mining Final Rule: Technical Support Document, December 1, 2017. 2017. http://deq.mt.gov/Portals/112/Land/Hardrock/Active%20Amendments/Golden%20Sunlight%20016/00065_GSM_2017_07_28_Final_Bond.pdf

[308] See: EPA, CERCLA Section 108(b) Hardrock Mining Final Rule: Technical Support Document, December 1, 2017.

As was discussed in the proposed rule, the Barite Hill/ Nevada Goldfields was a gold and silver surface mine located in McCormick, South Carolina that was operated by Nevada Goldfields.[309] The mine operated an open pit cyanide heap leach operation on the property from 1989 to 1994. Nevada Goldfields conducted mine reclamation activities from 1995 to 1999, when it filed for bankruptcy and abandoned the site, turning over control to the South Carolina Department of Health and Environmental Control.[310]

NMA commented that EPA's description of the mine in the proposed rule included mischaracterizations and omissions, including that significant changes were made to South Carolina Mining Act in 1990 that specified reclamation requirements and provided enforcement tools. NMA also stated that the most recent facility that had been permitted in the state had a waste rock management plan to prevent acid mine drainage.[311] EPA has confirmed that South Carolina finalized regulations implementing this new authority in 1992, including requirements that a mine obtain a reclamation bond as a condition for receiving a mining permit, and that the recently permitted gold mine is subject to stricter environmental and financial assurance requirements.[312] These regulations were not completed in time to significantly reduce risks at Nevada Goldfields, which ceased active mining in 1994, but EPA believes that similar mines operating in South Carolina today under the current regulations would have significantly reduced risks of unpermitted releases and taxpayer liability. Further discussion of this mine can be found in the Technical Support Document for this final rule.

F. Information Regarding Financial Responsibility Instrument Availability

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[309] 82 FR at 3473.

[310] ATSDR 2011 PHA Barite Hill EPA-HQ-SFUND-2015-0781.

[311] NMA EPA-HQ-SFUND-2015-0781-2794 Attachment #109 pdf p. 81/119; Attachment #110 pdf p. 330, 346, and 387/440

[312] S.C. State Register, Vol. 16, Issue 4 (April 24, 1992); available at: http://digital.tcl.sc.edu/cdm/compoundobject/collection/scsreg/id/31138/rec/5.

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During the public comment period for the proposed rule, commenters representing or participating in the insurance, surety and banking industries identified several concerns with EPA's proposed instrument terms, and expressed concern that those terms could impact the availability of instruments. Similarly, entities in the mining industry expressed concerns that instruments may not be available for the amounts proposed in the forms specified. Information provided by commenters on likely lack of available instruments to satisfy section 108(b) requirements provides further support for EPA's determination that the proposed financial responsibility requirements are not appropriate.

EPA considered the capacity of the financial market to provide instruments as part of the development of the proposed rule. The Conference Committee Report for the Consolidated Appropriations Act (2016) instructed EPA to conduct a study of the market capacity regarding the necessary instruments for meeting any new section 108(b) financial responsibility requirements. EPA accordingly developed a study,[313] which suggested significant uncertainty exists around the ultimate availability of instruments.

Many commenters expressed concerns regarding the uncertainty inherent in the study as well and expressed concerns that financial responsibility instruments may not be universally available and affordable.[314]. The concerns raised by commenters regarding the terms and

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[313] Doc. ID EPA-HQ-SFUND-2015-0781-0496; Letter from USEPA, Chief Financial Officer, to members of Senate and House Subcommittees on Interior, Environment, and Related Agencies, dated Sept. 1, 2016, along with attached submission of EPA study titled, "CERCLA 108(b) Hardrock Mining and Mineral Processing Evaluation of Markets for Financial Responsibility Instruments, and the Relationship of CERCLA 108(b) to Financial Responsibility Programs of Other Federal Agencies", August 25, 2016.

[314] See, for example, Freeport McMoran comments on the proposed rule Docket ID: EPA-HQ-SFUND-2015-0781-2793 pg 89-91; American Exploration and Mining Association comments on the proposed rule Docket ID: EPA-HQ-SFUND-2015-0781-2795 pg 30-32; National Mining Association comments on the proposed rule Docket ID: EPA-HQ-SFUND-2015-0781-2794 pages 81-82.

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conditions of the proposed instruments as well as the comments on the market capacity study have contributed to uncertainty regarding the availability of instruments to owners and operators seeking to comply with the proposed section 108(b) requirements. If instruments were not available, owners and operators would be unable to comply with section 108(b) requirements, and the goal of the rule to provide funds to address CERCLA liabilities at sites would not be achieved.

The issue of availability of instruments is discussed in more detail in section VII.D. of this final rule.

V. Decision to not Issue the General Facility Requirements of Subparts A through C in this Final Rule

The Agency also has decided not to issue as final any provisions of the proposed rule, including the general financial responsibility requirements in subparts A through C. EPA would include general facilities requirements, such as these, in the first of any subsequent rulemaking proposals under section 108(b), rather than issue final requirements under those subparts at this time.

EPA decided on this approach because there is no need to issue final requirements in subparts A through C at this time as they would not be applicable to any classes of facilities until such time as final section 108(b) regulations applicable to classes of facilities are issued.

In addition, the Agency received significant comment on the general financial responsibility provisions of the proposed rule, many of which identified significant issues with those portions of the proposal. These included, for example, the financial industry's concerns regarding certain provisions included with the language of the instruments, as described in detail below. By issuing a new proposed set of general requirements for any subsequent industry class, EPA would to be able to gather additional information as appropriate. Accordingly, EPA would be able to present a new set of general facility requirements in any subsequent proposal, with an additional opportunity for public comment, rather than having to create a proposal to modify existing requirements, thus avoiding potential confusion to commenters.

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VI. Obstacles to Developing and Implementing Section 108(b) Financial Responsibility Requirements for Hardrock Mining Facilities

EPA decided not to issue a final rule under section 108(b) for hardrock mining facilities because the Agency believes that final regulations are not appropriate. Furthermore, the Agency encountered a set of challenges that validate the decision not to issue final regulations. First, challenges remain regarding the potential disruption of state, tribal, and local mining programs by section 108(b) requirements. Second, section 108(b) continues to present particular challenges regarding the determination of a financial responsibility amount. Third, the Agency's evaluation of the economic impacts of the proposed rule does not support the need for a rule. Fourth, concerns regarding the availability of instruments remain. Finally, section 108(b) continues to present challenges in identifying the facility for purposes of the rule. These concerns were raised by commenters, and are discussed in detail below.

A. Potential Disruption of State, Tribal, or Local Mining Programs

In the proposed rule, EPA acknowledged the role that effective reclamation and closure requirements at hardrock mining facilities under federal and state programs can have in reducing the likelihood of releases or potential releases of hazardous substances to the environment. EPA also documented that federal and state mining regulatory programs require financial assurance to support implementation of reclamation and closure requirements.

Numerous observers raised questions about the effects of an express preemption provision in CERCLA section 114(d) during EPA's development of the proposed rule. This provision states in part:

> Except as provided in this subchapter, no owner or operator of a . . . facility who establishes and maintains evidence of financial responsibility in accordance with this subchapter shall be required under any State or local law, rule or regulation to establish or maintain any other evidence of financial responsibility in connection with liability for the release of a hazardous substance from such . . . facility.

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> Evidence of compliance with the financial responsibility requirements of this subchapter shall be accepted by a State in lieu of any other requirement of financial responsibility imposed by such State in connection with liability for the release of a hazardous substance from such . . . facility.[315]

EPA discussed its views on the preemption provision in the proposed rule. Specifically, EPA explained that it did not intend for its section 108(b) regulations to result in widespread displacement of state mine bonding programs under section 114(d), nor did it believe that such preemption is intended by CERCLA, necessary, or appropriate. In support of this conclusion, EPA discussed the language of paragraph (d) and section 114 as a whole, and considered whether state bonding programs were "in connection with liability for the release of a hazardous substance" as that term is used in section 114(d), and also took into account relevant policy considerations.[316]

Commenters on the proposal nevertheless continued to express concern that preemption would indeed occur if section 108(b) requirements were implemented at facilities, resulting in disruption of those programs not only from successful preemption challenges, but also from the mere need to defend against those challenges.[317]

Although EPA discussed its views on the question in the proposed rule, it will be the courts, rather than EPA, that will decide the effect of section 114(d). Thus, EPA cannot ensure that preemption will not occur if financial responsibility under section 108(b) requirements is in place at a facility. EPA thus understands why states and local governments have concerns that

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[315] 42 U.S.C. § 9614(d).
[316] 82 FR 3403-04.
[317] See, for example, Montana Dept. of Environmental Quality, Comment #: EPA-HQ-SFUND-2015-0781-2742; Arizona Dept. of Environmental Quality (ADEQ), Comment #: EPA-HQ-SFUND-2015-0781-2714; and State of Alaska (Dept. of Natural Resources (ADNR), Dept. of Environmental Conservation (ADEC), and the Alaska Dept. of Law), Comment #: EPA-HQ-SFUND-2015-0781-2785.

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they would have to defend preemption challenges, and concerns over the possibility that preemption could occur.

EPA also recognizes that the potential impact of preemption of financial assurance requirements extends beyond the concerns relating to the financial impacts, as financial assurance is an integral part of state mining programs – that is, financial assurance can provide enforcement leverage to regulators, and can prevent delays in conducting closure and reclamation at a site should the owner or operator become unwilling or unable to do so, thus minimizing environmental harm.

For all of these reasons, EPA believes that preemption of state financial assurance requirements, should it occur, would be an undesirable and damaging consequence of section 108(b) requirements. The Agency's decision not to issue final requirements under section 108(b) for hardrock mining facilities avoids this undesirable outcome.

B. Challenges to Determine the Level of Financial Responsibility

In developing the proposed rule, EPA considered four approaches to identify a financial responsibility amount for a facility -- fixed amount, site-specific amount, parametric approach, and formulaic approach, and described three of those approaches in the proposed rule. EPA also identified some of the challenges of the three approaches described and sought comment on various aspects of these approaches.

Under a fixed amount approach, the Agency would identify a standard cost for the class of regulated facilities. This method would not rely on site-specific factors but rather on historical costs associated with similar facilities to calculate an expected future amount. This approach is best applied where the costs at issue are fairly uniform, as the wider the variation, the lower the accuracy of the financial responsibility amount for that cost. If there is wide variation in the

costs associated with the facilities within the class to which the fixed amount is applied, the result can be significant over-regulation at those facilities with lower levels of liabilities, and significant under-regulation of facilities with higher levels of liabilities. At the same time, this approach has advantages in that it requires a lower level of effort on the part of the regulated community and the Agency to implement because the rule does not require a site-specific calculation to be developed, submitted, or evaluated. EPA proposed the use of a fixed amount for the health assessment component of the financial responsibility amount from hardrock mining facilities.

The second method considered by EPA was a site-specific approach. Under this approach, the owner or operator would calculate the cost of conducting known activities to address identified problems. This approach is the most precise of the three approaches considered by EPA. However, it is also the most resource intensive to implement. It requires gathering detailed information about the site, including an assessment of the site conditions, and is most easily implemented where a release has occurred, a response is necessary, and a remedy determination has been made. In fact, EPA already requires financial responsibility identified on a site-by-site basis when requiring parties to carry out response actions under CERCLA.[318] EPA notes that state regulatory programs and the programs of BLM and the Forest Service generally do use a site-specific approach based on extensive knowledge of site conditions to establish financial responsibility amounts, and this is one of the strengths of existing programs relative to the formula based approach in the proposed rule. Having identified reasons that a fixed cost and a site-specific approach may not be appropriate to identify the level of financial responsibility under section 108(b) for response costs and natural resource damages

[318] See Guidance on Financial Assurance in Superfund Settlement Agreements and Unilateral Administrative Orders (April 2015).

for hardrock mining facilities, EPA sought to develop an approach that was more accurate than the fixed amount, yet could be implemented without conducting a full site investigation at the facility. The Agency's efforts resulted in development of a formula for facilities within the hardrock mining industry.

The proposed formula identified categories of response action at hardrock mining facilities, based on past response actions to legacy contamination and estimated the costs of those actions based on reclamation activities under federal and state laws. Instead of taking other regulations or facility practices into account when identifying the risk to be addressed by financial responsibility requirements, the formula assumed the need for a CERCLA response, and then allowed reductions in the financial responsibility amount based on a demonstration of compliance with other regulatory requirements or other facility practices. As discussed above, EPA no longer believes that this approach would result in financial responsibility requirements "consistent with the degree and duration of risk associated with the production, transportation, treatment, storage, or disposal of hazardous substances." Thus, the formula does not reflect a level of financial responsibility that EPA in its discretion believes is appropriate.

The financial responsibility formula proposed for hardrock mining was specific to that industry, and was not designed for use in future rulemakings under section 108(b). In future rulemakings under section 108(b), EPA will evaluate how to determine financial responsibility amounts for each particular rule, and will propose an appropriate methodology on which it would seek additional public comment.

C. Concerns Regarding Costs and Economic Impacts of the Proposed Rule

1. Overall Concerns Regarding Cost and Economic Impact

EPA received significant comments on the Regulatory Impact Analysis (RIA) for the proposed section 108(b) rule that highlight detrimental economic outcomes of concern to commenters. In addition to numerous comments critical of various methodological and data limitations in the RIA, the leading criticism focuses on the disparity between projected industry costs in comparison with the rule's predicted transfer of liability costs from the government to the hardrock mining industry.

Using a period of analysis from 2021 to 2055, and assuming a seven percent social discount rate, EPA estimated the annualized compliance costs for industry to procure third-party instruments would be approximately $111 to $171 million (the net present value (NPV) of which is $1.4 to 2.2 billion over 34 years). These values represent the proposed rule's estimated incremental costs to industry.[319]

EPA then also quantified the transfer of potential CERCLA-related costs from the government to private industry that the proposed rule would yield. Based on an assumed facility default rate of 7.5 percent, the rule was expected to transfer a burden of just $15 to 15.5 million in annual liability from the federal government to the regulated industry (or $511 to $527 million over 34 years).

Based on these estimates, commenters objected that the projected annualized costs to industry ($111 – $171 million) are a magnitude of order higher than the avoided costs to the government ($15 – 15.5 million) sought by the rule. Estimates of government cost savings in the baseline, and industry compliance costs under the rule, occur under different regulatory scenarios and are therefore not readily comparable. However, these findings do reveal that the costs borne

[319] The majority of the industry costs represented a transfer from the regulated industry to the financial industry in association with the procurement of third party instruments, and hence the quantified annualized net social costs were estimated at $30 million to $44 million.

by industry far exceed the relative scale of cost savings gained by the government as a result of the rule. In the words of one owner/operator, "the proposed rules inflict grossly disproportionate burdens on the hardrock mining industry relative to the small benefit that it is intended to provide to the taxpayers."[320]

Beyond these concerns, commenters also took significant issue with the broader economic impacts that the rule could have on the hardrock mining industry and the nation. A trade association noted that the cost of compliance relative to cash flow will be devastating to many companies.[321] According to some, the high cost of compliance will result in existing mines closing, and new mines not being built. Another commenter stated that the high costs of the rule would force more companies into bankruptcy, which they suggested is an unacceptable environmental risk without any demonstrated benefits.[322] That commenter stated that it takes much effort and expertise over several years to administer a bankruptcy, so it is important to keep operators in business to conduct their own reclamation responsibilities. [323]

State mining associations also repeatedly commented on the importance of the hardrock mining sector in their individual states.[324] States commented that they would be grievously harmed financially if facilities reduced operations, ceased planned expansions, or otherwise closed or went bankrupt. In states where mining is prevalent, those states count heavily upon the tax and permitting revenues, jobs, etc. that come from the industry.

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[320] See comments from Freeport McMoran, EPA-HQ-SFUND-2015-0781-2793 page 3.
[321] EPA-HQ-SFUND-2015-0781-2666-20 / Organization: ACC, AFPM, AISI , CKRC, IMA-NA, NAM, NMA, NAMC, PCA, SSP, TFI, and the Chamber.
[322] See comment from Scott Richey and Susan Elliott, USDA Forest Service Humboldt-Toiyabee National Forest EPA-HQ-SFUND-2015-0781-2722 page 1.
[323] Ibid., page 1.
[324] See comment from Arizona Mining Association Docket ID: EPA-HQ-SFUND-2015-0781-2744 at pages 2-3.

According to AEMA the cash collateral required to obtain a section 108(b) financial responsibility instrument could be significant and also very problematic, because this cash collateral requirement reduces the capital that companies have available to conduct reclamation activities, advance environmental improvement initiatives, and pursue development opportunities. Ultimately, AEMA commented that the drain on corporate capital from the section 108(b) financial responsibility program would reduce the domestic production of minerals, cost hardrock mining jobs, and economically devastate mining dependent rural communities.[325]

In an effort to further emphasize the adverse economic impacts of the proposed rule, an analysis was independently conducted by Dr. Gordon Rausser of OnPoint Analytics, on behalf of Freeport McMoRan, and submitted for the record in this rulemaking.[326] These industry supported analyses found that when all impacts are considered (including impacts on cash flow, production, and available resources), the proposed rule is estimated to cost the U.S. hardrock mining industry ten times the amount projected in the RIA – an amount reported to be between 23 percent and 66 percent of annual industry profits. The study also estimates that U.S. investment in the hardrock mining industry would drop by more than $5.6 billion, and that between 3,486 to 10,110 jobs would be lost in the U.S. hardrock mining industry should the proposed rule have become final.[327]

Lastly, commenters note that while mining occurs at the local level, the mining sector is a global industry. A commenter stated that increased costs have implications at the state and local levels, but these same increased costs could place U.S. mining at a competitive disadvantage.

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[325] See comment from American Exploration and Mining Association, Docket ID: EPA-HQ-SFUND-2015-0781-2657 page 35.
[326] EPA-HQ-SFUND-2015-0781-2650-4 / Organization: New Mexico Mining Association.
[327] EPA-HQ-SFUND-2015-0781-2712-135 / Organization: Newmont Mining Corporation.

The commenter further explained that those increases could be a disincentive to investment in domestic projects and an incentive to focus on operations and production outside of the U.S.[328] The commenter continued to speculate that this could further result in a shortage of strategic metals at home. The commenter explained by way of an example that lithium is viewed as a strategic mineral currently in high demand globally as a lubricant, for use in steel and aluminum production, and in batteries and in electrolytes and electrodes.[329] Finally, the commenter stated that lithium mining is an area of considerable expansion in the U.S., and implied that could be threated under the proposed rule.[330]

EPA's decision not to issue final requirements under section 108(b) for hardrock mining facilities will thus alleviate potential burden on owners and operators, and will help prevent any disruptions to markets in the U.S. and abroad. EPA further seeks to avoid negatively impacting facility resources that could otherwise have greater benefits to the economy. The state of Idaho, for example, commented that the proposed requirements may divert funds from uses such as the implementation of environmental protection and enhancement programs, reclamation projects, exploration and development of new mineral deposits, etc.[331]

2. Concerns Particular to Impacts on Small Entities/Businesses

Concerns raised by commenters also point to the burden that the proposed rule could impose on small entities. In the RIA of the proposed rule, EPA assessed the economic impacts on small entities. Of the 221 mines and mineral processing facilities in the potentially regulated universe, EPA identified approximately 53 facilities that were owned by 44 small businesses. Twelve additional mines have owners of unknown size (due to lack of available company data).

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[328] See comment from Nevada Mining Association Docket ID: EPA-HQ-SFUND-2015-0781-2684 pg 11.
[329] Ibid.
[330] Ibid.
[331] See comment from State of Idaho Docket ID: EPA-HQ-SFUND-2015-0781-2682 at page 7.

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For these small entities, EPA compared the estimated annualized compliance costs with their annual revenues in order to assess whether these small entities could be expected to incur costs that constitute a significant impact; and whether the number of those small entities estimated to incur a significant impact represent a substantial number of small entities. Results of the analysis showed that 80 percent to 87 percent of these small entities may face an average annual compliance cost that is greater than one percent of their revenues. Similarly, 57 percent to 75 percent of these small entities may experience impacts upon revenues that exceed three percent. These impact estimates were found by EPA to surpass the significant impact thresholds as set forth by the Regulatory Flexibility Act.

In line with these findings, many of the commenters likewise suggested that a major number of small entities under the proposed rule would face significant annualized costs which would either severely hinder their ability to operate, cause them to cease operations, or be a barrier to them being able to acquire financing to begin new operations. In light of the findings from the Agency's own small entity analyses, and the comments of concern raised by the regulated community, EPA agrees that the proposed financial responsibility requirements could prove particularly burdensome for small businesses. Such impacts will be avoided in the absence of such requirements under this final decision.

D. Concerns Regarding Financial Responsibility Instrument Availability

As discussed above, during the public comment period for the section 108(b) hardrock mining rule, commenters representing or participating in the insurance, surety, and banking industries identified several concerns with EPA's proposed instrument terms, and expressed concern that those terms could impact the availability of instruments. Similarly, entities in the

mining industry expressed concerns that instruments may not be available for the amounts proposed in the forms specified. EPA agrees with these concerns.

Section 108(b) discusses particular instruments for EPA to consider in its regulations. Specifically, paragraph (b)(2) states that financial responsibility may be established by any one, or any combination, of the following: insurance, guarantee, surety bond, letter of credit, or qualification as a self-insurer. Paragraph (b)(2) further authorizes the President to specify policy or other contractual terms, conditions, or defenses that are necessary, or that are unacceptable in establishing evidence of financial responsibility. Paragraph (b)(2) also requires EPA to cooperate with and seek the advice of the commercial insurance industry to the maximum extent practicable when developing financial responsibility requirements. Paragraph (b)(4) provides direction on how the section 108(b) instruments are to address multiple owners and operators at a single facility.

Section 108(c) also includes a "direct action" provision, under which CERCLA claims can be brought directly against an insurer or other entity issuing an instrument pursuant to the section 108(b) regulations. Section 108(c)(2) provides that any claim authorized by section 107 or section 111 may be asserted directly against any guarantor providing evidence of financial responsibility under section 108(b) if the person is liable under section 107 and: (1) is in bankruptcy, reorganization, or arrangement pursuant to the Federal Bankruptcy Code, or (2) is likely to be solvent at the time of judgment but over whom jurisdiction in the federal courts cannot be reached with reasonable diligence.

The areas of most significant concern identified by commenters are: (1) the specification that the instruments need pay to multiple claimants; (2) the direct action provisions in the

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instruments; and (3) the continuity of coverage provisions that subject providers to potential liability. These three features of the proposed section 108(b) financial responsibility program and the comments received regarding each are discussed below.

The specification that the instruments need pay to multiple claimants

EPA proposed that instruments would be payable to the full range of potential future CERCLA claimants, and not solely to a currently designated beneficiary specified in instruments.

Financial industry representatives commenting on the proposed rule expressed concerns that the proposed financial mechanisms would not have a single designated beneficiary. Commenters argued that instrument providers would be required to undertake more due diligence and exercise more discretion while also potentially being subject to more liability themselves absent a specified designated beneficiary.

Direct action provision

Commenters also expressed concern that providers of instruments may be subject to direct action suit. However, the CERCLA statute itself, at section 108(c)(2), includes a direct action provision that expressly authorizes, in specified circumstances, any claim under section 107 and section 111 be made directly against the guarantor providing evidence of financial responsibility. Commenters from the surety industry claimed that the direct action provision significantly increased their risk exposure and included too broad of a trigger (bankruptcy). Banking industry representatives asserted that the provision was at odds with relevant commercial law and practice and would significantly deter banks from providing such instruments and services. The insurance industry commented that direct action creates the

potential for significant increase in defense costs and administrative costs associated with the management of multiple lawsuits.

Continuity of coverage provisions

To address the risk that the facility would no longer have financial responsibility when necessary, EPA proposed that owners and operators using a letter of credit, surety bond or insurance to demonstrate financial responsibility also establish a standby trust. In the event the instrument issuer intended to cancel the instrument and the owner or operator failed to obtain alternate financial responsibility, EPA could draw on the instrument and fund the standby trust.

Commenters from the surety and insurance industry suggested that the requirements for prescriptive cancellation provisions that include potential issuer liability would limit the interest on behalf of sureties and insurers in providing mechanisms. Commenters also suggested that this proposed provision in combination with the difficult-to-predict date at which a facility may be released from the proposed financial responsibility requirements created unwelcome uncertainty around the duration of the provider's obligation.

Based on the negative comments received, EPA believes there is uncertainty around the adequate availability of instruments were final regulations to be promulgated at this time. This uncertainty necessarily means it is also unclear whether regulated entities would be able to obtain the necessary instruments when faced with a regulatory obligation under section 108(b) to obtain an instrument. This information thus also indicates that issuance of section 108(b) requirements for current hardrock mining operations is not appropriate.

E. Challenges to Identify the Facility

Many commenters on the rule raised concerns regarding the applicability of section 108(b) to historical mining areas at facilities. The question of what the relevant facility is for

purposes of section 108(b) regulations arose in several contexts – developing requirements for applicability of the rule, determining a financial responsibility amount, and developing conditions for payment of funds from the instruments. This was another difficult challenge EPA encountered in developing the proposed rule.

In a typical CERCLA response action, the definition of the facility relies on a site-by-site determination based on site-specific conditions, and the facility is defined by where contamination comes to be located, as understood by EPA at a particular point in time, and is typically formally delineated in a decision document identifying the response actions to be taken. The relevant facility may include areas owned and/or operated by several parties and the facility is defined without regard to ownership. In addition, particular parties' CERCLA liability is determined through settlements and/or litigation.

For the reasons discussed in the proposed rule, for purposes of determining the proposed rule's applicability, and for determining the financial responsibility amount, EPA found it necessary to consider the relevant facility to be only the current operations of the current owner(s) and operator(s). Two effects of this approach were to not require a financial responsibility amount under the proposed rule based on conditions present at historic areas of the mine, or to require evidence of financial responsibility from parties other than the current owner(s) or operator(s).

This approach – that EPA found necessary to implement section 108(b) – has no effect on CERCLA liability for parties that may be involved at a CERCLA site, or on the definition of facility for purposes of a CERCLA response. Thus, in the context of a particular response action, the facility may be defined to include an area broader than the current operations, and CERCLA liability may attach to parties other than the current owner or operator. Thus, there is

an inconsistency in these respects between what EPA believed was necessary for practical development of section 108(b) instruments, and the definition that would apply when the instruments are invoked.

This difficulty was also identified by outside parties to EPA. Instrument providers, during pre-proposal outreach, cited the inability to distinguish between and establish separate amounts for historic releases and potential future releases as a factor that may increase the cost and difficulty of obtaining instruments. Specifically, representatives of insurance companies noted that combining two distinct types of coverage (e.g. coverage for cleanup of known existing releases and coverage for liabilities that may arise from future releases) will increase premiums. Another insurance representative commented that amounts of coverage may be limited by reinsurance treaties if the two types of coverage were combined.[332] Relatedly, a representative from a surety also noted that separating out known pre-existing issues and releases from current operations that have not yet occurred into separate mechanisms would likely enhance availability.[333] Yet it was the impossibility of predetermining the source of any contamination that would ultimately be the subject of a CERCLA claim, or where contamination would ultimately come to be located, that was a factor in EPA's decision to propose instruments that could pay for any CERCLA section 107 or section 111 claims against a current owner or operator, irrespective of whether the claim arose as a result of current or historical operations.

Commenters' concerns also highlight another source of uncertainty for instrument availability. Thus, this issue raises similar concerns as in section E. Above. Therefore, this

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[332] See Notes and Attendees for CERCLA 108(b) Insurance Meeting December 8, 2015 Docket ID: EPA-HQ-SFUND-2015-0781-0447.

[333] See Notes and Attendees for CERCLA 108(b) Surety Meeting January 14, 2016 Docket ID: EPA-HQ-SFUND-2015-0781-0445.

information further supports EPA's determination that issuance of section 108(b) requirements for current hardrock mining operations is not appropriate.

VII. Statutory and Executive Order Reviews[334]

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is a significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review, because it may raise novel legal or policy issues [3(f)(4)], although it is not economically significant. Any changes made in response to OMB recommendations have been documented in the docket. EPA prepared an economic analysis for the proposed rule, but that analysis is not relevant for this final rule because no regulatory provisions are being finalized.

B. Executive Order 13771: Reducing Regulation and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory or deregulatory action, because this action does not alter any regulatory requirements.

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA, because this action does not impose any regulatory requirements.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities.

E. Unfunded Mandates Reform Act (UMRA)

---

[334] Additional information about these statutes and Executive Orders can be found at https://www.epa.gov/laws-regulations/laws-and-executive-orders.

17cv1906 Sierra Club v. EPA - 6/22 Production ED_001523_00004870-00118

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531-1538, and does not significantly or uniquely affect small governments, because this action does not impose any regulatory requirements.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175, because this action imposes no regulatory requirements. Thus, Executive Order 13175 does not apply to this action. However, EPA consulted with tribes and Alaska Native Corporations and Alaska Native Villages during the rulemaking process.

EPA received comments from three federally-recognized tribes and from three Alaska Native Claims Settlement Act (ANCSA) resource managers regarding section 108(b) financial responsibility. Tribal comments were generally in support of the proposed rule, and cited some concerns about the potential negative impacts of hardrock mining on commercial enterprises and on subsistence living, along with the need to more fully identify the benefits of the rule. A primary ANCSA concern was that the section 108(b) financial responsibility requirements would duplicate existing federal and state requirements, resulting in a negative impact on Alaska Natives and states, that receive royalties through the Regional and Village Corporations. Other ANCSA comments related primarily to the calculation of the financial responsibility amount, and requested that EPA consult with them early in the regulatory development process. EPA acknowledged the challenges in determining a financial responsibility amount, and provided the

opportunity for federally-recognized tribes and ANCSA resource managers to consult with the Agency during the public comment period.

H. Executive Order 13045: Protection of Children from Environmental Health and Safety Risks

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children, since this action imposes no regulatory requirements.

I. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use

This action is not a "significant energy action" because it is not likely to have a significant adverse effect on the supply, distribution or use of energy.

J. National Technology Transfer and Advancement Act

This rulemaking does not involve technical standards.

K. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-income Populations

EPA believes that this action is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not establish an environmental health or safety standard, since this action imposes no regulatory requirements.

L. Congressional Review Act (CRA)

This action is subject to the CRA, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 320

Environmental protection, Financial responsibility, Hardrock mining, Hazardous substances.

Dated: DEC 01 2017

E. Scott Pruitt,
Administrator.

17cv1906 Sierra Club v. EPA - 6/22 Production ED_001523_00004870-00121

To: Wheeler, Andrew R.[Andrew.Wheeler@FaegreBD.com]
From: Jackson, Ryan
Sent: Thur 11/9/2017 2:52:04 PM
Subject: Re: Lindsey

You're golden. It's why we pursued this. One of many reasons. This will be good. Glad you hate making money.

_____
Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Nov 8, 2017, at 10:19 PM, Wheeler, Andrew R. <Andrew.Wheeler@FaegreBD.com> wrote:

> Everyone seemed to think I did a really good job including inhofe, capito and mr Murray. Carper and Cardin both said really nice things about me.
>
> Troy and Liz were both happy.
>
> Sent from my iPhone
>
> On Nov 8, 2017, at 9:37 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>
>> Nice. How did you feel about it today.
>>
>> Only saw a couple stories on how you work to save coal mining jobs and how you didn't write murray's 3 pager.
>>
>> Seems like it was successful.
>>
>> _____
>> Ryan Jackson
>> Chief of Staff
>> U.S. EPA
>> Ex. 6 - Personal Privacy
>>
>> On Nov 8, 2017, at 8:00 PM, Wheeler, Andrew R. <Andrew.Wheeler@FaegreBD.com> wrote:
>>
>>> FYI
>>>
>>> Sent from my iPhone

Begin forwarded message:

From: "Bono, Mary" <Mary.Bono@faegrebd.com>
Date: November 8, 2017 at 7:18:42 PM EST
To: "Wheeler, Andrew R." <Andrew.Wheeler@FaegreBD.com>
Subject: Lindsey

At dinner with Lindsey Graham. He said he's looking forward to voting for you.

Mary
The Honorable Mary Bono
Principal
Faegre Baker Daniels Consulting
Former Member of Congress
1050 K Street NW Suite 400
Washington DC 20001 USA
+1 202 589 2857
Twitter: @MaryBonoUSA

To: Craig Butler[craigwbutler@live.com]
From: Jackson, Ryan
Sent: Sat 4/15/2017 4:27:31 PM
Subject: Re: Greeting

Right. It's a weird situation. I just need to talk through legal defensibility of something our transition team promised in seemingly a knee jerk way. It's been really strange. These guys have been so self interested that they promise whatever to whomever but when it came to working with Pruitt on his agenda they were intransigent bureaucrats. I've finally rid the place of that nonsense and finding their aftermath in a few remaining places.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

> On Apr 14, 2017, at 8:11 PM, Craig Butler <craigwbutler@live.com> wrote:
>
> Yes. I got region v to send me s letter concurring on our position then they ended the letter with we'll send a final letter soon. That was a few weeks ago and region v has gone radio silent on me
>
> Sent from my iPhone
>
>> On Apr 14, 2017, at 6:59 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>>
>> Of course. I think it's a water designation which I need to talk with you about.
>>
>> -----Original Message-----
>> From: Craig Butler [mailto:craigwbutler@live.com]
>> Sent: Friday, April 14, 2017 10:39 AM
>> To: Jackson, Ryan <jackson.ryan@epa.gov>
>> Subject: Greeting
>>
>>
>> Ryan
>>
>>
>> Hope you are well and settling in. When you have a chance cal you call my cell at 614 420 6860. I'm waiting on a letter from region v and they tell me it's stuck in HQ. I think I need some assistance in getting through the red tape.
>>
>> Much obliged.
>>
>> Craig Butler.
>>
>> Sent from my iPhone

To: Steven E Koonin[steven.koonin@nyu.edu]
From: Jackson, Ryan
Sent: Wed 4/26/2017 5:55:51 PM
Subject: RE: agenda for meeting with the Administrator?

Thank you. I saw your short interview on WSJ's website over this past weekend.

From: Steven E Koonin [mailto:steven.koonin@nyu.edu]
Sent: Friday, April 21, 2017 9:49 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: agenda for meeting with the Administrator?

On my agenda to talk with the Administrator about would be what I published today in the WSJ (https://www.wsj.com/articles/a-red-team-exercise-would-strengthen-climate-science-1492728579); annotated copy attached.

Appreciate your guidance as to whether this would be of interest, and well as what other aspects of climate/energy I might usefully address.

Steve Koonin

To: Lyndsay Moseley[Lyndsay.Moseley@lung.org]
From: Jackson, Ryan
Sent: Mon 6/19/2017 2:26:43 PM
Subject: RE: Today's meeting

Thank you all so much for your understanding and working with us.

-----Original Message-----
From: Lyndsay Moseley [mailto:Lyndsay.Moseley@lung.org]
Sent: Monday, June 19, 2017 10:07 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RE: Today's meeting

Ryan

Just saw this note.

We will take the 11am meeting with the Administrator.

Best,
Lyndsay

Lyndsay Moseley Alexander
Office: 202-481-7668
Cell: 202-731-8448
Email: Lyndsay.moseley@lung.org

-----Original Message-----
From: Jackson, Ryan [mailto:jackson.ryan@epa.gov]
Sent: Monday, June 19, 2017 9:30 AM
To: Lyndsay Moseley <Lyndsay.Moseley@lung.org>
Subject: Today's meeting

Lyndsay, the Administrator is unavailable at noon today for the meeting with the group. I needed to reach you as soon as possible to make other arrangements. He is available at 11am and would be happy to meet with you then. I'm available at noon and can meet with the group. I'm available on my cell at Ex. 6 - Personal Privacy Thank you.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

To: Steven Koonin Ex. 6 - Personal Privacy
From: Jackson, Ryan
Sent: Wed 6/7/2017 3:43:40 PM
Subject: RE: Climate Red-Blue Prospectus

Steve, are you in DC any time in the near future?

From: Steven Koonin Ex. 6 - Personal Privacy
Sent: Monday, May 29, 2017 8:00 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Re: Climate Red-Blue Prospectus

Ryan- Good news.

I can be available on the phone

- anytime today (Monday)

- tomorrow morning before 1000

- pretty much anytime Wednesday after 1000

- many opportunities on days after that

My mobile is 3474074733. If you let me know when you might call, I can be sure to be in a place where I can talk.

Steve

Sent from my iPad

On May 28, 2017, at 17:13, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

> Steve, the Administrator remains very excited about conducting this exercise. He had bounced this and other ideas off others he has worked with for some time and others in the Administration. We would like to proceed further with the red-blue exercise. Although I

do not yet have an AA for ORD, I will have a Deputy AA for ORD starting in mid-June. He will have a few initial duties, but helping start this process will be one of them. I would also like staff in ORD to help on this to get the cooperation of both political and career on this project.

We have determined that the best way to process your paperwork is to compensate you as an "administratively determined" position which is unique in the federal hiring process to EPA. There is no vetting other than OPM paperwork which allows us to have you on the payroll in short order.

I would like to discuss with you how go about next steps when convenient. Thanks again for your help with this. We are looking forward to it.

Ryan.

From: Steven Koonin Ex. 6 - Personal Privacy
Sent: Wednesday, May 3, 2017 9:57 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Climate Red-Blue Prospectus

Ryan:

Much enjoyed meeting with you and the Administrator last Friday.

As promised, I attach a prospectus for a Climate Science Red-Blue Exercise. As I've watched the media since our meeting, I've become even more convinced that this would be a very good thing to do.

Many of the design choices are deliberate, but perhaps their rationale isn't evident. Would be happy to discuss further – this is only a first draft.

Steve

To: Craig Butler[craigwbutler@live.com]
From: Jackson, Ryan
Sent: Fri 4/14/2017 10:59:15 PM
Subject: RE: Greeting

Of course. I think it's a water designation which I need to talk with you about.

-----Original Message-----
From: Craig Butler [mailto:craigwbutler@live.com]
Sent: Friday, April 14, 2017 10:39 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Greeting

Ryan

Hope you are well and settling in. When you have a chance cal you call my cell at 614 420 6860. I'm waiting on a letter from region v and they tell me it's stuck in HQ. I think I need some assistance in getting through the red tape.

Much obliged.

Craig Butler.

Sent from my iPhone

To: Dravis, Samantha[dravis.samantha@epa.gov]; Bennett, Tate[Bennett.Tate@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; brittanybolen Ex. 6 - Personal Privacy
From: Jackson, Ryan
Sent: Tue 3/28/2017 7:32:02 PM

Can you guys come to my office?

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

Ex. 6 - Personal Privacy

To: Ariel Emanuel[AEmanuel@wmeentertainment.com]
From: Jackson, Ryan
Sent: Wed 4/26/2017 3:55:15 PM
Subject: Re: enquiry [WARNING: DKIM validation failed]

I'm available now at Ex. 6 - Personal Privacy

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

> On Apr 25, 2017, at 10:34 PM, Ariel Emanuel <AEmanuel@wmeentertainment.com> wrote:
>
> Thanks
>
> Ryan let me know a good time to talk
>
> Sent from my iPhone
>
>
> Ariel Emanuel | WME
> AEmanuel@wmeentertainment.com
> 310.248.3064
>
>
>
>> On Apr 25, 2017, at 4:30 PM, Liddell, Christopher P. EOP/WHO
EOP/Ex. 6
>>
>> Ari
>>
>> Email connecting you with Ryan who is the Chief of Staff at EPA
>>
>> I have outlined the background to him, and he will help to the extent possible
>>
>> I hope that something works
>>
>> Chris
>>
>> Jackson.Ryan@epa.gov
>>
>> Ex. 6 - Personal Privacy
>>
>>
>

To: lyndsay.moseley@lung.org[lyndsay.moseley@lung.org]
From: Jackson, Ryan
Sent: Mon 6/19/2017 1:30:17 PM
Subject: Today's meeting

Lyndsay, the Administrator is unavailable at noon today for the meeting with the group. I needed to reach you as soon as possible to make other arrangements. He is available at 11am and would be happy to meet with you then. I'm available at noon and can meet with the group. I'm available on my cell at Ex. 6 - Personal Privacy Thank you.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

To: Steckelberg, Kathy[KSteckelberg@eei.org]
From: Jackson, Ryan
Sent: Wed 6/7/2017 2:14:20 PM
Subject: RE: Thank you

Of course. And I was kidding.

From: Steckelberg, Kathy [mailto:KSteckelberg@eei.org]
Sent: Wednesday, June 7, 2017 10:13 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RE: Thank you

I think it was a case of our member company staffer being relatively new to DC and totally misunderstanding a conversation, since the entire thing sounded totally ludicrous to me. That happens all too often here.

Kathy Steckelberg
Vice President, Government Relations

Edison Electric Institute
701 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2696
202-508-5478
202-508-5403 (fax)
202-744-8512 (cell)
www.eei.org

Follow EEI on Twitter, Facebook, and YouTube.

From: Jackson, Ryan [mailto:jackson.ryan@epa.gov]
Sent: Wednesday, June 07, 2017 10:10 AM
To: Steckelberg, Kathy
Subject: RE: Thank you

This email originated from an external sender. Use caution before clicking links or opening attachments. For more information, visit

The Grid. Questions? Please contact ITSupport@eei.org or ext. 5100.

That EPA staffer will be fired this morning.

From: Steckelberg, Kathy [mailto:KSteckelberg@eei.org]
Sent: Wednesday, June 7, 2017 10:09 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Thank you

I thought that was a silly rumor, but one of our member company people insisted she had heard it directly from an EPA staffer. So, I needed to run it to ground. Clearly a misunderstanding.

Kathy Steckelberg
Vice President, Government Relations

Edison Electric Institute
701 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2696
202-508-5478
202-508-5403 (fax)
202-744-8512 (cell)
www.eei.org

Follow EEI on Twitter, Facebook, and YouTube.

To: pbailey@americaspower.org[pbailey@americaspower.org]
From: Jackson, Ryan
Sent: Fri 4/14/2017 10:02:43 PM

https://youtu.be/zhn_Sz7YyF4

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

To: neil_chatterjee@mcconnell.senate.com[neil_chatterjee@mcconnell.senate.com]
From: Jackson, Ryan
Sent: Tue 3/28/2017 2:22:36 PM

I have to tell you Tate is doing an incredible job here.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

To: pam@okgop.com[pam@okgop.com]; Fugh, Justina[Fugh.Justina@epa.gov]
From: Jackson, Ryan
Sent: Wed 4/26/2017 12:16:08 AM
Subject: RE: gala invite [WARNING: SPF validation failed]
HOW TO REVIEW POLITICAL INVITATIONS.DOC

Pam, the last page of the attachment lays out specifically and further what we will need for this event.

From: Jackson, Ryan
Sent: Tuesday, April 25, 2017 7:50 PM
To: 'pam@okgop.com' <pam@okgop.com>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: gala invite [WARNING: SPF validation failed]

No, this is not consistent with ethics rules.

He may only attend the event and cannot raise money for the party nor can invitations for the event include solicitations for money. I've cc'd EPA's senior ethics counsel who can discuss what can appear but the Party must withdraw publicly the previous information and invitations.

1) The Administrator cannot, in his official capacity, attend the event. He can go in his personal capacity, as E. Scott Pruitt, former AG of Oklahoma, but not as the EPA Administrator. The campaign cannot refer to him by his EPA title (though they can call him the Honorable Scott Pruitt), and they can't use his name in connection with any fundraising or promotion.

2) EPA has to review the flyers.

3) He can speak about the candidate and urge support, but he absolutely cannot ask people to give money to the campaign.

4) The security detail can still go with him (they protect him 24/7, no matter what), but EPA cannot pay for the Administrator's travel expenses. Instead, the campaign must pay which I appreciate the party offering to do prior to the invitation being issued.

I'm available at Ex. 6 - Personal Privacy and Justina will be available tomorrow to square this away.

From: Pam Pollard [mailto:pam@okgop.com]
Sent: Tuesday, April 25, 2017 6:34 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Fwd: gala invite [WARNING: SPF validation failed]

Can we use this and in the text body say Scott Pruitt will be the keynote speaker and will receive the Ronald Reagan Leadership Award?

Pam Pollard, Chairman

Oklahoma Republican Party

405.420.8154

Sent from my iphone

OKGOP

Annual
Oklahoma Republican Party Gala

CELEBRATE OKLAHOMA!

Friday, May 5th, 2017
VIP Reception 6 PM
Dinner 7 PM

First Moore Baptist Church
301 NE 27th St, Moore, OK 73160

VIP Reception $50 | Dinner $100

Sponsorship Levels
Gold - $5,000
Silver - $3,000
Bronze - $2,000

Updated July 2014

HOW TO REVIEW POLITICAL INVITATIONS IN ACCORDANCE WITH THE HATCH ACT

The Hatch Act, 5 USC §§ 7321-7326, regulates the political activities of federal employees in the Executive Branch of the Federal government. "Political activity" is defined as an activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group. Under the Hatch Act, most employees cannot participate in partisan political activity while on government time and in government facilities. However, this rule is different for PAS employees. This guidance will help you to know what the PAS employees *can* and *cannot* do.

Who is a PAS employee?

EPA has 14 PAS employees, who are **P**residential **A**ppointees confirmed by the **S**enate. They are the Administrator, the Deputy Administrator, the General Counsel, the Inspector General, the Chief Financial Officer, and the nine Assistant Administrators.

What are all employees prohibited from doing under the Hatch Act?

There are several things that no employee, including PASers, should do:

(1) Don't use your official authority or influence to interfere with or affect an election. Don't use your official title while participating in political activity and don't use your authority to coerce anyone to participate in political activity. Importantly, you can't solicit, accept or receive uncompensated volunteer services from any subordinate for any political purpose;

(2) Don't fundraise, even in your private capacity. You can't even let your name be used as the host of fundraiser. You can't solicit political contributions in a speech or address at a fundraiser, and you can't let your official title be used in connection with a fundraiser. You also can't solicit, accept or receive volunteer services from an EPA subordinate;

(3) Don't run for partisan public office (without first talking to your ethics official and telling us where you live. There are a few exceptions for certain localities); and

(4) Don't solicit or discourage political activity from any person who is doing business with the Agency. This includes any person who has an application for any compensation grant, contract, ruling, license, permit, or certificate pending in your office. It also includes any person who is the subject of an investigation, audit or enforcement action in your office. For PAS employees, this description can include a lot of people!

How are PASers special under the Hatch Act?

Unlike most employees, EPA's fourteen PASers can participate in political activity while on duty, on government premises, in a government vehicle, and while wearing the EPA badge. But only they can do so. The rest of the EPA employees, including Schedule Cs and non-career SESers cannot.

The "Secret Service" exception

In limited cases, the Hatch Act nevertheless allows staff to assist the PAS consistent with their official duty. For example, a security detail may accompany the Administrator, even to a political event, so long as he is providing security and not himself participating in the political activity. Similarly, an administrative assistant may prepare the travel and itinerary associated with a political trip even if the Administrator is engaged in political activity or a mix of official and political activity.

But this exception should not be broadened to include speech writing or any "extra" voluntary service!

What happens if an EPA PAS is invited to a political event?

1) The Scheduling Staff for the PAS should **examine the invitation** to determine who issued the invitation to the PAS employee and whether it is indeed for a political event.

- Clues: is the invitation from a campaign committee to elect someone? Is the event called a "rally" or a "fundraiser" or does it use words like "get out the vote?"

2) The Scheduling Staff should **send a copy of the invitation to OGC-Ethics** for review and confirmation as to whether it is indeed a political event.

3) If the event is political, then the Scheduling Staff must do the following:

$ send the requestor the EPA's "ground rules" about political events

$ ask questions about the event:

- who is the host of the event?
- are there any co-sponsors?
- where will the event be held?
- who are the anticipated invitees to the event?
- how many people are expected to attend?
- what is the anticipated role of the EPA PAS at the event?

$ identify a contact person on the Scheduling Staff to work with OGC

$ identify a contact person on the requestor's staff to talk to OGC

$ do not confirm attendance until the event is cleared, in writing (by email), by OGC

NOTE: An employee with Agency-wide responsibility may address a large, diverse group to seek support for a partisan political candidate so long as the group has not been specifically targeted as having matters before the employing office. 5 CFR 734.305.

- An example of a permitted activity: the Administrator may speak on behalf of a partisan candidate at a forum sponsored by the League of Women Voters that is expected to have more than 100 people attend. However, he cannot use his official title and cannot solicit funds for the candidate in his speech. He also should not say that the candidate is endorsed by the US EPA.

- An example of a prohibited activity: the Administrator will not be permitted to speak at an event that is sponsored by an environmental law firm for its clients to be held in the law firm's offices.

- OGC will examine closely where the event is to be held and the sponsors and hosts. Scrutiny will be applied to certain entities, including lobbying organizations, law firms, for-profit and not-for-profit entities that have an environmental focus, and trade associations.

4) If the event is cleared, then the Scheduling Staff can confirm attendance, subject to the EPA's ground rules. The Scheduling Staff should now:

$ obtain a list of all of the invitees and send that list to OGC
$ obtain copies of all of the invitations and send to OGC for review of the format
$ talk to the PAS travel coordinator and OGC about payment for any political travel
$ reaffirm to the PAS that s/he cannot accept any volunteer services, including speeches
$ provide the PAS with the EPA's ground rules as part of her/his briefing package

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON D.C., 20460

GROUND RULES FOR PARTICIPATION IN A POLITICAL EVENT

Your campaign has invited a Presidentially-Appointed and Senate-confirmed appointee of the U.S. Environmental Protection Agency to speak at your political event. The Hatch Act, 5 U.S.C. §§ 7321-7326, sets forth certain restrictions that this employee must follow. She cannot use her official authority to further political activity; cannot solicit, accept or receive political contributions; and cannot solicit or discourage the political participation of anyone who has business pending before the Agency.

We ask that you review our ground rules carefully and ensure that they are followed. Failure to follow these rules may result in withdrawal of any approval to allow our employee to speak at your event.

- You must provide EPA with a copy of the invitation and any other public communications regarding the event before you may distribute them so that our counsel can ensure compliance with federal rules.

- Once EPA agrees to the final version of the invitation or other public communications, you cannot make any subsequent changes to the text or format nor change the title of the electronic files.

- You must provide EPA with a complete description of the event, the proposed venue, any sponsors or affiliated entities, and a summary description of proposed invitees.

- You may not specifically target invitees with interests before the Agency. If EPA agrees to provide a speaker, you will provide a list of all invitees to EPA and their contact information at least 48 hours in advance of the event.

- When you issue your invitations, you will include this statement as part of the distribution:

  PLEASE NOTE: The federal Hatch Act prohibits this speaker from soliciting or discouraging the political participation of any person who has an application for any compensation grant, contract, ruling, license, permit, or certificate pending before US EPA. If you or your company has any business pending before any part of EPA, we ask that you not attend this event.

Any questions regarding these rules should be directed to Justina Fugh, Senior Counsel for Ethics, at fugh.justina@epa.gov or 202 564 1786.

To: Amy Harder[amy@axios.com]
From: Jackson, Ryan
Sent: Mon 6/19/2017 7:10:30 AM
Subject: Re: Jeff Holmstead

That is wrong and we do not have a comment.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Jun 18, 2017, at 10:10 PM, Amy Harder <amy@axios.com> wrote:

FYI. I know you told me not to contact you, but I don't like surprising people with stories. Please let me know if you have any questions or concerns. I'm at 202.906.9629.

Amy

Begin forwarded message:

From: Amy Harder <amy@axios.com>
Date: June 18, 2017 at 7:08:38 PM PDT
To: John Konkus <konkus.john@epa.gov>
Subject: Jeff Holmstead

We are reporting he's the top contender for the No. 2 slot. Let me know asap if that's wrong and/or if you have a comment of any kind.

Thank you,

Amy
202.906.9629

To: Steckelberg, Kathy[KSteckelberg@eei.org]
From: Jackson, Ryan
Sent: Wed 6/7/2017 2:10:14 PM
Subject: RE: Thank you

That EPA staffer will be fired this morning.

From: Steckelberg, Kathy [mailto:KSteckelberg@eei.org]
Sent: Wednesday, June 7, 2017 10:09 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Thank you

I thought that was a silly rumor, but one of our member company people insisted she had heard it directly from an EPA staffer. So, I needed to run it to ground. Clearly a misunderstanding.

Kathy Steckelberg
Vice President, Government Relations

Edison Electric Institute
701 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2696
202-508-5478
202-508-5403 (fax)
202-744-8512 (cell)
www.eei.org

Follow EEI on Twitter, Facebook, and YouTube.

To: rnolan@nma.org[rnolan@nma.org]
From: Jackson, Ryan
Sent: Fri 4/14/2017 10:01:42 PM

https://youtu.be/zhn_Sz7YyF4

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy 9

To: Samantha Dravis Ex. 6 - Personal Privacy
Cc: Mandy Gunasekara Ex. 6 - Personal Privacy
From: Jackson, Ryan
Sent: Tue 3/28/2017 12:01:58 PM
Subject: Re: Invitation to Eastern Fuel Buyers Conference

It's not a big deal though.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Mar 28, 2017, at 7:46 AM, Samantha Dravis Ex. 6 - Personal Privacy wrote:

> This guy has been on me for months, I think it would be a nice gesture and you can take your little ones to Disney World!
>
> Sent from my iPhone
>
> On Mar 28, 2017, at 7:42 AM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>
>> I entirely defer to you.
>>
>> Ryan Jackson
>> Chief of Staff
>> U.S. EPA
>> Ex. 6 - Personal Privacy
>>
>> On Mar 28, 2017, at 7:41 AM, Mandy Gunasekara Ex. 6 - Personal Privacy wrote:
>>
>>> I'd be happy to and my schedule allows.
>>>
>>> Sent from my iPhone
>>>
>>> On Mar 27, 2017, at 8:47 AM, Samantha Dravis Ex. 6 - Personal Privacy wrote:
>>>
>>>> I think this is one Mandy could speak at?
>>>>
>>>> We had to decline the Administrator speaking. Let me know Mandy your thoughts.

Begin forwarded message:

From: "Riddle, Ken" <Ken.Riddle@lakelandgov.net>
Date: March 27, 2017 at 8:44:04 AM EDT
To: Samantha Dravis Ex. 6 - Personal Privacy
Cc: "Bombard, Tory" <Tory.Bombard@lakelandgov.net>
Subject: Invitation to Eastern Fuel Buyers Conference

Samantha,

The 2017 Eastern Fuel Buyers Conference will be held Wednesday, May 3 through Friday, May 5, 2017 at Disney's Yacht Club Resort. Could we interest you in attending to give us the new EPA view of things going forward? We as an industry have been outcasts banished to the wilderness for many years. Our legitimate concerns on costs and damage to electrical grid reliability were ignored. Funds that were desperately needed for infrastructure upgrades were instead shifted to additional engineering studies and construction of more and more environmental control equipment, frequently for no real additional environmental improvement.

I have copied Tory on this request. She is on the board of the conference.

Here is the link to the conference website.
https://www.eastfuelconf.com/

Below is the Chamber of Commerce speech.

The Eastern Fuel Buyers Conference is North America's premier coal industry event. Typical attendees at the conference consist

of industry leaders who gather to share their ideas and thoughts concerning all aspects of the coal industry. Past conference presentations have included current topics such as: coal supply, coal transportation, market updates, environmental issues impacting coal and coal contracting elements.

Ken Riddle

Supervisor of Chemical Processes

Lakeland Electric

3030 East Lake Parker Drive

Lakeland, FL 33805

(863)-834-5639 Office

(863)-660-3626 Mobile

<image001.jpg>

PUBLIC RECORDS NOTICE:

All e-mail sent to and received from the City of Lakeland, Florida, including e-mail addresses and content, are subject to the provisions of the Florida Public Records Law, Florida Statute Chapter 119, and may be subject to disclosure.

To: pam@okgop.com[pam@okgop.com]; Fugh, Justina[Fugh.Justina@epa.gov]
From: Jackson, Ryan
Sent: Tue 4/25/2017 11:50:07 PM
Subject: FW: gala invite [WARNING: SPF validation failed]

No, this is not consistent with ethics rules.

He may only attend the event and cannot raise money for the party nor can invitations for the event include solicitations for money. I've cc'd EPA's senior ethics counsel who can discuss what can appear but the Party must withdraw publicly the previous information and invitations.

1) The Administrator cannot, in his official capacity, attend the event. He can go in his personal capacity, as E. Scott Pruitt, former AG of Oklahoma, but not as the EPA Administrator. The campaign cannot refer to him by his EPA title (though they can call him the Honorable Scott Pruitt), and they can't use his name in connection with any fundraising or promotion.

2) EPA has to review the flyers.

3) He can speak about the candidate and urge support, but he absolutely cannot ask people to give money to the campaign.

4) The security detail can still go with him (they protect him 24/7, no matter what), but EPA cannot pay for the Administrator's travel expenses. Instead, the campaign must pay which I appreciate the party offering to do prior to the invitation being issued.

I'm available at 2 Ex. 6 - Personal Privacy nd Justina will be available tomorrow to square this away.

From: Pam Pollard [mailto:pam@okgop.com]
Sent: Tuesday, April 25, 2017 6:34 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>

Subject: Fwd: gala invite [WARNING: SPF validation failed]

Can we use this and in the text body say Scott Pruitt will be the keynote speaker and will receive the Ronald Reagan Leadership Award?

Pam Pollard, Chairman

Oklahoma Republican Party

405.420.8154

Sent from my iphone

OKGOP

Annual
Oklahoma Republican Party Gala

CELEBRATE OKLAHOMA!

Friday, May 5th, 2017
VIP Reception 6 PM
Dinner 7 PM

First Moore Baptist Church
301 NE 27th St, Moore, OK 73160

VIP Reception $50 | Dinner $100

Sponsorship Levels
Gold - $5,000
Silver - $3,000
Bronze - $2,000

To: Marshallhellis Ex. 6 - Personal Privacy
From: Jackson, Ryan
Sent: Sat 6/17/2017 12:44:11 PM

Marshall, it was a real pleasure to meet you. I appreciate you coming up. Could I ask one more item from you. Could I get a writing sample? Simply email to this address.

Thanks again for coming in and for your interest.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

To: John Di Stasio[John@lppc.org]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Dominguez, Alexander[dominguez.alexander@epa.gov]
Cc: Patrick Currier[currier@s2cpacific.com]; Missy Mandell [Ex. 6 - Personal Privacy]
From: Jackson, Ryan
Sent: Wed 6/7/2017 1:27:18 PM
Subject: RE: introduction

Yes, you're more than welcome.

From: John Di Stasio [mailto:John@lppc.org]
Sent: Wednesday, June 7, 2017 8:20 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Patrick Currier <currier@s2cpacific.com>; Jackson, Ryan <jackson.ryan@epa.gov>; Missy Mandell [Ex. 6 - Personal Privacy]
Subject: Re: introduction

Mandy

Is it possible for me to participate as well? My schedule will now allow it

Thanks

John

John Di Stasio

President, Large Public Power Council

1050 Thomas Jefferson St, 5th Floor

Washington, DC 20007

202-298-3723 office

916-870-3563 cell

john@lppc.org

www.LPPC.org

On Jun 5, 2017, at 10:01 AM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

Great – thank you.

From: John Di Stasio [mailto:John@lppc.org]
Sent: Monday, June 5, 2017 9:47 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Patrick Currier <currier@s2cpacific.com>; Jackson, Ryan <jackson.ryan@epa.gov>; Missy Mandell **Ex. 6 - Personal Privacy**
Subject: Re: introduction

Mandy

Here you go:

Mark Bonsall, CEO, Salt River Project, Phoenix, LPPC Board Chair

Phil Wilson, CEO, Lower Colorado River Authority, Austin, TX

Steve Wright, CEO, Chelan PUD, Wenatchee, WA

Kevin Nordt, CEO, Grant PUD, Ephrata, WA

And here are their e-mails:

: Bonsall Mark B <Mark.Bonsall@srpnet.com>, "Phil.Wilson@LCRA.ORG" <Phil.Wilson@LCRA.ORG>, "Wright, Steve" <Steve.Wright@chelanpud.org>, Kevin Nordt <Knordt@gcpud.org>

Please let me know if you need anything else.

Thank you

John

John Di Stasio

President, Large Public Power Council

1050 Thomas Jefferson St, 5th Floor

Washington, DC 20007

202-298-3723 office

916-870-3563 cell

john@lppc.org

www.LPPC.org

On Jun 2, 2017, at 4:48 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

Hey John,

Thank you for your help. Can you send us their email addresses?

Sent from my iPhone

On Jun 1, 2017, at 2:11 PM, John Di Stasio <John@lppc.org> wrote:

Hi Mandy

Thanks again for the invitation for LPPC to participate. We have two CEOs

committed and awaiting answers from two others.

Those interested include:

Mark Bonsall, CEO Salt River Project, Phoenix, AZ (Current LPPC Board Chair)

Phil Wilson, CEO Lower Colorado River Authority, Austin, TX

I will update you when I get the final word from the others.

Thank you

John

John Di Stasio

President, Large Public Power Council

1050 Thomas Jefferson St, 5th Floor

Washington, DC 20007

202-298-3723 office

916-870-3563 cell

john@lppc.org

www.LPPC.org

On May 31, 2017, at 10:42 AM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

Thank you, Patrick.

John,

Nice to e-meet you. I'm setting up a roundtable with top utility CEOs and the Administrator on June 19th from 1 to 3 pm at EPA HQ. The purpose is to discuss next steps on CPP replacement with key stakeholders. Our current list of tentative attendees is listed below. We'd love to add some of your LPPC members. Please let me know who would be a good candidate to participate and is available as soon as possible.

Also, feel free to give me a call to discuss further. 202-564-2314.

Best,

Mandy

Confirmed:

Nick Akins, AEP

Gerry Anderson, DTE

Warner Baxter, Ameren

Pat Vincent-Collawn, PNM

Chris Crane, Exelon

Leo Denault, Entergy

Tom Farrell, Dominion

Ben Fowke, Xcel

Lynn Good, Duke

Sean Trauschke, OGE

Invited:

Southern Co.

First Energy

NRECA (top 3 to 5)

Basin

TRI-State

APPA (top 3 to 5)

TVA

LGE-KU

LPPC (top 3 to 5)

Vistra - Luminant

From: Patrick Currier [mailto:currier@s2cpacific.com]
Sent: Wednesday, May 31, 2017 10:29 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; John Di Stasio <john@lppc.org>
Subject: introduction

Mandy and John,

Wanted to connect you guys. Mandy, meet John Di Stasio, president of the Large Public Power Council and long-time friend and mentor of mine. John, meet Mandy Gunasekara, current senior policy advisor to Administrator Pruitt and all around superstar.

Best,
Patrick

Patrick T. Currier

Partner | S2C Pacific

8730 Wilshire Blvd., Ste. 350 | Beverly Hills, CA | 90211

+1.310.596.5415 | currier@s2cpacific.com

www.s2cpacific.com

To: Leo Jardot[leo.jardot@align-strategies.com]
From: Jackson, Ryan
Sent: Tue 4/25/2017 3:45:25 PM
Subject: Re: Path to Meeting with the Administrator

I'll have to talk with you on this.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Apr 25, 2017, at 11:14 AM, Leo Jardot <leo.jardot@align-strategies.com> wrote:

Can we find a pathway to securing a meeting between Will Baker, President of the Chesapeake Bay Foundation and the Administrator in the next month?

Leo Jardot

Alignment Government Strategies

601 Pennsylvania Ave., NW | South Building, Suite 430

Washington, DC 20004

Leo.Jardot@align-strategies.com

T. 202.407.9747 | D. 202.517.1301

www.align-strategies.com

To: Chad Bradley[cbradley@sblstrategies.com]
From: Jackson, Ryan
Sent: Sat 6/17/2017 12:42:40 PM
Subject: Re: Dinner tomorrow night?

Thank I'm out of town this weekend but yeah Epa doesn't think round up causes cancer. There's no reliable evidence of that. OCSPP tells me that all the time. All chemicals under FIFRA go through a review every 15 years and that's all that's happening on EPA's end but there is that European finding which we discount.

_____
Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

> On Jun 16, 2017, at 11:41 PM, Chad Bradley <cbradley@sblstrategies.com> wrote:
>
> you want to come to dinner tomorrow night? Looking like Mike Catanzaro, Frank Fannon, Louis, Me and you if you can come.
>
> place TBD.
>
>
>> On Jun 16, 2017, at 7:29 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>>
>> Ok. Thanks.
>>
>> _____
>> Ryan Jackson
>> Chief of Staff
>> U.S. EPA
>> Ex. 6 - Personal Privacy
>>
>>> On Jun 16, 2017, at 7:19 PM, Chad Bradley <cbradley@sblstrategies.com> wrote:
>>>
>>> Amy mentioned it last night and we were curious. Let us know when it happens.
>>>
>>> Sent from my iPhone
>>>
>>>> On Jun 16, 2017, at 7:10 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>>>>
>>>> No, I haven't yet.
>>>>
>>>> _____
>>>> Ryan Jackson
>>>> Chief of Staff
>>>> U.S. EPA
>>>> Ex. 6 - Personal Privacy
>>>>
>>>>> On Jun 16, 2017, at 6:39 PM, Chad Bradley <cbradley@sblstrategies.com> wrote:
>>>>>
>>>>> thank you. Did you get engaged?
>>>>>
>>>>>> On Jun 16, 2017, at 6:34 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>>>>>>

>>>>>> Staff meeting is most appropriate. No one is meeting with Pruitt Monday regarding Westlake but we do have a meeting with a large group of NGO organizations.
>>>>>>
>>>>>> _____
>>>>>> Ryan Jackson
>>>>>> Chief of Staff
>>>>>> U.S. EPA
>>>>> Ex. 6 - Personal Privacy
>>>>>
>>>>>>> On Jun 16, 2017, at 12:14 PM, Chad Bradley <cbradley@sblstrategies.com> wrote:
>>>>>>>
>>>>>>> Rumor is that Just Moms from Missouri is meeting with Pruitt on Monday re: Westlake. Any chance Exelon and Republic could meet with him too? We are scheduling a meeting with Kell the week of July 10th. Just wanted your advice.
>>>>>>>
>>>>>>> Chad
>>>>>>>
>>>>>
>

To: Henry Darwin Ex. 6 - Personal Privacy
From: Jackson, Ryan
Sent: Wed 6/7/2017 4:06:52 AM
Subject: Re: Immediate Action Required: Report for Fingerprinting

That's fine. I want to ensure you are ok with an announcement at the appropriate time. I seems like the closer we get to the time the better.

On the reorganization side, let's set up a time next week so you know where we are and why our timeline is. Per the executive order we have to submit a reorganization plan by the end of September for public comment. But we are also moving forward with ideas internally and with a few other departments to streamline joint work. I think it's necessary to plug you into that as soon as possible.

Thanks again.

Ryan.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Jun 6, 2017, at 4:32 PM, Henry Darwin Ex. 6 - Personal Privacy wrote:

> Thanks Ryan. Looking forward to a discussion about the reorganization plans. I have a few ideas that could make our process improvement journey easier. As for the start date, I was hoping to push it back just one week to July 10. I have a few issues here that I need to wrap up, and figured I wouldn't be able to get much done the 4th of July week anyways. I hope that's OK.
> What are your plans for an announcement? I would like to let the Governor and and my colleagues know, but don't want to get out in front of your plans if you have any. I usually shy away from publicity, but I really think my background and the what Administrator is bringing me on to do could benefit the agency and what we plan to accomplish.
>
> Thanks
>
> Henry
>
> On Fri, Jun 2, 2017 at 4:37 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>
>> I'm looking forward to it as well. Is July 3 still good? We received the routine but important final word from Presidential Personnel about your approval a couple of days ago so there's literally no more process involved here. We are ready to have you start. I appreciate the offer on working in advance. What I may do is have a call with

you with Byron Brown to bring you up to speed on what we've been doing reorganization-wise so you know what generally we have to submit to OMB by the end of June. However, that's a very preliminary report on how we gather information. I'm eager to bring you up to speed on timelines for reorganization requirements. We do have some end of summer deadlines which will require some meetings with the Administrator and your expertise on how to best conduct this.

Looking forward to it.

Ryan.

From: Henry Darwin Ex. 6 - Personal Privacy
Sent: Thursday, June 1, 2017 3:52 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>

Subject: Re: Immediate Action Required: Report for Fingerprinting

Hey Ryan. Just checking in. Wanted to let you know that I'm still really excited about joining the team. Is there anything you'd like for me to be working on in advance? Nothing confidential of course, but wanted to let you know that I'm willing.

I hope all is well.

Henry

On Sat, May 20, 2017 at 1:54 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

Perfect. Let's work toward that.

Much appreciated and looking forward to this.

From: Henry Darwin Ex. 6 - Personal Privacy
Sent: Friday, May 19, 2017 5:19 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Munoz, Charles <munoz.charles@epa.gov>
Subject: Re: Immediate Action Required: Report for Fingerprinting

I know you are as anxious as I am to get to work, but I have a lot to wrap up here both professionally and personally. How about July 3?

Thanks

Henry

On Fri, May 19, 2017 at 2:07 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

> Which raises an important question. When do you think you can start?
>
> Ryan Jackson
>
> Chief of Staff
>
> U.S. EPA
>
> Ex. 6 - Personal Privacy
>
> On May 19, 2017, at 4:47 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>
>> Of course. I think this is definitely something we can do when you arrive here. This is a routine thing and something I did after I arrived. Charles, can you help clear this up?
>>
>> Ryan Jackson

Chief of Staff

U.S. EPA

Ex. 6 - Personal Privacy

On May 19, 2017, at 4:36 PM, Henry Darwin
Ex. 6 - Personal Privacy wrote:

Ryan:

Sorry to bother you with this, but I'm assuming this is something I can take care of when I arrive in D.C. If not, we are going to need to find another arrangement as the closest EPA badge office is over 300 miles from me.

Thanks

Henry

---------- Forwarded message ----------
From: <personnel_security@epa.gov>
Date: Fri, May 19, 2017 at 11:42 AM
Subject: Immediate Action Required: Report for Fingerprinting
To: Ex. 6 - Personal Privacy
Cc: BELLEROSE.WILLIAM@epa.gov, MYERS.KEVIN@epa.gov, LESPERANCE.TWANNA@epa.gov, GOLDRING.SHARQUITA@epa.gov

Dear HENRY R DARWIN:

Congratulations on your pending appointment to a position at the Environmental Protection Agency (EPA). To keep the appointment process moving ahead, you must **report to an EPA badge office immediately or as soon as possible** to be fingerprinted and

enrolled for an EPA badge. Your offer of employment is pending this action. Timeliness is essential because the EPA must receive favorable fingerprint results before you can be assigned a date to begin work. **Any delay in reporting to the badge office will affect your start date and jeopardize your ability to occupy the position**.

Homeland Security Presidential Directive 12 (HSPD-12) requires that all eligible personnel working for or on behalf of the federal government be issued a smart card identification badge, which at the EPA is called an EPA Personnel Access and Security System (EPASS) badge. An EPASS badge has been requested on your behalf.

Before the badge can be created for you, you must go through the federally mandated ID proofing and enrollment process, which takes 10 to 15 minutes. At the badge office, we will:

- **Ask to see two forms of identification.** At least one must be a valid, original, unexpired state or federal government-issued photo ID, such as a driver's license or passport. For acceptable IDs, please refer to the "Acceptable Identity Source Documents" page.
- Scan and verify your two forms of identification.
- Collect a set of your fingerprints, which will be used to check criminal history records of the Federal Bureau of Investigation (FBI). Please Note: Procedures for obtaining changes, corrections or updates to an FBI identification record are set forth in Title 28, CFR, 16.34.
- Take a photograph.

Remember, you cannot be assigned a start date until you have reported to an EPA badge office to be fingerprinted, and the EPA has received favorable fingerprint results.

The EPA has badge offices nationwide. You can visit any badge office to be fingerprinted. If the badge office recommended in this email is not near you, please find a convenient location on the list of EPA Badge Office Locations. If you need to schedule an appointment, or if you have questions about badge office locations or hours of operation, please call your area badge office at the

listed number.

Please visit an EPA badge office. In Washington D.C., go to the **William Jefferson Clinton Federal Building-East** (1201 Constitution Avenue NW, Washington, DC, near 12th Street), room B317 (basement), which is open **Monday through Thursday** from 8 a.m. to 4 p.m. and **Fridays** from 8 a.m. to 1 p.m. Closed Weekends and Federal Holidays. The phone number is (202) 564-2206.

For more information, call the person listed below:

- MYERS, KEVIN-2025641500

Please bring a copy of this email with you.

Sincerely,

The EPA Personnel Security Branch

To: Dourson, Michael (doursoml)[doursoml@ucmail.uc.edu]
From: Jackson, Ryan
Sent: Fri 4/14/2017 12:52:21 PM
Subject: Re: LCSA and IRIS

Thanks very much. I'll call this afternoon for sure. Some traveling with the Administrator got me way behind.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Apr 14, 2017, at 8:29 AM, Dourson, Michael (doursoml) <doursoml@ucmail.uc.edu> wrote:

Dear Mr. Jackson

I now have an out-of-office obligation from 9:30 to 11:30 today, but otherwise now available until 9:30 and from 11:30 to 3 pm. Contact information:

- Skype: mdourson
- 419-892-2502
- 513 543 2892 (CELL)

Over the weekend, you can generally call at any time other than Sunday morning at 419-892-2502.

Cheers!

Michael

— Risk Science Center (formerly TERA Center) sponsors the International Toxicity Estimates for Risk (ITER) database of risk assessment values on Toxnet: http://toxnet.nlm.nih.gov/

<7593F5DA-73B2-4FC3-8657-58C18E332CA2[4].png>

From: Michael Dourson <doursoml@ucmail.uc.edu>
Date: Wednesday, April 12, 2017 at 10:03 AM
To: "Jackson, Ryan" <jackson.ryan@epa.gov>
Subject: Re: LCSA and IRIS

Dear Mr. Jackson

I am still open today at noon to 3 pm, but perhaps we can forgo today. I am completely open tomorrow and Friday morning. A Skype call will work, or you can

get ahold of me at 419-892-2502.

Cheers!

Michael

-- If you can't explain it simply, you don't understand it well enough. Albert Einstein

Risk Science Center
Department of Environmental Health

From: "Jackson, Ryan" <jackson.ryan@epa.gov>
Date: Wednesday, April 12, 2017 at 9:44 AM
To: Michael Dourson <doursoml@ucmail.uc.edu>
Subject: Re: LCSA and IRIS

I'm now having to travel to ny with the Administrator this morning. I'll try calling you this afternoon or are there times tomorrow or Friday morning? I'm very eager to talk about our Chen office and our ORD office.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Apr 12, 2017, at 7:27 AM, Dourson, Michael (doursoml) <doursoml@ucmail.uc.edu> wrote:

Dear Mr. Jackson

Sorry, it is too early. I am available this morning until 9 am and then **from 10 to 11 am**. My afternoon is open from noon until 3 pm.

Cheers!

Michael

---Those who have the privilege to know, have the duty to act. Albert Einstein

<1584027B-5CC9-4173-A8A4-A56FD1D92D1B[9].png>

From: Michael Dourson <doursoml@ucmail.uc.edu>
Date: Wednesday, April 12, 2017 at 7:17 AM
To: "Jackson, Ryan" <jackson.ryan@epa.gov>
Subject: Re: LCSA and IRIS

Dear Mr. Jackson

My schedule has changed slightly today. I am still available this morning until 9 am and then from 11 am to noon. My afternoon is open from noon until 3 pm. My Skype handle is "mdourson." I will leave Skype open all day.

If Skype is not an option, then feel free to call me at 513 558-7949 during these times, or 513 543 2892 (CELL) after 3 pm.

Cheers!

Michael

--Alliance for Risk Assessment (ARA), building a risk assessment community
<763A5819-08E2-40B2-A0C3-4907F62C0EA4[5].png>

From: Michael Dourson <doursoml@ucmail.uc.edu>
Date: Sunday, April 9, 2017 at 5:38 PM
To: "Jackson, Ryan" <jackson.ryan@epa.gov>
Subject: Re: LCSA and IRIS

Dear Mr. Jackson

I appreciate your call and comments. I am completely open Wednesday afternoon, and between 8 and 9 am, and 10 to 11 am that same morning. Please feel free to pick a time that best suits you.

Cheers!

Michael...

...L. Dourson, Ph.D., DABT, FATS, FSRA
Professor
Risk Science Center (formerly TERA)
Department of Environmental Health
University of Cincinnati, College of Medicine
160 Panzeca Way
Cincinnati OH 45267-0056

michael.dourson@uc.edu
513-558-7949
419-892-2502 (Mondays)
http://eh.uc.edu/tera/

Risk Science Center

Department of Environmental Health

From: Michael Dourson <doursoml@ucmail.uc.edu>
Date: Sunday, April 9, 2017 at 3:33 PM
To: "Jackson, Ryan" <jackson.ryan@epa.gov>
Subject: LCSA and IRIS

Dear Mr. Jackson

I apologize that we missed each other last week. At the risk of being presumptuous, and perhaps in order to connect directly, please allow me to state my interest in possible senior EPA positions. If this was not your intent, well, then please feel free to disregard the rest of this email!

I spoke with a Bryan Zumwalt a few weeks ago about possible interest in the AA for either ORD or OCSPP. At the time I indicated to Bryan that my interest lay more with ORD, since I am familiar with this group (having worked there for 15 years) and since the AA of ORD is also the scientific advisor to Administrator Pruitt. Upon reflection, however, and especially because the proposed budget cuts in ORD eliminate IRIS, it seems now that a better fit with my background is OCSPP. Eliminating IRIS will cause EPA enormous heartburn, but this can be mollified by folding the appropriate work of IRIS into the LCSA activity, and someone certified in toxicology and internationally recognized in risk assessment, might make a good leader for this combined effort.

Please feel free to call or email at your convenience. I will be in my University of Cincinnati, College of Medicine office Monday through Wednesday of this week (513 558-7949, day or 513 542-8940, evening) and then going home for the Easter holiday (419-892-2502). My cell, 513 543 2892, is another possibility, but this is hit or miss as demonstrated last Tuesday evening when you called during my soccer game.

Cheers!

Michael

---*Those who have the privilege to know, have the duty to act. Albert Einstein*

<B7CF5964-F6F9-4379-AEC4-C51AD30C0907.png>

<763A5819-08E2-40B2-A0C3-4907F62C0EA4[5].png>

<B7CF5964-F6F9-4379-AEC4-C51AD30C0907.png>

<B7CF5964-F6F9-4379-AEC4-C51AD30C0907.png>

<B8CA6E2C-D58A-4EF9-9ED9-D45C4B739092[15].png>

Risk Science Center

Department of Environmental Health

To: Mike Keegan[keegan@ruralwater.org]
Cc: Bob Freudenthal - TN[BobFreudenthal@taud.org]; Daniel Wilson - NC[danielwilson@ncrwa.com]; Earl McKinney - WY[emckinney@daleweaver.us]; Gary Williams - FL[Gary.Williams@frwa.net]; George Crum[gcrum@prwa.com]; George Crum - PA (georgecrum0@hotmail.com)[georgecrum0@hotmail.com]; George Hanson - MD[gm-crwc@comcast.net]; James Gammill (jgammill.orwa@gmail.com)[jgammill.orwa@gmail.com]; Jana Littlewood - AK[jana_littlewood@awps.com]; Jill Miller - SC[Jill@scrwa.org]; Jim Mackie - NJ[jamesjmackie@comcast.net]; John Sasur - MA[jsasur@hotmail.com]; Matt Holmes - NRWA[Matt@nrwa.org]; Paul Fulgham (GMAIL)[pcfulgham@gmail.com]; Randy Pleima - IA[h2opleima@mahaska.org]; Sam Wade[sam@nrwa.org]; steve@netwitz.net[steve@netwitz.net]; Tom Goulette - NE[tfgoulette@cableone.net]; Wilmer Melton - NC (wmelton@kannapolisnc.gov)[wmelton@kannapolisnc.gov]; Paul Fulgham[pfulgham@tremontoncity.com]; gravett.peter@epa.gov[gravett.peter@epa.gov]; jseago.orwa@gmail.com[jseago.orwa@gmail.com]
From: Jackson, Ryan
Sent: Mon 3/27/2017 11:14:21 PM
Subject: RE: Conference Call

Mr. Jackson?

You've known me for years.

From: Mike Keegan [mailto:keegan@ruralwater.org]
Sent: Monday, March 27, 2017 6:16 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Bob Freudenthal - TN <BobFreudenthal@taud.org>; Daniel Wilson - NC <danielwilson@ncrwa.com>; Earl McKinney - WY <emckinney@daleweaver.us>; Gary Williams - FL <Gary.Williams@frwa.net>; George Crum <gcrum@prwa.com>; George Crum - PA (georgecrum0@hotmail.com) <georgecrum0@hotmail.com>; George Hanson - MD <gm-crwc@comcast.net>; James Gammill (jgammill.orwa@gmail.com) <jgammill.orwa@gmail.com>; Jana Littlewood - AK <jana_littlewood@awps.com>; Jill Miller - SC <Jill@scrwa.org>; Jim Mackie - NJ <jamesjmackie@comcast.net>; John Sasur - MA <jsasur@hotmail.com>; Matt Holmes - NRWA <Matt@nrwa.org>; Paul Fulgham (GMAIL) <pcfulgham@gmail.com>; Randy Pleima - IA <h2opleima@mahaska.org>; Sam Wade <sam@nrwa.org>; steve@netwitz.net; Tom Goulette - NE <tfgoulette@cableone.net>; Wilmer Melton - NC (wmelton@kannapolisnc.gov) <wmelton@kannapolisnc.gov>; Paul Fulgham <pfulgham@tremontoncity.com>; gravett.peter@epa.gov; jseago.orwa@gmail.com
Subject: Re: Conference Call

Dear Mr. Jackson, please find attached an electronic copy of the National Rural Water Association's (NRWA) letter to the Administrator recommending two Environmental Protection Agency regulations that should be candidates for regulatory reform under the President's January 30, 2017, "Presidential Executive Order on Reducing Regulation and Controlling Regulatory Costs."

Thank you for your consideration and please contact me if I can be of any assistance,

Mike Keegan, *Analyst*

National Rural Water Association

Duncan, Oklahoma

cc: Dr. Peter Grevatt

NRWA Regulatory Committee

Senator Roger Wicker

To: Lincoln Ferguson Ex. 6 - Personal Privacy
Cc: Hupp, Sydney[hupp.sydney@epa.gov]
From: Jackson, Ryan
Sent: Tue 4/25/2017 9:14:23 AM
Subject: Re: Administrator Pruitt

It's the first I'm hearing of it. What's the event and where?

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Apr 24, 2017, at 7:48 PM, Lincoln Ferguson Ex. 6 - Personal Privacy wrote:

FYI...see below. Let me know either wat

Sent from my iPhone

Begin forwarded message:

From: "Michael C. Turpen" <MTurpen@riggsabney.com>
Date: April 24, 2017 at 5:28:57 PM EDT
To: Lincoln Ferguson Ex. 6 - Personal Privacy
Subject: Fw: Administrator Pruitt

YES OR NO? Please advise Lincoln???!!! Perfect opportunity; all systems GO; mt
.
Original Message
From: Villafranco, John <JVillafranco@KelleyDrye.com>
Sent: Monday, April 24, 2017 4:24 PM
To: Michael C. Turpen
Subject: RE: Administrator Pruitt

Mike

Checking in to get a sense of whether there are any developments with the Administrator. We are nine days out, and I am holding the prime slot for him. As indicated, we would be delighted to have him open the conference with you doing the intro.

Thanks for your efforts here. I know this is not an easy ask.

John

JOHN E. VILLAFRANCO
Partner
Kelley Drye & Warren LLP
Tel: (202) 342-8423
Cell: (202) 409-9433
jvillafranco@kelleydrye.com

-----Original Message-----
From: Villafranco, John
Sent: Thursday, April 20, 2017 7:09 PM
To: Michael C. Turpen <MTurpen@riggsabney.com>
Subject: Re: Administrator Pruitt

The intro is all yours. Fingers crossed. Thanks Mike!

On Apr 20, 2017, at 6:59 PM, Michael C. Turpen <MTurpen@riggsabney.com> wrote:

John: Our request is still alive and well; I should know tomorrow; I

promised Scott that I would be there to introduce him or you or just

in the mix; you get the idea; thanks John; I will keep you advised; mt

Original Message

From: Villafranco, John

Sent: Thursday, April 20, 2017 2:52 PM

To: Michael C. Turpen

Cc: Norris Keri C

Subject: Administrator Pruitt

Mike

Sorry to pester you about the Administrator Pruitt invite. I wanted to let you know that we can offer him the featured speaker slot (keynote) -- first speaker of the day. Again, thank you for your help in trying to lock this down. We now have more than 200 registered and are expecting 300. I believe it presents a great opportunity for the EPA Administrator.

Here is the latest list of companies that will be in attendance:

AAPA

ACT | The App Association

Affinity Networks, Inc.

Airlines for America

Albemarle Corporation

Alcoa

Alliance Data

Amcham Finland

American Action Forum

American Association of Exporters and Importers American Bakers

Association American Honey Producers Association American Iron and

Steel Institute AOL Inc.

Arc Aspicio

Armstrong

Army & Air Force Exchange Service

Assist Wireless

Association of Fish and Wildlife Agencies Atrium Innovations Baker

Hughes Blum & Co., Inc.

Boomerang Wireless

BP America

BT

Burtschi Government Relations

Calgon Carbon Corporation

Cardinal Infrastructure

Cargill, Incorporated

Caterpillar Global Tax and Trade

CCIA

CGM, LLC

Chesapeake Legal Alliance

Chobani, LLC

Cincinnati Bell

Citizens For A Just Society (CJS)

CleanChoice Energy

Colfax Corporation

Committee to Support U.S. Trade Laws

Consultant

Council of Better Business Bureaus - Advertising Self-Regulatory

Council Council for Responsible Nutrition Delegation of the European

Union Dell Financial Services Deloitte Tax LLP Dewberry DT, Inc.

Embassy of Spain

Encana Oil & Gas (USA) Inc.

Energy Intelligence

Erickson Immigration Group PC

Evraz

Exarinc

ExxonMobil Corporation

FCA US LLC

FCC

Feld Entertainment

First Communications, LLC

Future of Privacy Forum

Gentle Monster

Gerber Childrenswear

Gerdau Long Steel North America

Global Footwear Partnerships LLC

Global Communicators, LLC

Global Connection

GMA

Golden State Foods

Graf Advisors

Greenworks Tools

Halliburton

Harvest Honey Inc.

Hawaiian Airlines

HDR, Inc.

Herbalife

Heyco Metals Inc

HH Ventures

HKA

Humanscale

ICSC

Idaho Timber

IDEX Corporation

Infineon Technologies

Inspirion Biosciences

Integra Telecom

Iovate

Jackson Energy Authority

JC Watts

Juice Products Association

Karen Gantz Literary Mgt

Keurig Green Mountain

Kingdom of Bahrain

Kleimann Communication Group

Kordsa

LegalShield

Logix

ManattJones Global Strategies

Mars, Inc.

Maxon Precision Motors

Medtronic

McCormick & Company

Medical Forefronts Management Solutions Michael Kors MOAA MSCI Myriad

Genetic Laboratories NAHB Nashville Wire Products National Association

of Manufacturers National Basketball Association National

Confectioners Association National Federation of Independent Business

Neenah Foundry Nestle Health Science Nestle Nutrition New Lease

Capital NobelBiz Pearson Pearson Wilcox Advocacy Polaris Industries

Policy Connections International LLC PPG Public Knowledge Quincy

Bioscience Sage Communications Samsung Electronics America SC Johnson

Serco SKDK Sony Corp. of America Sprint SSAB Americas SSW Holding

Company, Inc.

Steel Manufacturers Association

Stove Boat Communications

Sulzer USA Inc.

Superlative Technologies, Inc. (SuprTEK) Tesla Textron Inc.

The Boeing Company

The Aluminum Association

Toray

TracFone

Umicore

U.S. Chamber of Commerce

USAC

USCC

USFIA

Vista Outdoor

VMA

W.H. Nuckols Consulting

Walgreen Co.

Windstream

WOW Internet, Cable and Phone

Zalco Realty, Inc.

Thanks again Mike.

John

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Michael C. Turpen

Shareholder

Riggs, Abney, Neal, Turpen, Orbison & Lewis, PC

Tel: 405-843-9909

Fax: 405-842-2913

Email: MTurpen@riggsabney.com

528 NW 12TH ST, OKLAHOMA CITY, OKLAHOMA, 73103-2407

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To: Marc Himmelstein[Marc_Himmelstein@nes-dc.com]
Cc: Michael Catanzaro EOP/Ex. 6 Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Jackson, Ryan
Sent: Sat 6/17/2017 12:05:24 AM
Subject: Re: meeting

Yes. We'll get this on the books.

Working on UNITA

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

> On Jun 15, 2017, at 3:36 PM, Marc Himmelstein <Marc_Himmelstein@nes-dc.com> wrote:
>
> Shane Schulz of QEP will be in town on June 27 and 28
> Is it possible to schedule time either of those days
> Thanks
>
> Sent from my iPad
>
>> On Jun 14, 2017, at 1:45 PM, "Jackson, Ryan" <jackson.ryan@epa.gov> wrote:
>>
>> Yes.
>>
>> -----Original Message-----
>> From: Marc Himmelstein [mailto:Marc_Himmelstein@nes-dc.com]
>> Sent: Wednesday, June 14, 2017 12:14 PM
>> To: Jackson, Ryan <jackson.ryan@epa.gov>
>> Cc: Michael Catanzaro EOP/Ex. 6
>> Subject: meeting
>>
>> Is it possible to set up a meeting with you and Mandy with QEP Recall that the Administrator at AXPC suggested that he wanted to meet-it is not necessary to include him Appreciate your help Thx
>>
>> Sent from my iPad

To: Desmarie Waterhouse[dwaterhouse@publicpower.org]
Cc: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Michael.J.Catanzaro@who.eop.gov[EOP/Ex. 6 Schwab, Justin[schwab.justin@epa.gov]; Hupp, Sydney[hupp.sydney@epa.gov]; Dominguez, Alexander[dominguez.alexander@epa.gov]
From: Jackson, Ryan
Sent: Tue 6/6/2017 10:03:45 PM
Subject: Re: Public power CEO

Thank you.

_____
Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Jun 6, 2017, at 5:21 PM, Desmarie Waterhouse <dwaterhouse@publicpower.org> wrote:

Ryan:

I just heard back from one of our CEOs that can attend. Tom Heller, the President and CEO of Missouri River Energy Services (MRES), a joint action agency that serves 60 public power utilities in four states (ND, SD, MN, and IA) is available to attend the meeting. He will come to D.C. and miss our National Conference to be at the roundtable.

Please let me know what the next steps are – should I send you his contact info or is there info I should relay to him about the meeting?

Thanks so much.

Des

Desmarie M. Waterhouse

Vice President of Government Relations & Counsel

American Public Power Association

2451 Crystal Dr., Ste. 1000

Arlington, VA 22202

202-467-2930 (w)

703-665-9182 (c)

To: Millan Hupp[Ex. 6 - Personal Privacy
Cc: Bennett, Tate[Bennett.Tate@epa.gov]
From: Jackson, Ryan
Sent: Thur 4/13/2017 11:51:42 AM
Subject: Re: Ashcroft in MO

Yes we want to fit this in. Tate and Millan can amend the schedule.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

> On Apr 12, 2017, at 10:59 PM, Millan Hup[Ex. 6 - Personal Privacy wrote:
>
> Sec. Ashcroft wants a few minutes with ESP when we are in MO next week. Schedule is super tight so he would have to join us for festivities at the the electric facility.
>
> He reached out to Crystal with this request. I don't know the relationship so before we tried to to fit into the agenda, we wanted to run by you.
>
> Good to try to schedule?
>
> Millan Hupp
>

To: Terry Allen[tallen@fidelisgr.com]
From: Jackson, Ryan
Sent: Mon 3/27/2017 2:51:47 PM
Subject: RE: Congrats

Thank you Terry. Good to hear from you and I sure will.

-----Original Message-----
From: Terry Allen [mailto:tallen@fidelisgr.com]
Sent: Monday, March 27, 2017 10:38 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Congrats

Hey Ryan, Terry Allen here, congratulations on the new job.
I didn't know if you knew this, but I ran Scott's first campaign for A.G. back in Oklahoma in 2010. You are working for one fine man. (Scott and I worked pretty closely together for about a year during that race.
Feel free to call anytime if you want to discuss anything. If I can help you in anyway, let me know).
I don't have any EPA related clients yet, but several folks have reached out to me to inquire about my interest in helping them, so I may have some in the near future.
Hope you're well in what must be a very hectic season. Best to you!
Again, let me know if I can ever help.
Terry

Terry Allen
President
Fidelis Government Relations
Washington, DC
202 271 0233

From: Jackson, Ryan
Location: Trump Hotel BLT. 630. Rez under Garrison
Importance: Normal
Subject: Accepted: Dinner. Ryan Jackson. Jim Proctor. Jessica Garrison. ❑ ❑ ❑
Start Date/Time: Tue 4/25/2017 10:30:00 PM
End Date/Time: Tue 4/25/2017 11:30:00 PM

To: Chad Bradley[cbradley@sblstrategies.com]
From: Jackson, Ryan
Sent: Fri 6/16/2017 11:29:26 PM
Subject: Re: Quick question...

Ok. Thanks.

_____
Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

> On Jun 16, 2017, at 7:19 PM, Chad Bradley <cbradley@sblstrategies.com> wrote:
>
> Amy mentioned it last night and we were curious. Let us know when it happens.
>
> Sent from my iPhone
>
>> On Jun 16, 2017, at 7:10 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>>
>> No, I haven't yet.
>>
>> _____
>> Ryan Jackson
>> Chief of Staff
>> U.S. EPA
> Ex. 6 - Personal Privacy
>>
>>> On Jun 16, 2017, at 6:39 PM, Chad Bradley <cbradley@sblstrategies.com> wrote:
>>>
>>> thank you. Did you get engaged?
>>>
>>>> On Jun 16, 2017, at 6:34 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>>>>
>>>> Staff meeting is most appropriate. No one is meeting with Pruitt Monday regarding Westlake but we do have a meeting with a large group of NGO organizations.
>>>>
>>>> _____
>>>> Ryan Jackson
>>>> Chief of Staff
>>>> U.S. EPA
>>>> Ex. 6 - Personal Privacy
>>>>
>>>>> On Jun 16, 2017, at 12:14 PM, Chad Bradley <cbradley@sblstrategies.com> wrote:
>>>>>
>>>>> Rumor is that Just Moms from Missouri is meeting with Pruitt on Monday re: Westlake. Any chance Exelon and Republic could meet with him too? We are scheduling a meeting with Kell the week of July 10th. Just wanted your advice.
>>>>>
>>>>> Chad
>>>>>
>>>

To: Desmarie Waterhouse[dwaterhouse@publicpower.org]
Cc: Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Michael.J.Catanzaro@who.eop.go[EOP/Ex. 6] Schwab, Justin[schwab.justin@epa.gov]; Hupp, Sydney[hupp.sydney@epa.gov]
From: Jackson, Ryan
Sent: Tue 6/6/2017 9:10:08 PM
Subject: Re: Roundtable June 19

Thanks.

Ryan Jackson
Chief of Staff
U.S. EPA
[Ex. 6 - Personal Privacy]

On Jun 6, 2017, at 4:53 PM, Desmarie Waterhouse <dwaterhouse@publicpower.org> wrote:

Ryan:

APPA has its National Conference in Orlando on June 19. I have reached out to three CEOs to see if they can come to D.C. for the event. As soon as I confirm they can do it, I will follow back up with you. Sue Kelly, our CEO, will not be available given our event is at the same time.

Thanks for the invite. Will be back in touch soon.

Des

From: Jackson, Ryan [mailto:jackson.ryan@epa.gov]
Sent: Sunday, June 4, 2017 2:20 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Catanzaro, Michael J. EOP/WHO <[EOP/Ex. 6]; Schwab, Justin <schwab.justin@epa.gov>; Hupp, Sydney <hupp.sydney@epa.gov>
Subject: Roundtable June 19

All --

Thank you for your interest, participation, and your help in coordinating your trade association members' participation in the round table with US EPA Administrator Scott Pruitt to discuss a regulatory path forward for the utility sector. Having an open and robust dialogue with the regulated community is a foundational component of setting meaningful and balanced environmental standards. We look forward to learning more about your perspective as the utility sector not only powers our economic growth, but is also at the forefront of developing a more efficient and cleaner energy future.

The roundtable will start at 1 pm on June 19 at the US EPA headquarters in the Green Room in the Administrator's Suite. We will follow up with an official agenda in the coming days. We have received a number of RSVP's and appreciate that. Please confirm your attendance or the attendance of your trade association members by June 12. Should you have any questions, please email or call at Ex. 6 - Personal Privacy

Sincerely,

Ryan

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

Ex. 6 - Personal Privacy

To: Millan Hupp Ex. 6 - Personal Privacy
From: Jackson, Ryan
Sent: Thur 4/13/2017 3:32:13 AM
Subject: Re: Ashcroft in MO

John Ashcroft?

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

> On Apr 12, 2017, at 10:59 PM, Millan Hupp Ex. 6 - Personal Privacy wrote:
>
> Sec. Ashcroft wants a few minutes with ESP when we are in MO next week. Schedule is super tight so he would have to join us for festivities at the the electric facility.
>
> He reached out to Crystal with this request. I don't know the relationship so before we tried to to fit into the agenda, we wanted to run by you.
>
> Good to try to schedule?
>
> Millan Hupp
>

To: Garrison, Jessica[jgarrison@balch.com]
From: Jackson, Ryan
Sent: Mon 3/27/2017 10:23:54 AM
Subject: Re: Invitation: Energy Dinner & Discussion | Wednesday, March 29

Only one. Have to keep it simple.

Ryan Jackson
Chief of Staff
U.S. EPA

Ex. 6 - Personal Privacy

> On Mar 26, 2017, at 7:21 PM, Garrison, Jessica <jgarrison@balch.com> wrote:
>
> Ok – will put you down for dinner. If you don't make it lets plan to get together when you break free.
> So thinking Trey names goes in for R4 or do you submit multiple names for R4?
>
>
>
> Jessica M. Garrison, Of Counsel, Balch & Bingham LLP
> 1901 Sixth Avenue North • Suite 1500•Birmingham, AL 35203-4642
> t:(205) 226-3429f:(205) 488-5669e: jgarrison@balch.com
> www.balch.com
>
>
> ~~
>
>
> On 3/26/17, 6:08 PM, "Jackson, Ryan" <jackson.ryan@epa.gov> wrote:
>
> I'll try. He comes Tuesday. So Wednesday may be good, but if nothing else getting together thereafter will be good.
>
> I spoke to Trey this afternoon because Sundays is when I do interviews I guess. I'm getting names to the WH shortly. A few batches of RA's is what I'm thinking initially. I'd love to forward 2 to 3 next week.
>
>
>
> -----Original Message-----
> From: Garrison, Jessica [mailto:jgarrison@balch.com]
> Sent: Sunday, March 26, 2017 7:06 PM
> To: Jackson, Ryan <jackson.ryan@epa.gov>
> Subject: Fwd: Invitation: Energy Dinner & Discussion | Wednesday, March 29
>
> This is my dinner... it's right up your alley. Why don't you come to this if you can make it? When does the president come over to the office?
>
> Sent from my iPhone
>
>
> [[image]]
>
> Jessica M. Garrison, Of Counsel, Balch & Bingham LLP
> 1901 Sixth Avenue North * Suite 1500 * Birmingham, AL 35203-4642
> t: (205) 226-3429 f: (205) 488-5669 e: jgarrison@balch.com
> www.balch.com<http://www.balch.com>

>
>
>
> Begin forwarded message:
>
> From: Liz Roche <liz.roche@Storypartnersdc.com<mailto:liz.roche@Storypartnersdc.com>>
> Date: March 2, 2017 at 2:53:25 PM CST
> To: "jgarrison@balch.com<mailto:jgarrison@balch.com>"
<jgarrison@balch.com<mailto:jgarrison@balch.com>>
> Subject: Invitation: Energy Dinner & Discussion | Wednesday, March 29
>
> Hi Jessica-
>
> I wanted to personally invite you to a salon dinner Story Partners is hosting on Wednesday, March 29 from 6:30-8:30 p.m. The dinner and discussion will focus on proposed policies within the First 100 Days and how they will impact energy moving forward.
>
> These intimate quarterly dinners bring together Hill, industry and media influencers to discuss the future of energy, and the policies and regulations that could affect the growth of the industry. This seated dinner is 100 percent off-the-record and serves as a catalyst for future discussions-connecting the right people to move our energy policy forward.
>
> We've also worked with Lavagna to offer a family-style menu so that each person's bill will not exceed $50 (including food, drinks, tax, tip, etc).
>
> Best,
> Liz
>
> Liz Roche
> Assistant Vice President
> Liz.roche@storypartnersdc.com<mailto:Liz.roche@storypartnersdc.com>
> O: 202 706-7816 C: 256-466-5285
> @StoryPartners<https://twitter.com/StoryPartners>
>
>
> [cid:image002.jpg@01D2926E.19874900]
>
>
>
>
>
>
> _____
>
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>
>
>
>
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> ~~
>
>

To: Dimitri.Karakitsos@hklaw.com[Dimitri.Karakitsos@hklaw.com]
From: Jackson, Ryan
Sent: Mon 4/24/2017 7:03:06 PM
Subject: Re: RE:

Awesome. Good deal.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

> On Apr 24, 2017, at 1:57 PM, "Dimitri.Karakitsos@hklaw.com" <Dimitri.Karakitsos@hklaw.com> wrote:
>
> Don't have a formal agenda but hopefully this helps.
>
> Overarching theme is focusing on EPA following its guidance and the below list of suggestions. Want to focus on easy administrative fixes but also touch on continued work on long term solutions. Included in that is a desire to work on public/private partnership as well as give some real world examples of what has gone well and what hasn't at particular sites. Some of it is just educational to make sure (again using real world examples) why certain things the Agency has done is problematic and how to speed this process up significantly.
>
> • Performance-based objectives aligned with current EPA guidance and National Contingency Plan Regulation;
> • Requirement that the EPA Administrator review and approve remedies that are expected to exceed $100 million;
> • Increased emphasis on incremental remedies that are faster with a focus on hot spot removal and source control, while tracking natural recovery;
> • Realistic application of human and ecological risk methods to avoid compounding overly conservative assumptions that yield quixotic risk estimates and cleanup goals;
> • Clear and transparent assessment of regional background and cleanup goals; and
> • Sustainability assessment to evaluate social, environmental and economic impacts as a requirement of the remedy development and selection process.
>
>
> Dimitrios Karakitsos | Holland & Knight
> Partner
> Holland & Knight LLP
> 800 17th Street N.W., Suite 1100 | Washington DC 20006
> Phone 202.469.5132 | Fax 202.955.5564
> dimitri.karakitsos@hklaw.com | www.hklaw.com
> -----Original Message-----
> From: Jackson, Ryan [mailto:jackson.ryan@epa.gov]
> Sent: Monday, April 24, 2017 1:57 PM
> To: Karakitsos, Dimitrios J (WAS - X75132) <Dimitri.Karakitsos@hklaw.com>
> Subject:
>
> Did you guys have a draft agenda for the arow meeting I can take and work up? This is great.
>
> Ryan Jackson
> Chief of Staff
> U.S. EPA
Ex. 6 - Personal Privacy
>
> _____

>
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To: Leo Jardot[leo.jardot@align-strategies.com]
From: Jackson, Ryan
Sent: Fri 6/16/2017 11:10:22 PM
Subject: Re: Cap Grille

Good for him.

_____
Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

> On Jun 16, 2017, at 6:36 PM, Leo Jardot <leo.jardot@align-strategies.com> wrote:
>
> I think he was having lunch with family or friends.
>
> Leo Jardot
> Leo.Jardot@align-strategies.com
> 202-215-4874
>
>> On Jun 16, 2017, at 6:31 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>>
>> Good deal. He walked by in Capitol grille?
>>
>> _____
>> Ryan Jackson
>> Chief of Staff
>> U.S. EPA
>> Ex. 6 - Personal Privacy
>>
>>> On Jun 16, 2017, at 2:07 PM, Leo Jardot <leo.jardot@align-strategies.com> wrote:
>>>
>>> Uh oh. Sitting at bar at Cap Grille having late lunch & glass of wine & Administrator Pruitt walks by. Introduced myself as Pond Creek & ACYPL BD member!
>>>
>>> Sent from my iPhone

To: George D. Baker[gdbaker@wms-jen.com]
From: Jackson, Ryan
Sent: Tue 6/6/2017 3:21:39 PM
Subject: Re: RE:

We are just looking for an honest conversation.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Jun 6, 2017, at 10:47 AM, George D. Baker <gdbaker@wms-jen.com> wrote:

Understood. Sean had hoped to provide you a pre-brief as to where the utility group's recommendations were heading and to make sure the group was addressing the matters the Administrator wanted addressed in the June sit-down. That said, given the press of your schedule Sean will most certainly understand the situation. We will stand prepared to participate on the 19th. Great thanks. Go get 'em!

George Baker

-----Original Message-----
From: Jackson, Ryan [mailto:jackson.ryan@epa.gov]
Sent: Tuesday, June 06, 2017 10:01 AM
To: George D. Baker
Subject:

George, I have a ton of things going on with ensuring Pruitt is taken care of and planning for an overseas trip. Why is this call necessary? I appreciate him coming June 19. Let's roll with that.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

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message and any attachments. Thank you

To: ethompson@tu.org[ethompson@tu.org]
From: Jackson, Ryan
Sent: Wed 5/24/2017 2:47:56 AM

> Elizabeth, may I get a list of topics or agenda for the Administrator for the Trout Unlimited meeting? Thanks.
>
> _____
> Ryan Jackson
> Chief of Staff
> U.S. EPA

Ex. 6 - Personal Privacy

To: Conover, Dave[Dave_Conover@kindermorgan.com]
From: Jackson, Ryan
Sent: Tue 11/14/2017 1:33:11 AM

Dave, we got your meeting request which is in the works. Let me know if you don't hear back from us. Thanks.

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

Ex. 6 - Personal Privacy

To: Millan Hupp[Ex. 6 - Personal Privacy] Hupp, Sydney[hupp.sydney@epa.gov]
From: Jackson, Ryan
Sent: Wed 4/12/2017 4:41:04 PM

What's the deal on these flights?

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

To: Michael McKenna[mike@mwrstrat.com]
From: Jackson, Ryan
Sent: Mon 3/27/2017 1:13:35 AM
Subject: Re: RE:

Whichever. There's a lot of methane when we are together anyway.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Mar 26, 2017, at 8:04 PM, Michael McKenna <mike@mwrstrat.com> wrote:

Solo or with the methane crew?

Sent from my Verizon Wireless 4G LTE smartphone

-------- Original message --------
From: "Jackson, Ryan" <jackson.ryan@epa.gov>
Date: 03/26/2017 5:57 PM (GMT-05:00)
To: Michael McKenna <mike@mwrstrat.com>
Subject: RE:

I'm out of the water now. Up for air. Come in.

-----Original Message-----
From: Michael McKenna [mailto:mike@mwrstrat.com]
Sent: Monday, February 27, 2017 11:29 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject:

I have a group of folks who are part of a coalition designed to reduce methane emissions from natural gas pipelines and what not. They have worked with the agency for awhile.

they are in town tomorrow (the 28th).

can they visit with someone? Samantha? Schnare?

MM

To: Dimitri.Karakitsos@hklaw.com[Dimitri.Karakitsos@hklaw.com]
From: Jackson, Ryan
Sent: Mon 4/24/2017 7:02:26 PM
Subject: Re: RE:

Awesome.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

> On Apr 24, 2017, at 1:57 PM, "Dimitri.Karakitsos@hklaw.com" <Dimitri.Karakitsos@hklaw.com> wrote:
>
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>
> Overarching theme is focusing on EPA following its guidance and the below list of suggestions. Want to focus on easy administrative fixes but also touch on continued work on long term solutions. Included in that is a desire to work on public/private partnership as well as give some real world examples of what has gone well and what hasn't at particular sites. Some of it is just educational to make sure (again using real world examples) why certain things the Agency has done is problematic and how to speed this process up significantly.
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> • Increased emphasis on incremental remedies that are faster with a focus on hot spot removal and source control, while tracking natural recovery;
> • Realistic application of human and ecological risk methods to avoid compounding overly conservative assumptions that yield quixotic risk estimates and cleanup goals;
> • Clear and transparent assessment of regional background and cleanup goals; and
> • Sustainability assessment to evaluate social, environmental and economic impacts as a requirement of the remedy development and selection process.
>
>
> Dimitrios Karakitsos | Holland & Knight
> Partner
> Holland & Knight LLP
> 800 17th Street N.W., Suite 1100 | Washington DC 20006
> Phone 202.469.5132 | Fax 202.955.5564
> dimitri.karakitsos@hklaw.com | www.hklaw.com
> -----Original Message-----
> From: Jackson, Ryan [mailto:jackson.ryan@epa.gov]
> Sent: Monday, April 24, 2017 1:57 PM
> To: Karakitsos, Dimitrios J (WAS - X75132) <Dimitri.Karakitsos@hklaw.com>
> Subject:
>
> Did you guys have a draft agenda for the arow meeting I can take and work up? This is great.
>
> Ryan Jackson
> Chief of Staff
> U.S. EPA
Ex. 6 - Personal Privacy
> _____

>
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To: Chad Bradley[cbradley@sblstrategies.com]
From: Jackson, Ryan
Sent: Fri 6/16/2017 11:10:02 PM
Subject: Re: Quick question...

Personal Matters/Ex. 6

_____
Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

> On Jun 16, 2017, at 6:39 PM, Chad Bradley <cbradley@sblstrategies.com> wrote:
>
> thank you. **Personal Matters/Ex. 6**
>
>> On Jun 16, 2017, at 6:34 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>>
>> Staff meeting is most appropriate. No one is meeting with Pruitt Monday regarding Westlake but we do have a meeting with a large group of NGO organizations.
>>
>> _____
>> Ryan Jackson
>> Chief of Staff
>> U.S. EPA
Ex. 6 - Personal Privacy
>>
>>> On Jun 16, 2017, at 12:14 PM, Chad Bradley <cbradley@sblstrategies.com> wrote:
>>>
>>> Rumor is that Just Moms from Missouri is meeting with Pruitt on Monday re: Westlake. Any chance Exelon and Republic could meet with him too? We are scheduling a meeting with Kell the week of July 10th. Just wanted your advice.
>>>
>>> Chad
>>>
>

To: George D. Baker[gdbaker@wms-jen.com]
From: Jackson, Ryan
Sent: Wed 4/12/2017 3:03:00 PM
Subject: Re: invitation to dinner tonight [WARNING: DKIM validation failed]

In ny with admin. Thx

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Apr 12, 2017, at 10:40 AM, George D. Baker <gdbaker@wms-jen.com> wrote:

Ryan: I wanted to extend an offer to join us for cocktails/dinner tonight at 6:15 pm (or whenever convenient for you) just down the block from your office at the 701 Penn restaurant. In addition to Usha Turner of OG&E, I will have three other rather good folks with us:

--Jack McMackin, my partner here at W&J, who was involved on behalf of the Energy Intensive industry coalition in the litigation over EPA's global climate regs

--Pat McCormick, Senior Counsel for the Senate Energy Committee

--Mark Mills, Senior Fellow at the Manhattan Institute and served in the White House Science Office under President Reagan.

If you can join us even for a cocktail, you would be most welcome. Just let me know what to expect.

George Baker

Williams & Jensen

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To: Krenik, Edward[Edward.Krenik@bracewelllaw.com]
From: Jackson, Ryan
Sent: Mon 3/27/2017 1:10:21 AM
Subject: Re: Congrats, Ed Krenik, & Deputy Director of Intergovernmental Affairs

Good deal. Whenever you would like. Knowing you get me credibility chits here.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Mar 26, 2017, at 8:43 PM, Krenik, Edward <Edward.Krenik@bracewelllaw.com> wrote:

Ryan,

Christine would be a good addition to your team. I would put her as the Deputy for State affairs under OCIR.

Often a difficult position to fill. I think she would be good. You should meet her. Her enthusiasm is a lot and her brother is a state legislator.

BTW, need to come in to see you about an emissions standard. What works for you?

Ed

Sent from my Verizon, Samsung Galaxy smartphone

EDWARD KRENIK
Partner
Edward.Krenik@policyres.com
T: +1.202.828.5877 | F: +1.800.404.3970

BRACEWELL LLP
2001 M Street NW, Suite 900 | Washington, D.C. | 20036-3310
policyres.com | profile | download v-card

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-------- Original message --------
From: "Jackson, Ryan" <jackson.ryan@epa.gov>
Date: 3/26/17 5:28 PM (GMT-05:00)
To: "Krenik, Edward" <Edward.Krenik@bracewelllaw.com>
Subject: FW: Congrats, Ed Krenik, & Deputy Director of Intergovernmental Affairs

Can I get a reference?

From: pierson@presencestrategies.com [mailto:pierson@presencestrategies.com]
Sent: Friday, March 3, 2017 8:21 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Congrats, Ed Krenik, & Deputy Director of Intergovernmental Affairs

Dear Mr. Jackson,

Congratulations on being named EPA Chief of Staff. Since I am interested in the position of EPA Deputy Director of Intergovernmental Affairs, my former colleague, Ed Krenik, encouraged me to contact you. I am in D.C. Monday, March 6 and Tuesday, March 7 and wonder if you would have time to meet and discuss how I might help you and the Trump team.

Attached is my resume. Within the electric power industry, I have worked in 5 Midwest states and with many municipal governments. I also have extensive experience in Minnesota Government in the House, Senate, and Governor's Office, as well as a brief stint in the MN Pollution Control Agency. In addition, I worked for a few years with motor vehicle administrators in 25 states and worked for a U.S. Senator. I understand the inner workings of all levels of government and enjoy establishing mutually beneficial relationships.

Thank you for your attention. It would be an honor to meet and speak with you. Be assured that as a member of the Administration, I would work faithfully to advance policies and plans consistent with President Trump's agenda.

Sincerely,

Christina Pierson

612-594-6621

To: dimitri.karakitsos@hklaw.com[dimitri.karakitsos@hklaw.com]
From: Jackson, Ryan
Sent: Mon 4/24/2017 5:57:02 PM

Did you guys have a draft agenda for the arow meeting I can take and work up? This is great.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

To: Chad Bradley[cbradley@sblstrategies.com]
From: Jackson, Ryan
Sent: Fri 6/16/2017 10:34:36 PM
Subject: Re: Quick question...

Staff meeting is most appropriate. No one is meeting with Pruitt Monday regarding Westlake but we do have a meeting with a large group of NGO organizations.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

> On Jun 16, 2017, at 12:14 PM, Chad Bradley <cbradley@sblstrategies.com> wrote:
>
> Rumor is that Just Moms from Missouri is meeting with Pruitt on Monday re: Westlake. Any chance Exelon and Republic could meet with him too? We are scheduling a meeting with Kell the week of July 10th. Just wanted your advice.
>
> Chad
>

To: Herrgott, Alex H. EOP/CEQ EOP/Ex. 6
Cc: laureneclaffey Ex. 6 - Personal Privacy
From: Jackson, Ryan
Sent: Mon 6/5/2017 11:24:44 PM
Subject: Re: Scheduler for Scott Pruitt

Any suggestions are appreciated.

_____
Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Jun 5, 2017, at 7:14 PM, Herrgott, Alex H. EOP/CEQ EOP/Ex. 6 wrote:

Lauren,

Ryan is looking for someone sharp to replace someone whom is leaving to go back to Oklahoma. You have broad, broad network.

You think you can ping some of your folks and can make some suggestions to our good friend, the COS at EPA.

Alex

To: sedwards@capitolhillcg.com[sedwards@capitolhillcg.com]
From: Jackson, Ryan
Sent: Tue 5/23/2017 9:12:21 PM
Subject: Fwd: G7 Environmental Ministerial Meeting Invitation
G7 Environment SideEvent - University for SD - Concept Note - v 12 04.pdf
ATT00001.htm

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

Begin forwarded message:

From: "Nishida, Jane" <Nishida.Jane@epa.gov>
Date: May 23, 2017 at 4:26:18 PM EDT
To: "thomas.coon@okstate.edu" <thomas.coon@okstate.edu>
Cc: "Jackson, Ryan" <jackson.ryan@epa.gov>, "Finman, Hodayah" <Finman.Hodayah@epa.gov>, "jane.fuhlendorf@okstate.edu" <jane.fuhlendorf@okstate.edu>
Subject: G7 Environmental Ministerial Meeting Invitation

Dr. Thomas Coon

Vice President, Dean and Director

Oklahoma State University Division of Agricultural Sciences and Natural Resources

Dear Dr. Coon,

I am writing at the recommendation of Ryan Jackson, Chief of Staff for the U.S. Environmental Protection Agency (EPA), regarding your possible participation in a side event to the Group of Seven, Environmental Ministers Meeting (G7 EMM) in Bologna, Italy.

EPA Administrator Scott Pruitt will attend the G7 EMM this year, which is being hosted by

Italy's Environment Minister. As part of the G7 EMM, Italy has asked G7 countries to invite two members from their country's academic community and three members from their business community to participate in special side events associated with the Ministerial meetings.

One of the side events asks representatives from academic institutions to discuss the role and impact of universities on the economy, environment and society – what the United Nations calls *Sustainable Development*. The topic of feeding people, reducing food waste, and increasing efficiencies is of particular interest to the G7 countries, and your expertise in agriculture would be a welcome contribution to this discussion. The result of this discussion would be presented to the Ministers on the second day of the G7 EMM.

On behalf of EPA, I am pleased to extend an invitation to you to join the U.S. delegation and participate in the "Universities for Sustainable Development" side event on June 11th as well as the opening G7 EMM opening reception on June 10th. The business and university representatives will have to cover their own travel costs to the meetings in Bologna.

I apologize for the late notice, but if you are interested, please let me know as soon as possible. If you have any questions, please give me a call at 202-564-1531, or have your staff contact Hodayah Finman in my office at 202-564-1893.

I look forward to hearing from you.

Best regards,

Jane Nishida

Jane Nishida

Acting Assistant Administrator

Office of International and Tribal Affairs

U.S. Environmental Protection Agency

Tel: 202-564-1531

To: Don Nickles[don_nickles@nicklesgroup.com]
From: Jackson, Ryan
Sent: Wed 4/12/2017 2:05:51 PM
Subject: Re: Resume of Sarah Pearce

Thank you sir. On it.

Ryan Jackson
Chief of Staff
U.S. EPA

Ex. 6 - Personal Privacy

On Apr 12, 2017, at 9:59 AM, Don Nickles <don_nickles@nicklesgroup.com> wrote:

Ryan, attached is a resume of Sarah Pearce who works for Senator Portman…..Michael Solon who is a friend and worked for Senator Phil Gramm wanted me to get it to you guys…wish you all the best at EPA…..don

Don Nickles

Chrm & CEO Nicklesgroup

202-742-6980

202-321-9280 cell

601 13th st. Suite 250N

Washington DC 20005

don_nickles@nicklesgroup.com

From: Michael Solon [mailto:mikes@capitollegistics.com]
Sent: Tuesday, April 4, 2017 10:32 PM
To: Don Nickles <don_nickles@nicklesgroup.com>
Subject: Senator Nickles

I'm not sure how close you are to EPA Administrator Pruitt but I wanted to check to see if you could help me.

There is a LA with Senator Portman handling environmental matters who very much wants to go over to EPA and help drain that swamp. She is smart, capable and determined yet still young and has a passion to go after the phony science and regulatory excess of the EPA. She is also a family friend with solid party credentials and personal integrity.

I helped out Pruitt in his AG race back in Oklahoma but haven't been able to talk to anyone in his shop yet. And of course, Andy Wheeler who I know still isn't over there so I thought I'd check to see if you know anyone in his shop, and if so, would you forward the resume of Sarah Pearce to them?

Even though she's not from Texas -- where most Oklahomans rustle away our best talent, she is top notch and would be a good part of the EPA team.

Let me know if you have any questions…

Thanks

Mike Solon

<Sarah Pearce Resume Dec 2016.docx>

To: Garrison, Jessica[jgarrison@balch.com]
From: Jackson, Ryan
Sent: Sun 3/26/2017 11:08:40 PM
Subject: RE: Invitation: Energy Dinner & Discussion | Wednesday, March 29

I'll try. He comes Tuesday. So Wednesday may be good, but if nothing else getting together thereafter will be good.

I spoke to Trey this afternoon because Sundays is when I do interviews I guess. I'm getting names to the WH shortly. A few batches of RA's is what I'm thinking initially. I'd love to forward 2 to 3 next week.

-----Original Message-----
From: Garrison, Jessica [mailto:jgarrison@balch.com]
Sent: Sunday, March 26, 2017 7:06 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Fwd: Invitation: Energy Dinner & Discussion | Wednesday, March 29

This is my dinner… it's right up your alley. Why don't you come to this if you can make it? When does the president come over to the office?

Sent from my iPhone

[[image]]

Jessica M. Garrison, Of Counsel, Balch & Bingham LLP
1901 Sixth Avenue North • Suite 1500 • Birmingham, AL 35203-4642
t: (205) 226-3429 f: (205) 488-5669 e: jgarrison@balch.com
www.balch.com<http://www.balch.com>

Begin forwarded message:

From: Liz Roche <liz.roche@Storypartnersdc.com<mailto:liz.roche@Storypartnersdc.com>>
Date: March 2, 2017 at 2:53:25 PM CST
To: "jgarrison@balch.com<mailto:jgarrison@balch.com>"
<jgarrison@balch.com<mailto:jgarrison@balch.com>>
Subject: Invitation: Energy Dinner & Discussion | Wednesday, March 29

Hi Jessica-

I wanted to personally invite you to a salon dinner Story Partners is hosting on Wednesday, March 29 from 6:30-8:30 p.m. The dinner and discussion will focus on proposed policies within the First 100 Days and how they will impact energy moving forward.

These intimate quarterly dinners bring together Hill, industry and media influencers to discuss the future of energy, and the policies and regulations that could affect the growth of the industry. This seated dinner is 100 percent off-the-record and serves as a catalyst for future discussions—connecting the right people to move our energy policy forward.

We've also worked with Lavagna to offer a family-style menu so that each person's bill will not exceed $50 (including food, drinks, tax, tip, etc).

Best,
Liz

Liz Roche
Assistant Vice President
Liz.roche@storypartnersdc.com<mailto:Liz.roche@storypartnersdc.com>
O: 202 706-7816 C: 256-466-5285
@StoryPartners<https://twitter.com/StoryPartners>

[cid:image002.jpg@01D2926E.19874900]

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To: Keith Heard[Keith@nrwa.org]
From: Jackson, Ryan
Sent: Mon 4/24/2017 12:47:39 PM
Subject: Re: Administrator Pruitt Invitation

Yeah. I've sent to our scheduler. Her name is syd Hupp. We are on it.

Ryan Jackson
Chief of Staff
U.S. EPA

Ex. 6 - Personal Privacy

On Apr 21, 2017, at 12:39 PM, Keith Heard <Keith@nrwa.org> wrote:

Good morning Ryan. Hopefully this can work out. If you send me the schedulers name I could send to them rather than bother you.

We would appreciate your help in setting up. I'm in MS for the recess.

BKH

B. Keith Heard
NRWA
101 Constitution Avenue NW
Suite 850 East
Washington, DC 20001

Begin forwarded message:

From: Sam Wade <sam@nrwa.org>
Date: April 21, 2017 at 9:51:57 AM CDT
To: "jackson.ryan@epa.gov" <jackson.ryan@epa.gov>
Subject: Administrator Pruitt Invitation

Good morning Ryan:

I hope all is well and you are enjoying the challenges in your new positon which I am sure consist of quite a few. I wanted to forward the attached letter that request a meeting with the Administrator by our association officers. Any help is appreciated.

Also, as you know James at Oklahoma Rural Water and I are at your disposal if we can assist you in any way. Let us know when you are back in OK and James has already committed to buy.

Thanks for all you have done and do for rural water.

Sincerely,

Sam Wade

CEO, National Rural Water

2915 S. 13th

Duncan, Oklahoma 73533

580-252-0629

Cell: 580-917-1425

sam@nrwa.org

Click for More Information about the WaterPro Conference

<Scott Pruitt Invitation.docx>

To: Leo Jardot[leo.jardot@align-strategies.com]
From: Jackson, Ryan
Sent: Fri 6/16/2017 10:31:35 PM
Subject: Re: Cap Grille

Good deal. He walked by in Capitol grille?

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

> On Jun 16, 2017, at 2:07 PM, Leo Jardot <leo.jardot@align-strategies.com> wrote:
>
> Uh oh. Sitting at bar at Cap Grille having late lunch & glass of wine & Administrator Pruitt walks by. Introduced myself as Pond Creek & ACYPL BD member!
>
> Sent from my iPhone

To: Dimitri.Karakitsos@hklaw.com[Dimitri.Karakitsos@hklaw.com]
Cc: Dickerson, Aaron[dickerson.aaron@epa.gov]
From: Jackson, Ryan
Sent: Mon 5/15/2017 4:10:01 PM

Can we find time for SCJ?

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

Ex. 6 - Personal Privacy

To: Nolan, Rich[RNolan@nma.org]
From: Jackson, Ryan
Sent: Sat 12/2/2017 12:20:47 AM
Subject: RE: AGs Letter
CERCLA 108 Final Action Signed 120117.pdf

From: Nolan, Rich [mailto:RNolan@nma.org]
Sent: Wednesday, November 29, 2017 2:52 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: AGs Letter

AGs letter

To: jay.martin@conturaenergy.com[jay.martin@conturaenergy.com]
Cc: Greenwalt, Sarah[greenwalt.sarah@epa.gov]
From: Jackson, Ryan
Sent: Mon 6/5/2017 2:30:53 PM
Subject: Re: CWA permits

Jay, can you send us information on the CWA permits your working with the Agency to get?

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

(Ex. 6 - Personal Privacy

To: louis.renjel@duke-energy.com[louis.renjel@duke-energy.com]
From: Jackson, Ryan
Sent: Tue 5/23/2017 4:50:19 PM

Louis, thanks for the time yesterday. Can you email me the document you mentioned yesterday?

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

Ex. 6 - Personal Privacy

To: Dourson, Michael (doursoml)[doursoml@ucmail.uc.edu]
From: Jackson, Ryan
Sent: Wed 4/12/2017 1:44:58 PM
Subject: Re: LCSA and IRIS
763A5819-08E2-40B2-A0C3-4907F62C0EA4[5].png

I'm now having to travel to ny with the Administrator this morning. I'll try calling you this afternoon or are there times tomorrow or Friday morning? I'm very eager to talk about our Chen office and our ORD office.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Apr 12, 2017, at 7:27 AM, Dourson, Michael (doursoml) <doursoml@ucmail.uc.edu> wrote:

Dear Mr. Jackson

Sorry, it is too early. I am available this morning until 9 am and then **from 10 to 11 am**. My afternoon is open from noon until 3 pm.

Cheers!

Michael

---*Those who have the privilege to know, have the duty to act. Albert Einstein*

<1584027B-5CC9-4173-A8A4-A56FD1D92D1B[9].png>

From: Michael Dourson <doursoml@ucmail.uc.edu>
Date: Wednesday, April 12, 2017 at 7:17 AM
To: "Jackson, Ryan" <jackson.ryan@epa.gov>
Subject: Re: LCSA and IRIS

Dear Mr. Jackson

My schedule has changed slightly today. I am still available this morning until 9 am and then from 11 am to noon. My afternoon is open from noon until 3 pm. My Skype handle is "mdourson." I will leave Skype open all day.

If Skype is not an option, then feel free to call me at 513 558-7949 during these times, or 513 543 2892 (CELL) after 3 pm.

Cheers!

Michael

--Alliance for Risk Assessment (ARA), building a risk assessment community
<763A5819-08E2-40B2-A0C3-4907F62C0EA4[5].png>

From: Michael Dourson <doursoml@ucmail.uc.edu>
Date: Sunday, April 9, 2017 at 5:38 PM
To: "Jackson, Ryan" <jackson.ryan@epa.gov>
Subject: Re: LCSA and IRIS

Dear Mr. Jackson

I appreciate your call and comments. I am completely open Wednesday afternoon, and between 8 and 9 am, and 10 to 11 am that same morning. Please feel free to pick a time that best suits you.

Cheers!

Michael...

...L. Dourson, Ph.D., DABT, FATS, FSRA
Professor
Risk Science Center (formerly TERA)
Department of Environmental Health
University of Cincinnati, College of Medicine
160 Panzeca Way
Cincinnati OH 45267-0056

michael.dourson@uc.edu
513-558-7949
419-892-2502 (Mondays)
http://eh.uc.edu/tera/

From: Michael Dourson <doursoml@ucmail.uc.edu>
Date: Sunday, April 9, 2017 at 3:33 PM
To: "Jackson, Ryan" <jackson.ryan@epa.gov>
Subject: LCSA and IRIS

Dear Mr. Jackson

I apologize that we missed each other last week. At the risk of being presumptuous, and perhaps in order to connect directly, please allow me to state

my interest in possible senior EPA positions. If this was not your intent, well, then please feel free to disregard the rest of this email!

I spoke with a Bryan Zumwalt a few weeks ago about possible interest in the AA for either ORD or OCSPP. At the time I indicated to Bryan that my interest lay more with ORD, since I am familiar with this group (having worked there for 15 years) and since the AA of ORD is also the scientific advisor to Administrator Pruitt. Upon reflection, however, and especially because the proposed budget cuts in ORD eliminate IRIS, it seems now that a better fit with my background is OCSPP. Eliminating IRIS will cause EPA enormous heartburn, but this can be mollified by folding the appropriate work of IRIS into the LCSA activity, and someone certified in toxicology and internationally recognized in risk assessment, might make a good leader for this combined effort.

Please feel free to call or email at your convenience. I will be in my University of Cincinnati, College of Medicine office Monday through Wednesday of this week (513 558-7949, day or 513 542-8940, evening) and then going home for the Easter holiday (419-892-2502). My cell, 513 543 2892, is another possibility, but this is hit or miss as demonstrated last Tuesday evening when you called during my soccer game.

Cheers!

Michael

---*Those who have the privilege to know, have the duty to act. Albert Einstein*

<B7CF5964-F6F9-4379-AEC4-C51AD30C0907.png>

<763A5819-08E2-40B2-A0C3-4907F62C0EA4[5].png>

Risk Science Center

Department of Environmental Health

To: Ben Traynham Ex. 6 - Personal Privacy
From: Jackson, Ryan
Sent: Sun 3/26/2017 11:05:42 PM
Subject: RE: Follow Up

Hey man, big thanks. I intend to get back with you shortly.

From: Ben Traynham Ex. 6 - Personal Privacy
Sent: Thursday, March 23, 2017 9:34 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Follow Up

Hi Ryan,

I hope all is going well with the new wave of folks starting this week. I just wanted to let you know that I'm still very interested in helping out the team at EPA any way I can. Hopefully we'll have an opportunity to talk again soon.

Best,
Ben

--

Benjamin Hawks Traynham
Auburn University '08

University of Richmond School of Law '11
Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

To: McDonough, Owen[OMcDonough@nahb.org]
Cc: Briggs, Courtney[CBriggs@nahb.org]
From: Jackson, Ryan
Sent: Mon 4/24/2017 8:49:57 AM
Subject: Re: RE:

Thanks for this.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Apr 23, 2017, at 8:41 PM, McDonough, Owen <OMcDonough@nahb.org> wrote:

Ryan,

Considering there is no nationwide baseline of waters that were jurisdictional before the 2015 rule, it is challenging to determine the costs builders and developers would incur as a result of the regulation.

However, we know that the rule would categorically assert jurisdiction over many more "tributaries" and "adjacent" waters that previously would have had to meet a case-by-case significant nexus test. We also know that some of these now categorically jurisdictional waters would have failed the significant nexus test and not been WOTUS prior to the 2015 rule. For instance, a review of 16 significant nexus approved jurisdictional determinations (AJDs) performed on ephemeral streams in the arid Southwest prior to the 2015 rule found that 15 of the 16 did not satisfy the test and were not jurisdictional. Under the 2015 rule, however, all 16 would be categorically jurisdictional under the "tributary" definition.

In another example of expanded jurisdiction, NAHB compared a pre-2015 rule AJD for wetlands at a residential subdivision in Florida to determine the impact of the "adjacent" and "neighboring" definitions. Under the 2015 rule, we found the total area of jurisdictional wetlands would increase by approximately 30% (48.40 acres to 62.86 acres) and encompass 100% of the total wetland acreage at the site. Clearly, the results of these two case studies are inconsistent with the Agencies' estimate of an increase between 2.84 and 4.65 percent in positive JDs annually.

As more features are deemed jurisdictional, more projects require federal permits. As you know, obtaining these permits is difficult and can generate significant project delays and costs. A 2002 study found that it takes an average of 788 days and $271,596 to obtain an individual CWA permit and 313 days and $28,915 for a "streamlined" nationwide permit. (*David Sunding & David Zilberman, The Economics of Environmental Regulations by Licensing: An Assessment of Recent Changes to the Wetland Permitting Process, 42 Nat. Resources J, 59-90 at 74 (2002)*). Importantly,

these figures don't take into account the cost of mitigation, which can be exorbitant, ranging from an estimated $24,989 to $49,207 per acre nationwide.

Ultimately, increased costs and delays as a result of permits and mitigation are detrimental to housing affordability. As the price of the home increases, those on the verge of qualifying for a new home will no longer be able to afford it. An analysis done by NAHB illustrates the number of households priced out of the market for a median priced new home due to a $1,000 price increase. Nationally, this price difference means that when a median new home price increases from $225,000 to $226,000, some 232,447 households can no longer afford that home.

Please let me know if you've got any questions or would like to discuss any of the above info further.

Best,

Owen

Owen McDonough, PhD

Environmental Policy Program Manager

National Association of Home Builders

OWEN MCDONOUGH Program Manager, Environmental Policy

National Association of Home Builders
1201 15th Street, NW | Washington, DC 20005
d: 202.266.8662 **e:** OMcDonough@nahb.org **w:** nahb.org

From: Briggs, Courtney
Sent: Friday, April 21, 2017 1:51 PM
To: Jackson, Ryan; McDonough, Owen
Subject: Re:

Owen- can you answer Ryan? Thanks.

Sent from my iPhone

COURTNEY G. BRIGGS Director, Federal Legislative

National Association of Home Builders

1201 15th Street, NW | Washington, DC 20005
d: 202.266.8459 m: 202.577.7294 e: CBriggs@nahb.org w: nahb.org

> On Apr 21, 2017, at 1:50 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>
> Hey Courtney, would NAHB have costs to the home building industry expected or initially incurred due to cost of permitting or new permitting under Wotus?
>
> Ryan Jackson
> Chief of Staff
> U.S. EPA

Ex. 6 - Personal Privacy

To: Cathy Stepp Ex. 6 - Personal Privacy
From: Jackson, Ryan
Sent: Fri 6/16/2017 3:25:05 AM
Subject: Re: Call

Yes.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

> On Jun 15, 2017, at 11:24 PM, Cathy Stepp Ex. 6 - Personal Privacy wrote:
>
> Hi Ryan. Would u have time for a quick call on Friday?
>
> Thanks
>
> Cathy Stepp
>
> Sent from my iPhone

To: Nishida, Jane[Nishida.Jane@epa.gov]
Cc: Chmielewski, Kevin[chmielewski.kevin@epa.gov]; Hupp, Sydney[hupp.sydney@epa.gov]; John Peter Freire[Freire@usepa.onmicrosoft.com]
From: Jackson, Ryan
Sent: Mon 5/15/2017 11:54:26 AM
Subject: Re:

Thank you.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

> On May 15, 2017, at 7:39 AM, Nishida, Jane <Nishida.Jane@epa.gov> wrote:
>
> The McKenna call today was already moved to Friday, May 20. Once I know JP'a availability, I will schedule the call with Canada about the trip.
>
> Sent from my iPhone
>
>> On May 15, 2017, at 7:26 AM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:
>>
>> Unless there's a particular purpose for the McKenna call today I think it would be best to button up the Canadian visit before we have the principals visit which will unavoidably be in part about the trip and it be left open ended.
>>
>> Ryan Jackson
>> Chief of Staff
>> U.S. EPA
Ex. 6 - Personal Privacy

To: rjmartin@alphanr.com[rjmartin@alphanr.com]
Cc: Greenwalt, Sarah[greenwalt.sarah@epa.gov]
From: Jackson, Ryan
Sent: Mon 6/5/2017 1:25:47 PM
Subject: CWA permits

Jay, can you send us information on the CWA permits your working with the Agency to get?

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

Ex. 6 - Personal Privacy

To: Wheeler, Andrew R.[Andrew.Wheeler@FaegreBD.com]
From: Jackson, Ryan
Sent: Thur 11/9/2017 7:11:47 AM
Subject: Re: Lindsey

It was good. We will prevail.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Nov 8, 2017, at 10:19 PM, Wheeler, Andrew R. <Andrew.Wheeler@FaegreBD.com> wrote:

Everyone seemed to think I did a really good job including inhofe, capito and mr Murray. Carper and Cardin both said really nice things about me.

Troy and Liz were both happy.

Sent from my iPhone

On Nov 8, 2017, at 9:37 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

Nice. How did you feel about it today.

Only saw a couple stories on how you work to save coal mining jobs and how you didn't write murray's 3 pager.

Seems like it was successful.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Nov 8, 2017, at 8:00 PM, Wheeler, Andrew R. <Andrew.Wheeler@FaegreBD.com> wrote:

FYI

Sent from my iPhone

Begin forwarded message:

From: "Bono, Mary" <Mary.Bono@faegrebd.com>
Date: November 8, 2017 at 7:18:42 PM EST
To: "Wheeler, Andrew R." <Andrew.Wheeler@FaegreBD.com>
Subject: Lindsey

At dinner with Lindsey Graham. He said he's looking forward to voting for you.

Mary
The Honorable Mary Bono
Principal
Faegre Baker Daniels Consulting
Former Member of Congress
1050 K Street NW Suite 400
Washington DC 20001 USA
+1 202 589 2857
Twitter: @MaryBonoUSA

To: Fred Krupp[fkrupp@edf.org]
Cc: rdenison@edf.org[rdenison@edf.org]; Joanna Slaney[jslaney@edf.org]; Elizabeth Thompson[ethompson@edf.org]
From: Jackson, Ryan
Sent: Tue 5/23/2017 2:58:22 PM
Subject: RE: invitation

Perfect. Thank you.

From: Fred Krupp [mailto:fkrupp@edf.org]
Sent: Tuesday, May 23, 2017 10:10 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: rdenison@edf.org; Joanna Slaney <jslaney@edf.org>; Elizabeth Thompson <ethompson@edf.org>
Subject: RE: invitation

Ryan,

Thanks for your outreach. It has definitely been good to begin to get to know Senator Inhofe, and I admire his leadership on the Lautenberg Chemical Safety Bill, and appreciate your constructive role on that as well.

I would suggest that you and Elizabeth, copied above, discuss next steps re your invitation.

All best,

Fred

From: Jackson, Ryan [mailto:jackson.ryan@epa.gov]
Sent: Thursday, May 18, 2017 2:20 PM
To: Fred Krupp <fkrupp@edf.org>
Cc: Richard Denison <rdenison@edf.org>; Joanna Slaney <jslaney@edf.org>

Subject: invitation

All, Administrator Pruitt asked me to reach out to you to check on your availability to meet for coffee to establish a relationship between EDF and him.

He appreciated me recounting the story of when I was working for Senator Inhofe, how Senator Inhofe called Fred unexpectedly prior to an EDF board meeting simply to report on the status of negotiations at the time of the TSCA update. It's a much broader environment here now than negotiating the Lautenberg Act, but the Administrator was interested in meeting to try to build a relationship and identify common ground and items on which we can work together.

I appreciate your consideration. I can also be reached at Ex. 6 - Personal Privacy anytime.

Ryan.

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

Ex. 6 - Personal Privacy

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 destroy any copies. Any dissemination or use of this information by a person other than the intended recipient is unauthorized and may be illegal.

To: Yergin, Dan[Daniel.Yergin@ihsmarkit.com]; Steven E Koonin (sek9@nyu.edu)[sek9@nyu.edu]
Cc: Dravis, Samantha[dravis.samantha@epa.gov]
From: Jackson, Ryan
Sent: Tue 4/11/2017 11:21:45 PM
Subject: RE: introducing...

Thank you gentlemen. So as luck would have it the Administrator will happen to be in New York tomorrow. Would there be a convenient time to meet as early as tomorrow? I know this is last minute, but I wanted to ask. If that doesn't work, we will schedule another time definitely.

My cell is Ex. 6 - Personal Privacy

Ryan.

From: Yergin, Dan [mailto:Daniel.Yergin@ihsmarkit.com]
Sent: Tuesday, April 11, 2017 6:07 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>; Steven E Koonin (sek9@nyu.edu) <sek9@nyu.edu>
Subject: introducing...

Dear Ryan,

Very glad to meet you with Administrator Pruitt today. With this email, introducing you to Steve Koonin, now at NYU, formerly Undersecretary of Energy in DOE and Provost of Caltech. He's an MIT Ph.D. in astrophysics. I've attached his article on climate science not being settled from the Wall Street Journal.

He's based in New York City but will be down for a meeting of the top physicists on April 28,

and could come a day early. Or they could meet in New York City. I think the Administrator would find an 1 ½ to 2 hours very useful for deepening the texture on the climate change discussion. As I mentioned, Steve will have a new article coming up in the WSJ later this month.

Kind regards,

Dan

http://online.wsj.com/articles/the-unknowns-of-climate-science-1411143565

To: Lynn Scarlett[lscarlett@TNC.ORG]
Cc: Willis, Sharnett[Willis.Sharnett@epa.gov]
From: Jackson, Ryan
Sent: Sun 3/26/2017 10:26:34 PM
Subject: RE: Greetings and follow up

I'm here all the time. Eager to know what options work for you. Maybe later this week or next week?

From: Lynn Scarlett [mailto:lscarlett@TNC.ORG]
Sent: Sunday, March 19, 2017 9:32 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Willis, Sharnett <Willis.Sharnett@epa.gov>
Subject: Re: Greetings and follow up

Hi, Ryan

Sounds good. We are preparing the info, including admin. barriers reductions. I'm in California through Tuesday at all day events. I will check with my asst. and get back to you re: possible options to talk

Lynn

Sent from my iPhone

On Mar 19, 2017, at 2:04 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

> I would like to. Will you let me know when a time works for you?
>
> Also you mentioned in the meeting a list of administratively accomplished reduction in barriers and I would like to get the benefit of that as well.
>
> Much appreciated.
>
> Ryan Jackson

Chief of Staff

U.S. EPA

Ex. 6 - Personal Privacy

On Mar 9, 2017, at 1:54 PM, Lynn Scarlett <lscarlett@TNC.ORG> wrote:

Hi, Ryan

It was nice to see you yesterday at the infrastructure meeting. I wanted to follow up with you to see if there is a time I (and some of my team) might meet with you to offer a deeper dive on opportunities to: 1) advance "natural infrastructure" that is both cost-effective and high-performing; 2) identify regulatory streamlining that could enable such solutions to be more widely used, where cost-effective; and 3) offer some thoughts more broadly on ways to improve decision processes while, at the same time, sustaining environmental safeguards and public health.

Might we explore a time when we might meet?

Lynn

To: pbailey@americaspower.org[pbailey@americaspower.org]
From: Jackson, Ryan
Sent: Sun 4/23/2017 11:53:57 PM
Subject: CCR
CCRPP Process Questions (239) 4_3.docx

Paul, the state waste directors will get information on the CCR guidance this week here in DC. Although I don't have the guidance quite yet, I do have something I could use your help in reviewing. I think we'll get this out quickly.

Thanks.

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

Ex. 6 - Personal Privacy

To: Myron Ebell[Myron.Ebell@cei.org]
Cc: Dravis, Samantha[dravis.samantha@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]; Konkus, John[konkus.john@epa.gov]
From: Jackson, Ryan
Sent: Fri 6/16/2017 12:32:35 AM
Subject: Re: Rob Gordon: Exposing the EPA's Gold King Mine Cover-up

You will like what we are going to do.

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 - Personal Privacy

On Jun 15, 2017, at 5:35 PM, Myron Ebell <Myron.Ebell@cei.org> wrote:

I think Rob's comment to me is correct: If EPA gets away with this under the new administration, they will feel invincible. If it is exposed, it will add steam for reform.

Rob spent hundreds of hours investigating the Gold King Mine disaster and scandalous cover-up when he was staff director of the House Natural Resources Committee's oversight and investigations subcommittee. He may be reached at Robert.Gordon@heritage.org.

http://dailysignal.com/2017/06/14/exposing-epas-gold-king-mine-cover/

Politics

Commentary

Exposing the EPA's Gold King Mine Cover-Up

Robert Gordon / June 14, 2017 / comments

<image001.jpg>

The EPA has sought to avoid responsibility for the Gold King Mine disaster, which caused 3 million gallons of toxic water to spill into the Animas River in 2015. (Photo: Jerry McBride/The Durango Herald/Polaris /Newscom)

Commentary By

Robert Gordon

Rob Gordon is a senior research fellow at The Heritage Foundation and has researched, testified, and written on endangered species, property rights, the federal estate, and other environmental issues. He previously served as staff director for the Subcommittee on Oversight and Investigations of the House Committee on Natural Resources.

Does the Environmental Protection Agency care more about its image than it does about the environment?

Its behavior in response to the massive 2015 Gold King Mine disaster in Colorado would suggest a very clear “yes.”

The Environmental Protection Agency is hiding its incredible recklessness in the affair by giving official accounts that are clearly contradicted by ample evidence in the government’s possession.

As the new EPA administrator, Scott Pruitt has an opportunity to drain a bit of the swamp by exposing the EPA’s cover-up.

Americans need an alternative to the mainstream media. But this can't be done alone. Find out more >>

An Environmental Disaster

In August 2015, an EPA crew inexplicably dug out the rock and rubble “plug” to the long abandoned Gold King Mine, triggering a massive blowout that flooded the Animas River with 3 million gallons of acid mine drainage and, according to the EPA, over 550 tons of metals.

Had the EPA actually been doing what it claims it did, the disaster would never have happened. However, it seems the EPA could not allow its reputation to be tarnished with the truth.

The EPA has put forth the fiction that its crew had simply removed backfill that was blocking access to a mine tunnel, but did not disturb the natural plug that had formed in the tunnel's opening that was holding back a sea of acid mine drainage.

The EPA claims its crew planned to wait for experts who would address the plug. It says its team was just further cleaning up the site when, through some inexplicable bad luck, the plug eroded, causing a blowout that turned the Animas River bright orange.

In essence, the agency wants us to believe that this was an accident that could have happened to anybody.

The truth the EPA is concealing is that its team did not stop after excavating to the tunnel's opening, and never had any intention of stopping.

The EPA crew began removing the plug as it had planned, even though it anticipated acid mine drainage would flow out and that the drainage could be pressurized.

The EPA's actions could be likened to poking a balloon with a pin to let out just a little air. At best, the EPA's actions were incredibly reckless.

Numerous federal officials in and outside the EPA turned a blind eye to the truth, and never challenged the fiction that the EPA maintains to this day and that was just repeated Monday by the EPA's inspector general.

For an agency more concerned about its own welfare than its environmental mission, the almost unfathomable incompetence is sufficient motive to cover up what really happened.

<image002.jpg>

Gina McCarthy presided over the Gold King Mine disaster as EPA administrator. (Photo: Jim Lo Scalzo/EPA/Newscom)

There are other reasons as well. Some grossly negligent acts can be criminally prosecuted under provisions the Clean Water Act—a measure the EPA has used against private parties in the past. Additionally, New Mexico has already brought a lawsuit seeking damages.

Further, the EPA's dishonest actions after the fact likely provide even more impetus to continue the deception.

Given the contradictory assertions they have made in public and the bogus reports they have produced for public and congressional consumption, it is difficult to imagine how the EPA officials involved could have possibly been honest with the inspector general investigators.

Pruitt's team has inherited a tangle of half-truths, misdirection, and deceit. Like the Gold King Mine disaster itself, this is a mess the agency needs to clean up.

A Prelude to Disaster

Years before the Gold King Mine disaster occurred, there had been a collapse within a tunnel (an adit) used to access, ventilate, and drain the mine's inner content.

Water can naturally accumulate within mines, and if there has been a collapse, fine solid matter like clay can eventually fill all the spaces between the collapsed rock, forming a natural plug. Eventually a pool of water forms behind the plug, and with enough time there can be so much water that it becomes pressurized.

In 2009, after this collapse, a pipe had been inserted into the mine in an attempt to prevent the accumulation of water. Then, the old structure at the entrance to the adit (posts and timbers supporting a roof to protect from debris sliding down from the slope above) was demolished, and the area in front of the mine opening was backfilled, burying all except the end of the drainage pipe.

Subsequently, water flowing from the mine had slowed to a trickle, a possible indicator that the mine was plugged.

When the EPA crew came to the mine in 2015, it came specifically to address the concern about conditions that could lead to a blowout.

The crew, however, was operating under outlandish assumptions that the agency had made one year before, which are covered in greater detail by a congressional committee report.

In brief, based on almost no evidence, the EPA had concluded during a visit in 2014 that the floor of the mine was 6 feet lower than the ground immediately outside the mine.

It assumed that water in the mine would have to be over 6 feet deep before it would flow out of the pipe. Seeing little flow out, it conjectured the backfilled mine was only half-full and not pressurized.

This conclusion was contrary to available old photographs, documents from the Colorado's Division of Reclamation, Mining and Safety, and the basic fact that the tunnel was designed in part to drain the mine—so recessing the floor 6 feet would make no sense.

The ground immediately outside the mine was made of the waste rock removed to create the tunnel. Why and how would a tunnel be dug so it couldn't drain or be accessed?

An additional clue should have been clear to the crew: During a 2014 visit, the EPA removed a stinger—a pipe that is used to drive through a collapse to drain impounded water.

This is especially true given that when the crew yanked the stinger from the rubble, it found the front section mangled, indicating there had possibly been an unsuccessful attempt to penetrate a blockage.

In any case, whether the mine was full or not could have been determined by drilling to test for hydrostatic pressure. However, because drilling was difficult and expensive, the EPA chose to rely on faulty assumptions rather than data.

In 2015, the EPA crew set about removing unconsolidated backfill (material that was not holding back water) to reach the plugged tunnel opening cut into the mountain's rock face. This was accomplished the first day of digging.

The crew's outlandish assumptions were proven to be just that when it reached the tunnel's opening. It had exposed the entire plug from the bottom to the top of the tunnel, not just the upper half.

With the tunnel not recessed as anticipated, the crew should have realized, and likely did, that the basis of its assumption that the mine was not full of water had evaporated.

In what appears to have been a hopeless effort to account for this, the following day, the EPA crew reburied all but the very top portion of the plug. It built a large mound of earth (a berm) in front of the tunnel opening and constructed a makeshift channel to the side.

The crew apparently anticipated that when it dug a hole into the top of the plug, any water that came out would calmly flow through the channel and to a pre-existing ditch that ran down the mountain to settling ponds.

Hope springs eternal.

<image003.jpg>

The Animas River, which was contaminated by the spill, serves as a vital water source for parts of Colorado, New Mexico, and the Navajo Nation. (Photo: EPA/Zuma Press/Newscom)

Although the EPA fails to mention the reburying of the plug in any of its reports, several executive branch reports, along with an EPA inspector general report released this week, described what supposedly happened next.

All these reports are wrong, and most, if not all, are intentionally deceitful.

Rewriting History

First, the EPA produced a report that asserted its crew was just digging to clear the bedrock face, but not touching the plug. Then, somehow, the lower bedrock crumbled and the mine just blew out.

The Department of the Interior produced the next report, a bureaucratic treatise that says the EPA crew discussed a plan, but then ambiguously states "the contractor continued to excavate."

Exactly what the crew was excavating—the dirt above the tunnel opening (which in fact had already been removed) or the plug itself—is left unsaid. The report asserts that the EPA crew planned to insert another stinger through the now-exposed plug to drain the mine.

The crucial fact omitted by the report is that the EPA did not have a stinger. So, the plan was pure fiction.

In fact, the Department of Interior report was so short on details that an Army Corps of Engineers peer-reviewer made his signature conditional on including additional text in the executive summary.

He included the line:

The report discusses field observations by EPA (and why they continued digging), but does not describe why a change in EPA field coordinators caused the urgency to start digging out the plug rather than wait for [Bureau of Reclamation] technical input as prescribed by the EPA project leader.

Unlike the Corps reviewer's comments, the remainder of the Interior report is nebulous.

Then, the night before a congressional hearing on the Interior report, the EPA issued an addendum to its first report, stating that the report was based on an unrecorded, untranscribed, simultaneous interview of the two EPA on-scene coordinators in charge of the site.

According to the addendum, the on-scene coordinator who was on vacation at the time of the blowout had handed supervision off to the other, along with an emailed list of instructions.

Curiously, this critically important email was not mentioned in the narrative of the two earlier reports. The email provides explicit instructions on steps to take to remove the upper portion of the plug.

The EPA's midnight addendum also asserts that its crew was following these instructions with one exception. Without any supporting evidence whatsoever, the report claims that after he sent the email, the on-scene coordinator who would be on vacation told his replacement not to remove the plug, something inconsistent with his instructions.

Even if this supposed "clear verbal direction" was ever given, it definitely wasn't followed.

The report goes on to repeat the fiction that the EPA crew was digging high above the tunnel opening and preparing the site for when the experts would arrive when, somehow, the mine inexplicably burst open.

Finally, the EPA Inspector General's Office released its report this Monday that at best demonstrates an inability to uncover the truth by repeating the fiction.

After omitting any serious discussion of the outlandish assumptions from the EPA's 2014 site visit, the EPA inspector general repeats the official EPA line, stating that:

According to the [on-scene coordinator] on-site, the team stopped excavation in front of the blockage on Aug. 4, 2015, after they reached material that was compacted, well consolidated, and considered by the [on-scene coordinator] on-site to be the blockage.

The EPA inspector general goes on to state that the next day, "[t]he excavator operator built a ramp to enable reaching higher." This was reportedly done so the excavator operator could "scratch" above the mine entrance where the plug was.

Like the other reports, the inspector general omits any mention that the plug that had been unearthed the day before was reburied—as is demonstrated in this series of photos—and that the rock face had already been "scratched" clean before the blowout, as demonstrated in this series of photos.

Time for Truth and Accountability

All these reports are clearly refuted by an email from the Department of Interior recently released by the House Committee on Natural Resources, which states:

On 8/5/2015, the EPA was attempting to relieve hydrologic pressure behind a naturally collapsed adit/portal of the Gold King Mine. The EPA's plan was to slowly drain and treat enough mine water in order to access the inner mine working and assess options for controlling its discharge. While removing small portions of the natural plug, the material catastrophically gave-way and released the mine water.

This document, site photographs, and other information clearly contradict the fiction that the EPA has spun. The cover-up is so bold it fits the old saying, "Who you going to believe, me or your lying eyes?"

While the EPA crew did not snap a photo of the excavator bucket that was digging the last fateful scoop of the plug, it might as well have.

There are enough people inside the agencies that know the truth, and a trail of pictures and papers show that they know it.

It is time the cover-up be uncovered, and the EPA be exposed for caring more about its own institutional interests than protecting the quality of the environment.

Myron Ebell

Director, Center for Energy and Environment

Competitive Enterprise Institute

1310 L Street, N. W., Seventh Floor

Washington, DC 20005, USA

Tel direct: (202) 331-2256

Tel mobile: (202) 320-6685

E-mail: Myron.Ebell@cei.org

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