

# United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

April 20, 2009

The Honorable Lisa Jackson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dear Administrator Jackson:

I am writing to you because I have serious concerns over the Environmental Protection Agency's (EPA) recent decision to review pending mountaintop mining permits. I understand from my staff that EPA is delaying issuance of six Clean Water Act permits for mountaintop mining projects over water quality concerns. I also understand that EPA is considering reviewing 200 additional permits as part of a broader review of this activity.

EPA has an important responsibility to ensure that resource extraction conforms to the nation's environmental laws. However, most, if not all, of the Clean Water Act permits in question have been previously reviewed by EPA and the Army Corps of Engineers. It would seem that EPA's additional reviews are creating unnecessary delays and compounding a nearly 3-year backlog of such permits. For these reasons, it's important to discern the key environmental issues being raised by EPA, and why additional review is needed.

As you know, mountaintop mining is a vitally important economic activity. It provides a significant portion of the coal that contributes nearly 50 percent of the nation's electricity. It also provides well-paying jobs and revenues for some of the neediest regions. Moreover, reducing access to this key domestic energy source will increase our dependence on foreign energy sources.

I hope you will maintain a balance between ensuring environmental protection and economic growth. Processing permits of this kind in a timely manner is important for the region in which this activity occurs and the nation which benefits from it. With this in mind, I hope you can provide me with answers to the following questions:

1. Please list the entire scope of mountaintop mining permits that EPA is currently reviewing. Please also list the time that the permit has been pending or backlogged and the rationale for the review. Please also indicate on the list the permits that have previously been reviewed.
2. It has taken EPA a month and a half to review and comment on 54 permits that were previously reviewed. How much time will it take EPA to reexamine the remaining backlog of permits?
3. Which of the permits are individual permits and which are NWP 21? Do you anticipate that your review of individual permits will take more time than reviewing NWP 21 permits? Can this be expedited?
4. In terms of full disclosure, please list all industry groups, mining companies, non-profit groups, associations, advocacy groups, and local stakeholders that you or your staff have met with or are scheduled to meet with at EPA from January 23, 2009 through April 17, 2009 regarding mountaintop mining.
5. Please list the issues—scientific, legal, and technical—behind EPA’s decision to reexamine these permits. Were these issues different from those covered in previous reviews?
6. Did you discuss this review process at any time with Carol Browner and/or other White House officials? If so, what role has she and other White House officials had in this review process?
7. The Buffalo Mountain Section 404 permit covers a project that is estimated to produce 50 direct jobs and 250 indirect jobs with about \$94.3 million in tax revenue for the state of West Virginia and the United States Treasury. The Highland Permit covers a project with 203 existing jobs. The Republic No.1 Permit covers another project that would create 270 jobs. If EPA continues to delay issuance of these permits, these jobs will be lost. Is EPA taking these economic considerations into account in its review?
8. Please provide me with the specific steps EPA plans to take in the coming months to process these permits.

Given the time sensitive nature of these issues, I would appreciate receiving your responses to my questions no later than April 30, 2009.

If you have any questions, please contact Matthew Hite on my staff at (202) 224-6176.

Sincerely,

A handwritten signature in blue ink, appearing to read "James M. Inhofe", written in a cursive style. The signature is positioned above a thin horizontal line.

James M. Inhofe  
United States Senator