

# United States Senate

WASHINGTON, DC 20510

June 3, 2009

Ms. Lisa Jackson  
Administrator  
Environmental Protection Agency  
USEPA Ariel Rios Building (AR)  
1200 Pennsylvania Avenue N.W.  
Washington, DC 20004

Dear Administrator Jackson:

We are writing to request legal analysis of the Appalachian Recovery Act (S. 696) that we have introduced. The aim of our legislation is to stop the destructive and unsustainable practice of mountaintop removal coal mining. President Obama condemned mountaintop removal coal mining on several occasions during his presidential campaign, and we applaud EPA's March 24, 2009 decision to suspend and review the permit applications filed for two major mountaintop removal coal operations, and subsequent decisions to express water quality concerns over four additional mountaintop removal permits.

On June 1, 2009, your staff provided an informative briefing on mountaintop removal for several senate staffers. As a follow-up to that meeting, we would like to have EPA's legal interpretation of the bill and additional input on the following questions:

- Would this legislation, as written, only apply to activities that result from mountaintop removal coal mining?
- What is the number of permits issued under the Surface Mining Control and Reclamation Act (SMCRA) in each year from 2000 to the present?
- Of those SMCRA permits how many have requested Dredge and Fill Clean Water Act (404) permits?
- And of those 404 permit requests, how many applicants sought Nationwide (General) 21 permits?
- How many of the aforementioned permits have been denied by federal agencies?
- What pollutants of concern are found in ground and surface waters as a result of mountaintop removal coal mines and the associated valley fills?

We look forward to working with you and your agency in addressing the environmental damage caused by mountaintop removal coal mining. Attached is a copy of the bill. Your input and guidance on how we can make this legislation most effective for your agency to implement would be appreciated. Thank you for your consideration.

Sincerely,



Benjamin L. Cardin  
United States Senator



Lamar Alexander  
United States Senator