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ADMINISTRATOR JACKSON

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Despite Directive, BP Used Dispersant Often, Panel Finds (*New York Times*)

August 1, 2010 Sunday
Late Edition - Final
Section A; Column 0; National Desk; Pg. 20
Despite Directive, BP Used Dispersant Often, Panel Finds
By MATTHEW L. WALD
The Coast Guard approved dozens of requests by BP to spread hundreds of thousands of gallons of surface oil dispersants in the Gulf of Mexico despite the Environmental Protection Agency's directive on May 26 that they should be used only rarely, according to documents and correspondence analyzed by a Congressional subcommittee.

In some cases, the Coast Guard approved BP's requests even though the company did not set an upper limit on the amount of dispersant it planned to use.

The dispersants contributed to "a toxic stew of chemicals, oil and gas, with impacts that are not well understood," Representative Edward J. Markey of Massachusetts, the Democratic chairman of the House Subcommittee on Energy and Environment, wrote in a letter sent late Friday to Thad W. Allen, the retired Coast Guard admiral who is leading the federal response to the oil spill.

In a conference call on Saturday morning, Admiral Allen and Lisa P. Jackson, the E.P.A. administrator, said they had worked together closely and had come very near to achieving the agency's goal of reducing dispersant amounts by 75 percent.

On May 26, the E.P.A. directed BP to stop using dispersants on the ocean surface, except in "rare cases when there may have to be an exemption," and to limit use of the chemicals underwater.

But Mr. Markey's letter pointed to more than 74 exemption requests in 48 days, of which all but 10 were fully approved by the Coast Guard. In some cases, BP asked for permission after it had already applied the chemicals, the letter said. And in one case, the Coast Guard approved the use of a larger volume of dispersants than the company had applied for.

As an example of the conflicting numbers, Mr. Markey said that in a request filed on June 16, BP told the Coast Guard that in the previous several days it had used a maximum of 3,365 gallons of dispersant in a single day. But in e-mails to members of Congress giving updates on the spill response, the company said it had used 14,305 gallons of dispersant on June 12 and 36,000 gallons on June 13.

Admiral Allen and Ms. Jackson said they had reduced dispersant use by 72 percent. "In any government program I've worked in, that's pretty significant progress," Admiral Allen said.

Admiral Allen said his agency would try to reconcile the conflicting numbers that were issued during what he called "the equivalent of an environmental war."

The two officials said the government would conduct a postmortem evaluation of the effectiveness of skimming, burning and spreading dispersants to determine what had worked best.

But Ms. Jackson said, "There's absolutely no doubt that use of dispersants was one of several essential tools to mitigate this spill's impact."

A spokesman for BP, Scott Dean, also said he could not respond in detail because the company had not seen Mr. Markey's letter. But he said, "From the outset we've operated in a unified command that has included E.P.A. and the Coast Guard."

Mr. Dean said BP had worked "hand in glove" with the two agencies on dispersant decisions. Under the "joint command" structure set up in the Oil Pollution Act of 1990, the federal government and the oil company mount a response to a spill.

While it was known that BP continued the use of surface dispersant after the May 26 directive, it was not clear how much was being used. According to the documents analyzed by the committee, the company did cut back substantially on the use of underwater dispersants after the directive was issued.

The E.P.A. and the Coast Guard have both described the use of the dispersants as a trade-off. The chemicals break down blobs of oil into smaller droplets that are easier for naturally occurring bacteria to digest. But they can also have harmful effects on marine animals. And if the dispersants are too successful and allow a proliferation of bacteria, the bacteria can use up all the oxygen in the water and kill the fish and other organisms.

In testimony before Congress on July 15, Ms. Jackson said her agency had been looking for signs of unusually low oxygen levels and had not found them.

In his letter, Mr. Markey said the May 26 directive had "become more of a meaningless paperwork exercise than an attempt to abide by the directive and eliminate surface applications of chemical dispersants."

In fact, other government correspondence disclosed by Mr. Markey indicates a dispute within the E.P.A. about the proper use of dispersants. At one point, the Dallas regional office of the agency agreed that the incident command center, run by the Coast Guard and BP, should get blanket approval to use 5,000 gallons of dispersant a day, to "improve operational efficiency."

But the next day, the Dallas office rescinded that policy, saying that the center should make a request each evening about the amount it wanted to use the next day and that the agency would make a decision overnight.

Mr. Markey said that while the agency said on May 26 that applications for surface dispersant use should be rare, the Coast Guard, in approving the applications, cited routine factors like there being too much oil to skim.

Oil dispersants flowed freely despite restriction, papers show (*Washington Post*)

August 1, 2010 Sunday
Met 2 Edition
A-SECTION; Pg. A01
Maryland
Oil dispersants flowed freely despite restriction, papers show
By David A. Fahrenthold and Steven Mufson
While the BP well was still gushing, the Obama administration issued an order that limited the spreading of controversial dispersant chemicals on the Gulf of Mexico's surface. Their use, officials said, should be restricted to "rare cases."

But in reality, federal documents show, the use of dispersants wasn't rare at all.

Despite the order -- and concerns about the environmental effects of the dispersants -- the Coast Guard granted requests to use them 74 times over 54 days, and to use them on the surface and deep underwater at the well site. The Coast Guard approved every request submitted by BP or local Coast Guard commanders in Houma, La., although in some cases it reduced the amount of the chemicals they could use, according to an analysis of the documents prepared by the office of Rep. Edward J. Markey (D-Mass.).

The documents indicate that "these exemptions are in no way a 'rare' occurrence, and have allowed surface application of the dispersant to occur virtually every day since the directive was issued," Markey wrote in a letter dated Aug. 1 to retired Coast Guard Adm. Thad W. Allen, the government's point man on the spill. Markey chairs the House Select Committee on Energy Independence and Global Warming.

Some of them dealt with separate dispersant applications on the same day. Markey said it appeared that the order "has become more of a meaningless paperwork exercise" than a real attempt to curb use of the dispersants.

In an interview Saturday, Allen defended the decisions to grant the waivers, saying that overall use of dispersants declined sharply after that May 26 order to limit their use. The total use of dispersants underwater and on the surface declined about 72 percent from its peak, according to the Environmental Protection Agency.

Allen said that on some days the amount of oil on the surface justified a "tactical" decision, by on-scene Coast Guard commanders, to spray some dispersants.

"There's a dynamic tension that goes on when you're managing an incident that has no precedent," Allen said. "You establish general rules and guidelines, but knowing that the people on scene have the information" means trusting them to make decisions, he said.

In the end, Allen said: "You can quibble on the semantics related to 'rare.' I like to focus on the effects we achieved" by dispersing the oil. Officials have said that, in the days since the gusher was stopped, thick sheets of oil have nearly disappeared from the gulf's surface.

EPA Administrator Lisa P. Jackson conceded that there had been "frustration in the field" from EPA officials about the waivers. But Jackson said it was partly alleviated June 22, nearly a month after the order was issued, when Coast Guard officials began giving the EPA a greater role in the discussions over whether to approve dispersant use.

"EPA may not have concurred with every single waiver," Jackson said. But, she said, the Coast Guard had the ultimate say: "The final decision-making rests with the federal on-scene coordinator. That's where the judgment, the ultimate decision-making ability, had to lie."

The dispersants -- variants of a Nalco product called Corexit -- break up the oil, acting like a detergent on kitchen grease. They are intended to keep the oil from reaching shore in large sheets and to make it easier for microbes to consume the oil underwater.

Charles M. Pajor, a Nalco spokesman, said that the amount of dispersant the company recommends depends on the acreage sprayed and the amount of oil spilled, with variations for oil quality, degree of weathering, temperature and thickness. Typically, two to 10 gallons per acre are used or one gallon for every 10 to 50 gallons of oil, Pajor said.

Similar dispersants were used after the Exxon Valdez spill in Alaska in 1989, and afterward government officials vowed to study their environmental effects more carefully. But urgency faded, research dollars evaporated, and when this spill arrived, the questions were still unanswered.

Now, scientists say, it's difficult to tell what the added use of dispersants permitted by the Coast Guard meant for the gulf. The chemicals may have helped break up some oil before it reached sensitive marshes along the Louisiana coast. But it also may have poisoned ecosystems offshore, helped deplete underwater oxygen and sent oil swirling through the open-water habitats of fish and coral.

"It's still a trade-off. I mean, you're using dispersants to protect the shoreline, and you're going to be killing things in the water column," said Carys Mitchelmore, a professor at

the University of Maryland. By using more dispersants, Mitchelmore said, "you're just going to be killing more things in the water column."

In May, under pressure from environmental groups, the EPA and the Coast Guard issued a directive to BP, ordering the company to "eliminate" the use of dispersants on the surface. The directive said BP could seek an exemption in rare cases when other cleanup methods were not feasible.

The government allowed BP to continue injecting dispersants below the surface, as oil leaked from the well on the gulf floor. Their logic was that the chemicals could be used more efficiently underwater, where the gushing of BP's well provided a turbulence that helped them work.

"Because so much is still unknown about the potential impact of dispersants, BP should use no more dispersant than is necessary," Jackson wrote in a letter to BP that day.

But, over the next nine days, BP made daily waiver requests for the use of surface dispersants. Every day the Coast Guard gave its approval. On May 28, for instance, BP sprayed 6,400 gallons of dispersant on the surface, saying it was needed to control dangerous fumes -- volatile organic compounds -- where rig and platform workers were trying to get the blowout under control.

In early June, federal documents show, an EPA official raised concerns about the ease with which BP was obtaining waivers.

"The approval process appears to be somewhat pro forma, and not as rigorous as EPA desires," the official wrote, according to a Coast Guard memo that quoted him. It said BP "must be put on notice that the request for exemptions cannot be presumed to be approved at the point they are submitted."

Two weeks later, on June 22, Jackson said that the Coast Guard had begun giving her agency a greater role in the approval of dispersant use. But federal documents show that the chemicals were still being used, sometimes more than 10,000 gallons a day. A federal official said the last surface dispersants were sprayed July 19.

Scott Dean, a BP spokesman, said that his company had been careful to obtain federal permission before using dispersants on the ocean's surface.

"Since the very beginning, BP has operated in a unified command and we have always worked hand in hand with the Coast Guard and EPA on dispersants," Dean said, "and we've complied with EPA requests regarding dispersants." He added that "dispersants are an EPA-approved and recognized tool in fighting oil spills."

Aaron Viles, at the Louisiana-based Gulf Restoration Network, said the Obama administration gave the impression of controlling the controversial dispersants while allowing their use to continue. The result, he said, was that more oil sank out of sight

and out of reach of the cleanup operation.

"Clearly, you know, there was a bit of a show here," Viles said. "Whether EPA wasn't serious, or the Coast Guard didn't care, they kept cranking, and kept exposing the Gulf of Mexico to this giant science experiment."

Washington Despite Directive, Dispersants Often Used (*Pittsburgh Post-Gazette*)

Pennsylvania
August 1, 2010 Sunday
TWO STAR EDITION
NATIONAL; Pg. A-6
WASHINGTON DESPITE DIRECTIVE, DISPERSANTS OFTEN USED
The Coast Guard approved dozens of requests by BP to spread hundreds of thousands of gallons of surface oil dispersants in the Gulf of Mexico despite the Environmental Protection Agency's directive on May 26 that they should be used only rarely, according to documents and correspondence analyzed by a congressional subcommittee.

In some cases, the Coast Guard approved BP's requests even though the company did not set an upper limit on the amount of dispersant it planned to use.

The dispersants contributed to "a toxic stew of chemicals, oil and gas, with impacts that are not well understood," Rep. Edward J. Markey of Massachusetts, the Democratic chairman of the House Subcommittee on Energy and Environment, wrote in a letter sent late Friday to Thad W. Allen, the retired Coast Guard admiral who is leading the federal response to the oil spill.

In a conference call on Saturday morning, Mr. Allen and Lisa P. Jackson, the EPA administrator, said they had worked together closely and had come very near to achieving the agency's goal of reducing dispersant amounts by 75 percent.

On May 26, the EPA directed BP to stop using dispersants on the ocean surface, except in "rare cases when there may have to be an exemption," and to limit use of the chemicals underwater.

But Mr. Markey's letter pointed to more than 74 exemption requests in 48 days, of which all but 10 were fully approved by the Coast Guard. In some cases, BP asked for permission after it had already applied the chemicals, the letter said. And in one case, the Coast Guard approved the use of a larger volume of dispersants than the company had applied for.

The two officials said the government would conduct a postmortem evaluation of the effectiveness of skimming, burning and spreading dispersants to determine what had worked best.

But Ms. Jackson said, "There's absolutely no doubt that use of dispersants was one of several essential tools to mitigate this spill's impact."

A spokesman for BP, Scott Dean, also said he could not respond in detail because the company had not seen Markey's letter. But he said, "From the outset we've operated in a unified command that has included EPA and the Coast Guard."

Despite order, oil dispersant was used often in gulf (*Boston Globe*)

August 1, 2010 Sunday
NEWS; National; Pg. 9
Despite order, oil dispersant was used often in gulf;
Chemical used 74 times in 59 days, review finds
By David A. Fahrenthold, Washington Post
WASHINGTON - While the BP PLC well was still gushing, the Obama administration issued an order that limited the spreading of dispersant chemicals on the Gulf of Mexico's surface. Their use, they said, should be restricted to ``rare cases.''

But in reality, federal documents show, it wasn't rare at all.

Despite the order - and concerns about the environmental effects of the dispersants - the Coast Guard granted requests to use them 74 times over 59 days, and to use them on the surface and under water at the well site.

The Coast Guard approved every request by BP or local Coast Guard commanders in Houma, La., although in some cases it reduced the amount of the chemicals they could use, according to an analysis of the documents prepared by the office of US Representative Edward Markey, Democrat of Massachusetts.

The documents indicate that ``these exemptions are in no way a `rare' occurrence, and have allowed surface application of the dispersant to occur virtually every day since the directive was issued,'' Markey wrote in a letter dated Aug. 1 to Thad Allen, the government's point man on the spill. Markey chairs the House Select Committee on Energy Independence and Global Warming.

Some of them dealt with separate dispersant applications on the same day. Markey said it appeared that the order ``has become more of a meaningless paperwork exercise'' than a real attempt to curb use of the dispersants.

In an interview yesterday, Allen defended the decisions to grant these waivers, saying that overall use of dispersants declined sharply after that May 26 order to limit their use. The total use of dispersants underwater and on the surface declined about 72 percent from its peak, according to the Environmental Protection Agency.

Allen said that on some days the amount of oil on the surface justified a ``tactical'' decision, by on-scene Coast Guard commanders, to spray some dispersant chemicals.

``You establish general rules and guidelines, but knowing that the people on scene have the information'' means trusting them to make decisions, he said.

In the end, Allen said, ``You can quibble on the semantics related to `rare.' I like to focus on the effects we achieved'' by dispersing the oil. Officials have said that, in the days since the gusher was stopped, thick sheets of oil have nearly disappeared from the gulf's surface.

Lisa Jackson, the administrator of the EPA, conceded that there had been ``frustration in the field'' from EPA officials about the waiver approvals. But Jackson said that was partly alleviated on June 22, nearly a month after the order was issued, when Coast Guard officials began giving the EPA a greater role in the discussions over whether to approve dispersant use.

``EPA may not have concurred with every single waiver,'' Jackson said. But, she said, the Coast Guard had the ultimate say: ``The final decision-making rests with the federal on-scene coordinator. That's where the judgment, the ultimate decision-making ability, had to lie.''

At the Deepwater Horizon site, workers moved closer yesterday to completing work on a relief well that will be used to plug the leak for good. Allen said last week that work on the relief well was taking longer than planned because sediment settled in it when crews plugged it to keep it safe during Tropical Storm Bonnie.

Removal of the sediment will delay until Tuesday a procedure known as a static kill, in which mud, and possibly cement will be pumped into the blown-out well through the temporary cap that has kept it from leaking for more than two weeks.

The dispersants used in the Gulf - variants of a product called Corexit - break up the oil, acting like a detergent on kitchen grease. They are intended to keep the oil from reaching shore in large sheets, and to make it easier for microbes to consume the oil under water.

Similar dispersants were used after the Exxon Valdez spill in Alaska in 1989, and afterward government officials vowed to study their environmental effects more carefully. But urgency faded, research dollars evaporated, and when this spill arrived, the questions were still unanswered.

Now, scientists say, it's difficult to tell what the added use of dispersants permitted by the Coast Guard meant for the gulf. The chemicals may have helped break up some oil before it reached sensitive marshes along the Louisiana coast. But it also may have poisoned ecosystems offshore, helped deplete underwater oxygen, and sent oil swirling

through the open-water habitats of fish and coral.

In May, under pressure from environmental groups, the EPA and the Coast Guard issued a directive to BP, ordering the company to ``eliminate'' the use of these chemicals on the surface. The directive said BP could seek an exemption in rare cases when other cleanup methods were not feasible.

The government allowed BP to continue injecting dispersants below the surface, as oil poured from the well on the gulf floor. Their logic was that the chemicals could be used more efficiently under water, where the gushing well provided a turbulence that helped them work.

But over the next nine days, BP made daily waiver requests for the use of surface dispersants. Every day the Coast Guard gave its approval. In early June, federal documents show, an EPA official raised concerns about the ease with which BP was obtaining waivers.

On June 22, the EPA's Jackson said that the Coast Guard had begun giving her agency a greater role in the approval of dispersant use. But federal documents show that the chemicals were still being used. A federal official said the last surface dispersants were sprayed July 19.

Progress Reported In Mopping Up River Spill (*Baltimore Sun*)

July 31, 2010 Saturday
FINAL EDITION
TELEGRAPH; Pg. 7A
PROGRESS REPORTED IN MOPPING UP RIVER SPILL
By Christina Hall, McClatchy/Tribune news
BATTLE CREEK, Mich. -
BATTLE CREEK, Mich. - -Officials reported significant gains Friday in cleaning up an oil spill in southern Michigan.

"Progress has been made but there is still a lot of work to be done," said Patrick Daniel, chief executive of Enbridge Energy Partners, the Canadian-based company that owns the pipeline that leaked.

Michigan Gov. Jennifer Granholm and EPA Administrator Lisa Jackson flew over the Kalamazoo River on Friday, and Granholm said she saw "significant progress toward containment." Jackson said the area will "heal itself" but said "it is a significant spill."

Oil that began leaking Monday from the 30-inch pipeline has been moving from Talmadge Creek into the Kalamazoo River, which flows from near the city of Battle Creek into Lake Michigan.

The pipeline normally carries 190,000 barrels of oil per day from Griffith, Ind., to Sarnia, Ontario.

The leak was stopped Tuesday, but not before an estimated 19,500 barrels of oil escaped.

The cause of the spill is under investigation.

EPA and local officials said progress has been made to remove the crude - particularly from Talmadge Creek and the spill site - but significant work remains. Enbridge said more than 5,000 barrels of oil have been recovered, though a large volume remains bogged at the spill site.

Remediation of the banks and other downstream areas will take several months, officials said. Environmental monitoring will continue for years, said Ralph Dollhopf, an EPA onsite coordinator.

The spill covered 25 miles and efforts are being made to prevent it from contaminating Morrow Lake, just east of Kalamazoo, and Lake Michigan, Dollhopf said.

More than 600 workers were on site Friday. Daniel said there are 26 boom sites, with plans to add possibly 10 more this weekend.

Dollhopf said oil sheen has not been seen on Morrow Lake, and Jackson said she is confident the oil will not reach Lake Michigan.

The Enbridge spill has been watched with concern in part because of its proximity to Lake Michigan.

Admiral Allen defends dispersant use in the Gulf (*Examiner*)

August 1, 4:01 PM · Laurie Wiegler - New Orleans Environmental News Examiner
Admiral Thad Allen, National Incident Commander for Deepwater Horizon Response, today defended the Coast Guard's dispersant applications in the Gulf of Mexico. His response to a reporter's question arose from news today that the Coast Guard allegedly routinely approved BP requests to use thousands of gallons of toxic chemical dispersants in the Gulf, despite a federal directive to use the dispersant rarely.

AP reported that the Coast Guard approved 74 waivers over a 48-day period after the Environmental Protection Agency order, according to documents reviewed by the investigators.

Rep. Edward Markey, D-Mass., even released a letter yesterday accusing that: "BP often carpet bombed the ocean with these chemicals and the Coast Guard allowed them to do it."

The admiral was seemingly nonplussed by the question, stating that the on-scene coordinator is always responsible for the day-to-day decision(s) regarding any increase/use of dispersants.

He added that he's had "numerous discussions" with EPA Administrator Lisa Jackson. "We've worked together as leaders since last May …[and] we [decided we] needed to reduce the amount of dispersants by 75 percent." And in fact, claimed the Admiral, after meeting with the EPA in May he actually curtailed use of dispersants by 72 percent at the time the capping stack was put on.

The reporter asked how he could be so sure, and Allen said "these are EPA's own numbers…[and the amount used is] decided by the federal on-scene coordinator. It's not a decision by BP." Further, Allen said that surveillance aircraft is part of a very "disciplined process" in making decisions regarding dispersant use.

Although it's the federal on-scene coordinator – Paul Zunkunft – on whom "responsibility rests", said Allen, in some cases the Admiral is also "made privy" to any changes in dispersant applications, and that he's "satisfied they are only used when needed."

In other matters, Allen said it will be Monday night at the earliest but likely Tuesday before the hydrostatic kill will begin. Then, at minimum, the bottom kill procedure will begin five to seven days after that. The current pressure on the well is 6,980 pounds "and it continues to rise, which is a good indication of a pattern we expect for a well with integrity."

The static kill procedure was delayed due to debris found in the bottom of the well. Today, the admiral said they'd pulled out 40 feet of debris.

The Deepwater Horizon Response team is "currently in the process of laying the final casing run for the relief well and ...the casing has now been placed at the bottom of the well bore. It is – they are circulating fluids just to make sure it's clean and ready to go," said the admiral.

"In four to five hours we will probably begin cementing the relief well in," he said about 3:45 pm. EST today.

Further, there will then be tests and a "sequence of events" that must be followed before pumping mud into the capping stack itself.

Then on a personal note, the admiral was asked by *the Examiner* to comment on his views about offshore drilling. Had this ordeal changed his thinking in any way?

"Issues related to offshore drilling ... and the moratorium and those things are policy issues, and without trying to be flippant or glib it's really above my pay grade. My responsibility is on the response and making sure that we get this oil cleaned up, that we're there and we do our job and we hold BP accountable. Regarding long-term energy issues and energy policy I'll leave that to the policy makers."

Headway reported in mopping up river spill (*Chicago Tribune*)

August 1, 2010 Sunday
Early Edition
NEWS ; ZONE C; Pg. 27
By Christina Hall, McClatchy/Tribune news\ CNN contributed.
BATTLE CREEK, Mich.
Officials reported significant gains Friday in cleaning up an oil spill in southern Michigan.

"Progress has been made, but there is still a lot of work to be done," said Patrick Daniel, chief executive of Enbridge Energy Partners, the Canadian-based company that owns the pipeline that leaked.

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Remediation of the banks and other downstream areas will take several months, officials said.

Environmental monitoring will continue for years, said Ralph Dollhopf, an EPA site coordinator.

The spill covered 25 miles, and efforts are being made to prevent it from contaminating Morrow Lake, just east of Kalamazoo, and Lake Michigan, Dollhopf said.

More than 600 workers were on site Friday. Daniel said there are 26 boom sites, with plans to add possibly 10 more this weekend.

Dollhopf said oil sheen has not been seen on Morrow Lake, and Jackson said she is confident the oil will not reach Lake Michigan.

EPA rejects Big Coal's greenhouse-gas appeal (*Columbus Dispatch*)

The U.S. **Environmental Protection Agency** last week gave a thumbs-down to a request by the Ohio Coal Association and industry groups in Texas and Virginia for the federal agency to reconsider its view that greenhouse-gas emissions damage the environment and cause health problems in people.

The industry groups had argued that the **EPA** had relied on inaccurate science when it made its finding in 2009. Because of that finding and a 2007 opinion by the U.S. Supreme Court, the **EPA** is required to issue regulations curbing greenhouse gases if Congress fails to act on its own.

The groups argued that hacked e-mails from scientists at the University of East Anglia in Great Britain had discredited findings by the **EPA** that greenhouse gases from fossil-burning fuels contributed to **global warming.**

But **EPA** Administrator Lisa Jackson said the agency finding "is based on years of science from the U.S. and around the world."\

Compiled by Jack Torry of the Dispatch Washington Bureau.

AIR

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Supervisors reject plan for asphalt plant (*Washington Post*)

August 1, 2010 Sunday
Every Edition
EXTRAS; Pg. PW01
Prince William County
Supervisors reject plan for asphalt plant;
Residents had raised outcry Proximity to tech park contributes to denial
By Jennifer Buske
When word surfaced last year that an asphalt mixing plant might move within a mile of

Prince William County schools and houses, hundreds of residents mobilized to fight something they said could hurt their health and communities.

On Tuesday, they won.

After hearing from almost 100 speakers, the Board of County Supervisors unanimously denied Finley Asphalt and Sealing's request to build on Hornbaker Road, near several Linton Hall area neighborhoods and the county's prized Innovation @ Prince William Technology Park.

"Innovation is a very important part of where the county is today," said Supervisor W.S. Covington III (R-Brentsville). "I don't think at this point we can let even the perception of problems get in the way of what Innovation can be because I don't think it has fulfilled its destiny yet. . . . There are places in Prince William where we can do this; I just don't think this is the spot."

Finley, whose special-use permit application was indefinitely deferred last year because of a public outcry, proposed to build an asphalt mixing facility on heavy industrial-zoned land. The "cleaner, greener" facility would "set new environmental standards," emit no odors and include buffers, said Erick Finley, president of the company. The plant's emissions would be lower than the limits set by the **Environmental Protection Agency,** Finley officials said.

"The board's decision was a disappointment, but it won't stop us from pursuing other locations" either inside the county or in another locality, said Finley, who has a paving company in the county and wants to make his own asphalt. "I'm disappointed the county felt it was a choice between Innovation and us."

At Tuesday's hearing, some showed support for the facility by wearing green shirts, while opponents wore blue. The crowd spilled into the atrium of the county administration building, where there was standing room only.

Opponents said they were concerned about the plant's potential pollution, impact on property values and traffic. Many were also concerned that the facility could affect the health of their family and friends.

"A lot of people supporting this are businessmen who don't live in the neighborhoods," said Prince William resident Mindy Diepenbrock. "I resent the fact Finley is putting money and their business practice ahead of the health and welfare of my family."

Officials with Innovation and George Mason University, which has a campus near the site, also opposed the plant.

"Is the Prince William board confident that Innovation will be able to grow jobs and continue to attract economic development if they have an industrial facility placed immediately adjacent?" asked Del. Robert G. Marshall (R-Prince William). "If the Prince

William board reduces the attraction of Innovation . . . it will lead to adverse consequences for the county in these already difficult economic times."

Almost half of the speakers supported the plant, saying it would produce jobs and contribute to the county's commercial economic base.

"Finley will create jobs and generate a lot of tax money that would benefit everyone," Prince William resident Joe Drago said. "The proposed facility is a state-of-the-art facility. . . . This plant will have no impact on the neighborhood and be an asset to the county."

Some speakers at the meeting referred to plants that already exist.

"My office is across from Chemung [Contracting in Gainesville] . . . and I've never basically seen, heard or smelled anything," Dick Lukens said. "The plant is a nonissue. The Chemung plant is 1980s technology, and the Finely plant . . . is a substantially newer technology than that."

Finley's attorney, Gifford Hampshire, said that two asphalt plants are already in the Innovation sector plan and that Finley's facility would have been outside the plan's boundaries. County officials said those plants were in place before the plan was created. Research also shows, Hampshire said, no complaints against either of those facilities.

The asphalt facility was recommended for approval by county staff members and the county Planning Commission. It was expected to bring $2.3 million in tax revenue to the community over the next five years, along with 100 new direct and indirect jobs.

"We hurt like everyone else but chose to expand our business, not retreat, and do it here in Prince William County, where I grew up and am raising my family," Finley said. "It just made sense."

Beware of air duct cleaning offers, Better Business Bureau warns (*Sacramento Bee*)

California
August 1, 2010 Sunday
SECTION: D; Pg. 1
Beware of air duct cleaning offers, Better Business Bureau warns
By Claudia Buck; cbuck@sacbee.com
The fliers that hit mailboxes sound so ominous.

"Dirty Air Ducts = Bad Health." "Clean It Before You Breathe It!" "Air Duct Cleaning: Do You Know What Your Children and Pets are Breathing?"

Filthy air ducts, they imply, are causing your family to inhale dirty air and be exposed to unhealthy mold.

Robert Echevarria thought so. Last month, the retired Plumas Lake resident signed up for a $55 air duct cleaning, based on a flier he got in the mail. After a cursory inspection, Echevarria said, he was told his home's air ducts were contaminated with black mold. The solution: a $499 ultraviolet light in his attic.

Pressured to decide immediately, Echevarria said he ignored all the red flags and had the UV light installed in his attic. He's now convinced the black mold diagnosis is doubtful and the UV light useless.

"We were bamboozled. It was all bogus, high-pressure tactics," he says.

He's got plenty of company. Throughout Northern California, consumers have been complaining to the Better Business Bureau and others of shoddy service and high-pressure sales tactics from air duct cleaning companies.

In Natomas, Andrea St. Clair says she got a similar hard-sell by Air Max III, an air duct cleaning company. The service guy diagnosed mold in her duct work, using a device that changed color to a bright purple, indicating the presence of "deadly black mold."

"The guy tried at least eight or nine times, telling me that I was going to die in my sleep, if I didn't spend $575 to get it all cleaned out," said the 30-year-old Natomas resident.

Prompted by these and several dozen other consumer complaints, the Better Business Bureau in West Sacramento recently announced the results of a yearlong investigation into tactics used by six air duct cleaning companies in Northern California.

In what it calls "investigative shoppings," the BBB office set up seven appointments and paid for air duct cleanings at the homes of BBB employees or acquaintances. The six companies surveyed: Air Max III, 1st American Air, DCS Duct Cleaning Services, Elite Aircare, Maximum Aircare; and Pure Air.

Its conclusion: The air duct cleanings by the six firms were "superficial at best," and the companies engaged in "aggressive tactics" to sell unnecessary services and/or expensive equipment, including furnace cleanings, new filters, extended warranties, mold eradication, chemical sanitization and ultraviolet lights.

"They are trying to sell things they have no basis for telling the customer are needed," said Barry Goggin, president of the Northeast California Better Business Bureau. "They're relying on people being fearful of possible adverse health reactions, such as having mold in their home."

Despite several calls and messages left with each of the six companies, The Bee was able to speak with only one owner or manager. Amir Shalom, owner of DCS in San Leandro, said the BBB's C-minus rating of his company was not justified. "We've only had one complaint. We do 20 jobs a day, 300 to 400 jobs a month, and 99 percent of our customers are satisfied," said Shalom.

He said his company does not do mold testing.

One DCS customer, Joanie Olson of Rohnert Park, filed a BBB complaint after hiring the company for its advertised $75 cleaning. Instead, she wound up with a $700 bill after being told her heater was dust-filled and needed a thorough cleaning, as well as a $125 filter cover. She said she was also repeatedly urged to buy a UV light to prevent and kill mold.

It took eight weeks and several failed attempts before DCS delivered to Olson's home an air filter that was too small and had to be duct-taped in place, she said. Every time Olson turned on her heat, she said the filter fell down inside the furnace. Eventually, she went to Ace Hardware and paid $2 for one that fit properly.

"It was a total waste of money and time," said Olson, an outdoor nursery employee who said she paid the $700 out of her household budget. "As soon as the door closed that first day, I knew I'd been ripped off."

After filing a BBB complaint, she said the company did refund the $125 cost of the air filter.

Her tale is echoed in BBB complaints by customers of the six companies in Rohnert Park, Martinez, Natomas and San Francisco. In interviews, The Bee heard of similar experiences: Nearly all those interviewed had responded to coupons or fliers that arrived in the mail, promising "unlimited vents" cleaned or "Guaranteed Lowest Price," which typically ran anywhere from $30 to $75.

Sometimes the service providers arrived in unmarked cars and didn't wear a company uniform. In almost every case, they quickly declared that a dirty furnace required cleaning and began badgering homeowners to purchase costlier cleanings, new filters, fancy UV lights, and so forth. Several consumers described the sales tactics as intimidating or "scary." In several cases, the cleaners left with cash payments but provided no invoice or paperwork.

In its investigation, the BBB said 17 consumers were charged a total of more than $18,000 in disputed payments for additional services or equipment.

Tim Otto, who co-owns two flats in San Francisco with an elderly friend, booked a combined $150 "unlimited" air duct cleaning last October from Pure Air. His co-tenant, an elderly woman, was home alone when the company arrived. By the time the duct

cleaners left, they'd billed her – and been paid by check – for about $1,025, after insisting that the apartments needed two $150 filters and a $575 full-system cleaning that was not included in the original price.

"It really seemed predatory," Otto said. "It was kind of a classic bait-and-switch. You feel like a fool afterward."

Perhaps most disturbing was the mold diagnosis. In several cases, the companies used a pen-shaped device that supposedly tests for the presence of black mold. Similar to a pregnancy test, the stick allegedly turns purple when it registers positive for mold.

The Northeast California BBB said its research found the sticks are actually protein testers used in restaurants and food services to detect food residue on surfaces that need to be cleaned. Goggin said the testers, which are sold online, carry warnings that the devices are subject to "false positives" and are not designed to confirm the presence of mold.

Is air duct cleaning even necessary?

Probably not, says the U.S. Environmental Protection Agency.

If no one in your household suffers from allergies or unexplained symptoms/illnesses, and a visual inspection inside the air ducts "shows no indication of large deposits of dust or mold (and) no musty odor or visible mold growth, having your air ducts cleaned is probably unnecessary," according to the EPA's website.

And don't be fooled by dust-clogged air returns in your home's heating or air conditioning system. "It is normal for the return registers to get dusty as dust-laden air is pulled through the grate," notes the EPA. It's not an indication that your air ducts are contaminated with dust or debris; "the registers can be easily vacuumed or cleaned."

BP SPILL

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Despite Directive, BP Used Dispersant Often, Panel Finds (*New York Times*)

August 1, 2010 Sunday
Late Edition - Final
Section A; Column 0; National Desk; Pg. 20
By MATTHEW L. WALD
The Coast Guard approved dozens of requests by BP to spread hundreds of thousands

of gallons of surface oil dispersants in the Gulf of Mexico despite the Environmental Protection Agency's directive on May 26 that they should be used only rarely, according to documents and correspondence analyzed by a Congressional subcommittee.

In some cases, the Coast Guard approved BP's requests even though the company did not set an upper limit on the amount of dispersant it planned to use.

The dispersants contributed to "a toxic stew of chemicals, oil and gas, with impacts that are not well understood," Representative Edward J. Markey of Massachusetts, the Democratic chairman of the House Subcommittee on Energy and Environment, wrote in a letter sent late Friday to Thad W. Allen, the retired Coast Guard admiral who is leading the federal response to the oil spill.

In a conference call on Saturday morning, Admiral Allen and Lisa P. Jackson, the E.P.A. administrator, said they had worked together closely and had come very near to achieving the agency's goal of reducing dispersant amounts by 75 percent.

On May 26, the E.P.A. directed BP to stop using dispersants on the ocean surface, except in "rare cases when there may have to be an exemption," and to limit use of the chemicals underwater.

But Mr. Markey's letter pointed to more than 74 exemption requests in 48 days, of which all but 10 were fully approved by the Coast Guard. In some cases, BP asked for permission after it had already applied the chemicals, the letter said. And in one case, the Coast Guard approved the use of a larger volume of dispersants than the company had applied for.

As an example of the conflicting numbers, Mr. Markey said that in a request filed on June 16, BP told the Coast Guard that in the previous several days it had used a maximum of 3,365 gallons of dispersant in a single day. But in e-mails to members of Congress giving updates on the spill response, the company said it had used 14,305 gallons of dispersant on June 12 and 36,000 gallons on June 13.

Admiral Allen and Ms. Jackson said they had reduced dispersant use by 72 percent. "In any government program I've worked in, that's pretty significant progress," Admiral Allen said.

Admiral Allen said his agency would try to reconcile the conflicting numbers that were issued during what he called "the equivalent of an environmental war."

The two officials said the government would conduct a postmortem evaluation of the effectiveness of skimming, burning and spreading dispersants to determine what had worked best.

But Ms. Jackson said, "There's absolutely no doubt that use of dispersants was one of several essential tools to mitigate this spill's impact."

A spokesman for BP, Scott Dean, also said he could not respond in detail because the company had not seen Mr. Markey's letter. But he said, "From the outset we've operated in a unified command that has included E.P.A. and the Coast Guard."

Mr. Dean said BP had worked "hand in glove" with the two agencies on dispersant decisions. Under the "joint command" structure set up in the Oil Pollution Act of 1990, the federal government and the oil company mount a response to a spill.

While it was known that BP continued the use of surface dispersant after the May 26 directive, it was not clear how much was being used. According to the documents analyzed by the committee, the company did cut back substantially on the use of underwater dispersants after the directive was issued.

The E.P.A. and the Coast Guard have both described the use of the dispersants as a trade-off. The chemicals break down blobs of oil into smaller droplets that are easier for naturally occurring bacteria to digest. But they can also have harmful effects on marine animals. And if the dispersants are too successful and allow a proliferation of bacteria, the bacteria can use up all the oxygen in the water and kill the fish and other organisms.

In testimony before Congress on July 15, Ms. Jackson said her agency had been looking for signs of unusually low oxygen levels and had not found them.

In his letter, Mr. Markey said the May 26 directive had "become more of a meaningless paperwork exercise than an attempt to abide by the directive and eliminate surface applications of chemical dispersants."

In fact, other government correspondence disclosed by Mr. Markey indicates a dispute within the E.P.A. about the proper use of dispersants. At one point, the Dallas regional office of the agency agreed that the incident command center, run by the Coast Guard and BP, should get blanket approval to use 5,000 gallons of dispersant a day, to "improve operational efficiency."

But the next day, the Dallas office rescinded that policy, saying that the center should make a request each evening about the amount it wanted to use the next day and that the agency would make a decision overnight.

Mr. Markey said that while the agency said on May 26 that applications for surface dispersant use should be rare, the Coast Guard, in approving the applications, cited routine factors like there being too much oil to skim.

Oil dispersants flowed freely despite restriction, papers show (*Washington Post*)

August 1, 2010 Sunday
Met 2 Edition
A-SECTION; Pg. A01
Maryland
By David A. Fahrenthold and Steven Mufson
While the BP well was still gushing, the Obama administration issued an order that limited the spreading of controversial dispersant chemicals on the Gulf of Mexico's surface. Their use, officials said, should be restricted to "rare cases."

But in reality, federal documents show, the use of dispersants wasn't rare at all.

Despite the order -- and concerns about the environmental effects of the dispersants -- the Coast Guard granted requests to use them 74 times over 54 days, and to use them on the surface and deep underwater at the well site. The Coast Guard approved every request submitted by BP or local Coast Guard commanders in Houma, La., although in some cases it reduced the amount of the chemicals they could use, according to an analysis of the documents prepared by the office of Rep. Edward J. Markey (D-Mass.).

The documents indicate that "these exemptions are in no way a 'rare' occurrence, and have allowed surface application of the dispersant to occur virtually every day since the directive was issued," Markey wrote in a letter dated Aug. 1 to retired Coast Guard Adm. Thad W. Allen, the government's point man on the spill. Markey chairs the House Select Committee on Energy Independence and Global Warming.

Some of them dealt with separate dispersant applications on the same day. Markey said it appeared that the order "has become more of a meaningless paperwork exercise" than a real attempt to curb use of the dispersants.

In an interview Saturday, Allen defended the decisions to grant the waivers, saying that overall use of dispersants declined sharply after that May 26 order to limit their use. The total use of dispersants underwater and on the surface declined about 72 percent from its peak, according to the Environmental Protection Agency.

Allen said that on some days the amount of oil on the surface justified a "tactical" decision, by on-scene Coast Guard commanders, to spray some dispersants.

"There's a dynamic tension that goes on when you're managing an incident that has no precedent," Allen said. "You establish general rules and guidelines, but knowing that the people on scene have the information" means trusting them to make decisions, he said.

In the end, Allen said: "You can quibble on the semantics related to 'rare.' I like to focus on the effects we achieved" by dispersing the oil. Officials have said that, in the days since the gusher was stopped, thick sheets of oil have nearly disappeared from the gulf's surface.

EPA Administrator Lisa P. Jackson conceded that there had been "frustration in the field" from EPA officials about the waivers. But Jackson said it was partly alleviated June 22, nearly a month after the order was issued, when Coast Guard officials began giving the EPA a greater role in the discussions over whether to approve dispersant use.

"EPA may not have concurred with every single waiver," Jackson said. But, she said, the Coast Guard had the ultimate say: "The final decision-making rests with the federal on-scene coordinator. That's where the judgment, the ultimate decision-making ability, had to lie."

The dispersants -- variants of a Nalco product called Corexit -- break up the oil, acting like a detergent on kitchen grease. They are intended to keep the oil from reaching shore in large sheets and to make it easier for microbes to consume the oil underwater.

Charles M. Pajor, a Nalco spokesman, said that the amount of dispersant the company recommends depends on the acreage sprayed and the amount of oil spilled, with variations for oil quality, degree of weathering, temperature and thickness. Typically, two to 10 gallons per acre are used or one gallon for every 10 to 50 gallons of oil, Pajor said.

Similar dispersants were used after the Exxon Valdez spill in Alaska in 1989, and afterward government officials vowed to study their environmental effects more carefully. But urgency faded, research dollars evaporated, and when this spill arrived, the questions were still unanswered.

Now, scientists say, it's difficult to tell what the added use of dispersants permitted by the Coast Guard meant for the gulf. The chemicals may have helped break up some oil before it reached sensitive marshes along the Louisiana coast. But it also may have poisoned ecosystems offshore, helped deplete underwater oxygen and sent oil swirling through the open-water habitats of fish and coral.

"It's still a trade-off. I mean, you're using dispersants to protect the shoreline, and you're going to be killing things in the water column," said Carys Mitchelmore, a professor at the University of Maryland. By using more dispersants, Mitchelmore said, "you're just going to be killing more things in the water column."

In May, under pressure from environmental groups, the EPA and the Coast Guard issued a directive to BP, ordering the company to "eliminate" the use of dispersants on the surface. The directive said BP could seek an exemption in rare cases when other cleanup methods were not feasible.

The government allowed BP to continue injecting dispersants below the surface, as oil leaked from the well on the gulf floor. Their logic was that the chemicals could be used more efficiently underwater, where the gushing of BP's well provided a turbulence that

helped them work.

"Because so much is still unknown about the potential impact of dispersants, BP should use no more dispersant than is necessary," Jackson wrote in a letter to BP that day.

But, over the next nine days, BP made daily waiver requests for the use of surface dispersants. Every day the Coast Guard gave its approval. On May 28, for instance, BP sprayed 6,400 gallons of dispersant on the surface, saying it was needed to control dangerous fumes -- volatile organic compounds -- where rig and platform workers were trying to get the blowout under control.

In early June, federal documents show, an EPA official raised concerns about the ease with which BP was obtaining waivers.

"The approval process appears to be somewhat pro forma, and not as rigorous as EPA desires," the official wrote, according to a Coast Guard memo that quoted him. It said BP "must be put on notice that the request for exemptions cannot be presumed to be approved at the point they are submitted."

Two weeks later, on June 22, Jackson said that the Coast Guard had begun giving her agency a greater role in the approval of dispersant use. But federal documents show that the chemicals were still being used, sometimes more than 10,000 gallons a day. A federal official said the last surface dispersants were sprayed July 19.

Scott Dean, a BP spokesman, said that his company had been careful to obtain federal permission before using dispersants on the ocean's surface.

"Since the very beginning, BP has operated in a unified command and we have always worked hand in hand with the Coast Guard and EPA on dispersants," Dean said, "and we've complied with EPA requests regarding dispersants." He added that "dispersants are an EPA-approved and recognized tool in fighting oil spills."

Aaron Viles, at the Louisiana-based Gulf Restoration Network, said the Obama administration gave the impression of controlling the controversial dispersants while allowing their use to continue. The result, he said, was that more oil sank out of sight and out of reach of the cleanup operation.

"Clearly, you know, there was a bit of a show here," Viles said. "Whether EPA wasn't serious, or the Coast Guard didn't care, they kept cranking, and kept exposing the Gulf of Mexico to this giant science experiment."

CLIMATE CHANGE / GLOBAL WARMING

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Is It Hot in Here? Must Be Global Warming (*New York Times*)

August 1, 2010 Sunday
Late Edition - Final
Section WK; Column 0; Week in Review Desk; Pg. 4
By TOM ZELLER Jr.

In any debate over climate change, conventional wisdom holds that there is no reflex more absurd than invoking the local weather.

And yet this year's wild weather fluctuations seem to have motivated people on both sides of the issue to stick a finger in the air and declare the matter resolved -- in their favor.

"Within psychology, it's called motivated reasoning, or the confirmation bias," explained Anthony Leiserowitz, the director of the Project on **Climate Change** Communication at Yale University's School of Forestry and Environmental Studies. "People are looking for evidence of any kind that validates or reinforces or justifies what they already believe."

Last February, for example, as a freak winter storm paralyzed much of the East Coast, relatives of Senator James M. Inhofe, the Oklahoma Republican who is a skeptic of **climate change,** came to Washington and erected an igloo.

They topped it with a cheeky sign asking passers-by to "Honk if you **global warming**." Another sign, added later, christened the ice dome "Al Gore's new home."

Environmentalists roundly criticized the stunt for relying on a fact as lonely as a snowstorm. "Weather is our day-to-day experience, while climate is more static, describing a region's typical weather conditions as established over periods of time," explained Adrianna Quintero, a senior attorney with the Natural Resources Defense Council, in a blog post scolding the deniers.

Now, with record heat searing much of the planet from Minnesota to Moscow, people long concerned with **global warming** seem to be pointing out the window themselves.

"As Washington, D.C., wilts in the global heat wave gripping the planet, the Democratic leadership in the Senate has abandoned the effort to cap **global warming** pollution for the foreseeable future," wrote Brad Johnson at the progressive Wonk Room blog, part of the Center for American Progress.

Of course, it's probably not surprising that outspoken partisans sometimes use the weather as a rhetorical tool, but researchers are also learning that many less certain people unwittingly take note of temperatures, too.

Mr. Leiserowitz has identified what he and fellow researchers call "**Global Warming's** Six Americas" -- from people who are "alarmed," "concerned" or merely "cautious" on **climate change,** to those who are "disengaged," "doubtful" or wholly "dismissive."

For people at either extreme -- that is, those alarmed by or dismissive of **climate change** -- the local weather isn't going to have much influence, although they may use it conveniently to drive home a point.

But for those in the mushy middle -- about a third of the overall population -- the local weather, rightly or wrongly, influences their thoughts on the topic, often subconsciously.

That idea is reinforced by another study under review at the journal Psychological Science. Researchers at Columbia University found a high correlation between a participant's stance on **global warming** and how he perceived the outdoor temperature on the day he was asked about it. Study subjects were also more likely to say they would donate to a **global warming** charity on days they perceived to be unusually warm.

For Eric J. Johnson, the director of the Center for Decision Sciences at Columbia Business School and a co-author of the study, the findings highlight the pitfalls of policymaking by poll, given that opinions on such a complex issue appear susceptible to highly impertinent data.

"It's like assessing how the economy is doing by looking at the change in your pocket," Mr. Johnson said. "It's relevant, but not that relevant."

There is a not-insignificant caveat: Those pointing to hot weather as evidence of **global warming** are, in the broadest sense, more likely to be right. Scientists at the National Center for Atmospheric Research in Colorado demonstrated last year that record high temperatures have occurred twice as often as record lows over the last decade.

That's in keeping with most models of **global warming**, which predict not a steady climb in temperature, but higher average readings over time -- and more record-breaking peaks than valleys.

Whether that makes it fair to consciously lean on the weather when it's convenient is an open question -- though it appears hard for either side to resist.

In 1988, James Hansen, a NASA climate scientist, spoke at a Senate hearing and famously thrust the issue of **global warming** on the national stage.

But he apparently had some help in making his point.

We "went in the night before and opened all the windows, I will admit, right? So that the air-conditioning wasn't working inside the room," recalled Timothy Wirth, the former Democratic senator from Colorado, in an interview with "Frontline" in 2007.

Mr. Hansen was "wiping his brow at the witness table," Mr. Wirth said, "and giving this remarkable testimony."

Just who is Ken Cuccinelli? (*Washington Post*)

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Every Edition
SECTION: MAGAZINE; Pg. W12
Every Zone
The Rise of the Confounding Conservative He's sued the federal government over health care. He's crusaded to support sexual assault victims. And he knows all the words to 'Rapper's Delight.' Just who is Ken Cuccinelli?

By David Montgomery
Ken Cuccinelli was at his desk past midnight, laboring over calculus homework, when he heard a long, loud scream. It came from an adjacent basement bedroom in the group house he rented with some friends that summer of 1989 in Charlottesville, where he was a student at the University of Virginia. The woman in the room had awakened to an intruder climbing onto her bed. She kicked him and bolted upstairs. The man fled through the window he had entered.

Cuccinelli had never heard a cry so loud and long, so pained and panicked. It became a call to action. He transformed himself into a self-taught campus expert and agitator on the problem of sexual assault. He helped establish Sexual Assault Facts and Education (SAFE), a student group that raises awareness about the issue, and designed a brochure on preventing sexual assault. Survivors confided in him. It was emotionally scalding work.

By April 1991, he was standing with a candle in his hand on the steps of the university's Rotunda, the historic center of the genteel campus designed by Thomas Jefferson. Cuccinelli was an organizer of dozens of student protesters who occupied the steps for 134 hours -- one for each of the 134 alleged victims of sexual assault at the university the previous year -- and demanded that the university fund the new full-time position of sexual assault education coordinator.

"The university tried like hell to talk us out of it," recalls Alexia Pittas, another leader of the demonstration, now a lawyer in Savannah. "I can remember Ken standing next to me. Ken said, 'Lex, I'll go to jail with you. I'll go to jail for this.'"

Pittas was surprised. Cuccinelli showed signs of being what some campus social anthropologists referred to as the classic "Joe Wahoo," the preppy, careerist, gung-ho U-Va. male, clad in J. Crew or the equivalent, baseball cap worn backward. Members of this tribe did not collaborate with Women's Center feminists such as Pittas, who thought that fraternities should be banned "because of the predatory nature of men drinking in

packs." Cuccinelli was a frat boy by inclination; he rushed a fraternity but didn't end up joining because events conflicted with training to become a residential adviser.

"I said to him, 'Why are you doing this?'" Pittas recalls. "This isn't your issue. I remember him looking at me and saying: This is everybody's issue."

Just hours into the vigil, the university proposed hiring a part-time coordinator. The vigil continued for the full 134 hours. Before the year was out, a full-time coordinator was hired.

Victory.

"The thing about Ken Cuccinelli is, there's right and there's wrong, and there's very little of a liberal gray in between," Pittas says. "If he deems something to be wrong, he will pursue it, no matter the cost."

Over the years, those costs have been measured in lonely stands, partisan derision, dismayed allies. Cuccinelli was always willing to pay. He lost a lot of battles, but he won all of the elections. Now, at 42, he stands as one of the most high-profile, active attorneys general in the history of the Commonwealth of Virginia. His willingness to charge into the most monumental and defining issues of the day -- including health care, **climate change** and the nature of government itself -- has made him a conservative superman, a toast of the Tea Party movement. As Cuccinelli edits bombshell briefs in his Richmond office -- where a yellow "Don't Tread on Me" banner stands beside the Virginia and American flags -- or barnstorms the state promoting his causes, he could not appear more boyishly eager to be here, now.

"I believe right now the battle of our time is the battle of liberty against the overreach of the federal government," he says. "I wouldn't pick any other four-year period to be in this office."

Yet the journey from the campus steps of the Rotunda to the courthouse steps in the state capital, which included an eight-year stop as the last conservative GOP state senator from Northern Virginia, was no simple matter of hitching a ride on a movement. Insisting on what he calls principle, even when it might cost him, has earned Cuccinelli a certain reputation for authenticity. It's one of the few points on which Cuccinelli's supporters and detractors agree. With Cuccinelli, they say, what you see is what you get.

In his first 100 days in office, Cuccinelli filed a legal challenge to the **Environmental Protection Agency's** intention to regulate greenhouse gases; advised public colleges and universities that they lacked authority to ban discrimination on the basis of sexual orientation; filed suit to block the federal health-reform law on constitutional grounds; and demanded that U-Va. hand over documents connected to a former professor's work on **climate change,** to determine whether the professor used false information to obtain taxpayer-funded research grants.

At the same time, Cuccinelli has offended some Second Amendment absolutists and military families for positions he has taken in cases related to gun rights and protests at military funerals. Allies on some issues are left upset with his stances on others. "I don't like the man's politics at all," Pittas says.

Cuccinelli interprets liberally the AG's basic job, which is to be managing partner of a 250-lawyer firm, charged with representing state agencies and pursuing such crimes as money laundering. He'll wade into any matter -- and is free to do so -- if he perceives a threat to Virginia law or Virginians' constitutional rights. Some see calculation in Cuccinelli's selection of targets for action.

"Cuccinelli's model is always to try to figure out a block of people who are against something -- health care, fixing **climate change,** President Obama, taxes, gay people -- then show in public life that he will be a leader in fighting these things, these people, these rights," says Stephen Shannon, the former Democratic state delegate from Fairfax County whom Cuccinelli defeated in the race for attorney general.

To his supporters, Cuccinelli is that rarest of things, a Mr. Smith for the right wing. "Ken is certainly a boat-rocker," says Richard Viguerie, a Virginia-based patriarch of the national conservative movement and a mentor to Cuccinelli. "We are looking for people who will shake up the establishment, including the Republican establishment."

In person, Cuccinelli's charged public persona is softened, if not subverted, by a skewed sense of humor -- he's a "Monty Python" aficionado -- and a certain goofy maladroitness.

To build a little office spirit this past spring, he designed a lapel pin for his staff. He picked a historic version of the Virginia state seal on which the goddess Virtus happens to have both breasts covered, unlike on the current official seal. The alternative Virtus, he joked in a staff meeting, would be more "virtuous." The commonwealth was treated to a long weekend of "boob" jokes in blogs and newspaper columns until Cuccinelli, uncharacteristically, surrendered and abandoned the pin.

The episode was classic Cuccinelli. Despite his aggressive political stance, "he has an odd way of not taking himself too seriously," says Scott Surovell, a Democratic member of the House of Delegates from Fairfax County.

Surovell offers another example: "A couple months ago, when he had started doing a lot of things, I said to him, 'Ken, my constituents are not happy with what they're hearing about you.'

"He said, 'Tell them to make sure they vote next time.'"

Cuccinelli's boyhood geography was defined by a stretch of Kirby Road in Fairfax, just over the border from Arlington, in a middle-class neighborhood where he spent his days

playing pickup sports and roaming the woods. The address was McLean, but given the chance, Cuccinelli would qualify those elite-sounding roots: "I'm from the wrong side of the tracks in McLean."

The family had moved from a town near Edison, N.J., where his parents owned a heating and cooling business, when Cuccinelli was about 2. His father, a chemical engineer, took a job with the American Gas Association. During the transition, their health insurance briefly lapsed, and Cuccinelli's mother became seriously ill. Once sick, she couldn't get insurance. She recovered after months of hospital treatments, but the expense was a heavy burden, he says.

Wouldn't the health-care reform law he now opposes solve such problems?

"My parents would not then, nor now, take the help offered by the federal health-care bill at a cost of giving up their freedom or forcing other Americans to give up theirs, just so that my family would have been spared the financial hardship," Cuccinelli says.

The oldest of three brothers, Cuccinelli was competitive, a bit bossy, as hard on himself as anyone. "When he was doing projects at school, everything had to be just perfect," says his brother Kevin, a doctor in rural Colorado. "He would get frustrated because, guess what, he's human."

The family did not yet have a fixed political identity. Cuccinelli's mother dabbled in Democratic precinct politics. But the parents passed down their strong Catholic faith. They sent their sons to Gonzaga College High School for the Jesuit education, but also because they thought Fairfax County was not the "real world," Ken Cuccinelli says. Gonzaga was more diverse than his neighborhood suburban schools, he recalls, and was located on North Capitol Street, with a homeless shelter attached. Gonzaga is where, Cuccinelli says, he became the person he is.

"I actually consciously thought about, Where am I? Where do I want to be? How do I want to get there? What are the important things?" he says. "Faith was at the top, and at Gonzaga you'd expect that. But what does that mean in the real world? And we'd talk about it at Gonzaga." Every student took a course in social justice, where he was taught theories of putting compassion into action. Cuccinelli tutored middle school students from the D.C. public schools.

Another side of his personality, the performer and occasionally corny crusader, also took shape at Gonzaga. The students would gather in a quadrangle for pep rallies. High on a third-floor fire escape, banging a big drum and leading the cheers, was Gonzaga's mascot, the Eagle, who on game day wore a fiercely beaked and feathered purple and white body suit. Cuccinelli was the Eagle.

"That's a big deal," says Joseph Dempsey, the former dean of students. "They're not going to put a shrinking violet in there. They're going to pick someone who will put on that stupid costume and go at it 100 miles an hour for the whole football game."

Going on to study mechanical engineering at U-Va., Cuccinelli was a bit of an E-school grind, but he found time to memorize the lyrics to "Rapper's Delight," Sugarhill Gang's 1979 hip-hop masterpiece, which he and buddies would perform at the slightest excuse. He was elected to the student Judiciary Committee, the prestigious arbiter in campus disciplinary matters, which helped him set his sights on law school (George Mason University). His work on Judiciary and as a residential adviser deepened his attention to the problem of sexual assault.

During his final year at U-Va., he landed an internship in the office of Gov. L. Douglas Wilder, the last Democrat he would ever vote for -- because he liked Wilder's fiscal toughness -- and he also got engaged to Alice Monteiro "Teiro" Davis, then a senior at James Madison University. They had met as teenagers when the attractive stranger moved a few doors down from the Cuccinellis. She attended Bishop O'Connell High School in Arlington. He took her to the Gonzaga prom. They broke up during the first few years of college, until Cuccinelli sought her out again.

When he proposed marriage, he was so oblique, she didn't understand. He had to ask twice.

"I didn't have that speech written out," he deadpans. "I've made the whole rest of my life more blunt. That will never happen again."

Teiro Cuccinelli stands at the counter in her sun-splashed kitchen, chopping tomatoes, peppers and cilantro for homemade salsa. She will make two kinds: Spicy for her, bland for him.

Six of their seven children, ages 1 to 14, are scattered about the downstairs, reading paperbacks, playing ball, playing peek-a-boo. The family just moved from Centreville into the sprawling pale-yellow home on 10 acres in rural Prince William County. The family's green 15-seat van is in the driveway. The new house reduces Cuccinelli's commute to Richmond by 25 minutes, but it raised eyebrows in Richmond when the Cuccinellis chose not to relocate to the capital. Ken and Teiro did not wish to move too far from the Catholic school where their oldest child, Alie, is doing well. The couple home-schools their children through the sixth grade.

"I know there's got to be this perception of people that I'm like this simplistic, stay-at-home mommy, so I try very hard to be up on what's going on," says Teiro (pronounced TEE-row), who is witty and down-to-earth but rarely grants interviews and doesn't campaign much with her husband.

Ken arrives home with a box from the office, having picked up Alie from her last day of eighth grade. He immediately goes on dad duty. He sweeps up balls of shaved cheese that have been squeezed by little fists and dropped beneath a high chair. He sniffs the baby's diaper. Nope. He sniffs the toddler's diaper -- "Oh, it's you!" -- and he's off to change it. Then, it's nap time.

After the younger ones have been fed and/or put down for naps, the adults and Alie sit down on the porch for quesadillas, salsa, fruit and sweet tea.

A paradox of being what conservative groups call a leading "family-friendly" crusader is that Cuccinelli inevitably has less time for his own family.

"I think there have been challenging times with Ken's absence, but over the years I think he has learned to be here when he's here, fully here," Teiro says.

She catches him sneaking a peek at his BlackBerry. "Right now, he's looking at his phone, so you can't tell!"

"We have a stampede to the door when Dad walks in," Alie says. "And there's a fight over who gets to open the door first."

"We all sort of feel it's how we contribute to the work he's doing," Teiro continues. "We do miss him. It makes homecomings very sweet."

She knows politics have irrevocably shaped her husband's public identity, yet she realizes that, in a strange sense, his fans and his foes have equally one-dimensional understandings of him, based on his die-hard attachment to a handful of positions that they love or hate.

"His priorities are God, me, the children and everything else," she says. "What makes him more than what people perceive is his very deep-rooted emotion. On the surface, publicly, he has a very serious persona. But he has a great sense of humor and he's very sensitive, and that doesn't come out."

Early in their marriage, she almost kept him out of politics. Ken was a Young Republican volunteer, discovering within himself a small-government, anti-tax, constitutionalist conservatism, which he overlaid upon the value system he already possessed.

"I said to him, 'Don't ever think about running for office,'" she says.

On a couple of occasions, she awoke to find him staring at the ceiling. He told her he was imagining political speeches he would give, if he could.

"I realized at some point, maybe Ken has a purpose and I was standing in the way," she says.

The next time she heard him griping about another moderate Fairfax Republican, she said, "Why don't you run against him?"

It was like unleashing a tornado. That instant, Cuccinelli picked up the phone and began

plotting his first race.

In the halls of Richmond, the freshman senator, at 34, looked as young as some of the aides and preferred springing up the stairs to waiting for the elevator. He was a little too eager, out of step with the clubby culture of Richmond.

He had won his first race, to represent southwestern Fairfax County, in 2002, the way he always would, underfunded and underestimated. He took positions that were less nuanced and more conservative than his rivals' and summoned a cadre of true-believing volunteers.

Republican Warren Barry, who had resigned the seat Cuccinelli filled, was appalled: "The GOP picked someone whose thinking is so ancient he would be an embarrassment to Northern Virginia."

So, too, were the Republican Brahmins who ran the state senate, who thought some of his early legislative proposals embodied an anti-tax extremism that was not then acceptable in Virginia. "Everyone lamented he wasn't channeled in the right direction," says John H. Chichester, the retired GOP chairman of the finance committee.

Yet to a small but growing core of fiscal and cultural conservatives, Cuccinelli was the new hero. He took pride at being on the losing end of a lot of 39-1 votes in the Senate. "Ken was one of those guys who was always trying to amend bills on the floor and force people to take votes, and a lot of times I'd say, 'Ken, why don't you give us a break for a couple days?'" says Sen. J. Chapman "Chap" Petersen, a Fairfax Democrat.

There were times Cuccinelli practiced political heresy. He supported conservative challengers of GOP incumbents, angering party leaders. He spearheaded a legal attack on the state law that let any voter, not just party members, vote in party primaries, a policy seen by insurgents such as Cuccinelli as a way to entrench more moderate incumbents. In 2007, he switched sides and voted against the final version of a transportation package supported by GOP leaders. Cuccinelli said the amended bill violated the state constitution. If he had been attorney general, he later said, he would have issued an opinion against it -- unlike then-Attorney General Bob McDonnell (R), now the governor.

A reliable conservative vote on abortion, immigration, taxes and gun rights, Cuccinelli also bucked conservative pieties. Mental health reform was an area where, to the surprise of some, he favored more government involvement in people's lives. "If you're going to spend money on things, you start at the bottom," he says. "And on the human side, as opposed to, say, building roads, that's taking care of those who, through no fault of their own, can't take care of themselves."

His interest dates to his days as a young lawyer, when he started representing people facing involuntary commitment to hospitals. He took hundreds of those cases, each a window into a family in crisis.

He also opposed expansions of the death penalty, notably a proposed repeal of the "triggerman" law. Repeal would have allowed the state to execute accomplices, not just the person who pulled the trigger. Cuccinelli stuck to this position at some political peril. "It would be an enormous expansion of the death penalty, and we would often be determining life or death based on only circumstantial evidence," he says. "I just believe we have to be absolutely sure before we authorize the state to take a life."

Monday is karaoke night at Blues BBQ in Roanoke. About 30 people are in the joint, sampling the bourbon selection, when a tall, slim guy in a suit takes the microphone. And starts rapping.

Now what you hear is not a test -- I'm rappin' to the beat! ...

Well it's on 'n' on 'n' on 'n' on

The beat don't stop until the break of dawn.

"He had a smile on his face, and he was boogieing while he was singing," recalls head chef Bobby Middaugh.

"He added his own little hand gestures," says Chris Zaluski, who was then an online editor for the Roanoke Times.

Whenever he encounters a karaoke system, Cuccinelli asks for that song of his U-Va. days, "Rapper's Delight." Usually it's not available. On this spring night -- in town for a stop at a food bank and a visit with supporters -- he's in luck.

Cuccinelli points flamboyantly around the room as he raps:

I like to say hello

To the black, to the white, the red, and the brown,the purple and yellow.

It's a rare night off from his packed schedule. Two weeks before, he filed the health-care lawsuit. Two weeks hence, he would demand the **climate change** professor's records from U-Va. Lately, some of Cuccinelli's detractors have been arguing that he's an "activist" attorney general, embarked on a canny cultural crusade. "He has a very clearly defined set of beliefs and values, and the attorney general's office gives him all these tools to vindicate that agenda and carry out those values," says Claire Guthrie GastaÃ±aga, a former Virginia deputy attorney general and legislative counsel for Equality Virginia, the gay rights advocacy group.

The charge gets Cuccinelli going. The attorney general's office is "reactive," he insists. On his sporadic road trips around the state, as on the one to Roanoke, he takes the opportunity to make his case, campaign-style -- at chamber lunches, church gatherings,

charity galas.

On the health-care lawsuit: Requiring Americans to buy health insurance is like forcing them to buy Chevrolets. "Since the government has a little stake in GM, that might not be such a bad deal for them," he cracks. "If we don't beat this back, we lose an incredibly essential element for our protection."

Some mainstream constitutional scholars agree. "In order for this law to be upheld under a challenge, the court would have to adopt an interpretation that would allow almost any federal claim to satisfy the standard of interstate commerce," says Jonathan Turley, a professor at George Washington University Law School. "What would be left of states' rights?"

On the gay nondiscrimination opinion: In response to requests for guidance from at least one campus, Cuccinelli's March 4 letter to all state colleges and universities said they could not bar discrimination against homosexuals because the General Assembly has declined to define sexual orientation as part of a protected class. Previous attorneys general of both parties have held that local governments could not enact similar nondiscrimination policies for the same reason. Cuccinelli's letter caused an uproar and prompted Gov. McDonnell to issue an executive directive saying he would not tolerate discrimination. The governor simultaneously endorsed Cuccinelli's legal reasoning.

Cuccinelli sounds contrite. For Cuccinelli.

"Could we have dragged our feet and made it take longer? Yes. Should we have? Yes. Should it have been written less like somebody who's a cold-blooded, objective engineer wrote it? Yes. The one thing we got right in there was: the law."

Cuccinelli also has defended another controversial decision: In May, he resolved to keep $55,500 donated to his campaign last year by a director of the United States Navy Veterans Association, a charity now under investigation in Virginia. Cuccinelli stood alone in a storm of mostly Democratic attacks, saying there had been no proof of wrongdoing, while other politicians from both parties transferred their donations to other veterans' charities. After a month, he relented, partly: He put the money into a restricted account until the investigation is complete.

Generating less attention have been actions that fit the image of a conservative crusader about as well as a white guy in a business suit rapping that the "chicken tastes like wood."

He submitted a brief in a suit defending George Mason University's ban of guns from campus. The brief conjured hypothetical cases of guns being used to intimidate faculty and students. Cuccinelli says he was merely fulfilling his duty to mount a zealous defense of his client, but the rhetoric was considered highly insulting by pro-gun activists, who are among Cuccinelli's strongest supporters.

"Et tu, Cuccinelli?" Philip Van Cleave, president of the Virginia Citizens Defense League, responded angrily at the time. In an interview, he adds: "If winning a case means defaming a friend, would you do it? Morally, where is the line you draw that you can't cross to win at any cost?"

In another matter, Cuccinelli finds himself in a 48-2 minority of attorneys general nationwide. He and his counterpart in Maine refused to sign an amicus brief in a sensational case heading to the U.S. Supreme Court. The family of a Marine killed in Iraq is suing members of Westboro Baptist Church in Kansas who picket military funerals carrying signs with messages such as "Thank God for Dead Soldiers." The church says the soldiers' deaths are a result of the nation's tolerance of homosexuality.

Cuccinelli, who tears up when he recalls meeting with parents of fallen soldiers, says he can't back the family's lawsuit because it would threaten the First Amendment guarantee of free speech.

Some will not forgive him. "Any elected official who refuses to support any movement that would preserve the honor and integrity of a police or military funeral, I've got a problem with that," says Vic Ingram, a veteran and retired police officer, who says he voted for Cuccinelli for attorney general.

Wherever he goes, Cuccinelli is reminded that his principles have potential to cause pain.

Since he became attorney general, he has been a friend of the Daily Planet, a medical clinic and homeless shelter in Richmond. He donated $100,000 that had been raised for his inaugural festivities, and has visited to talk about challenges associated with homelessness and mental illness. But the people served by the Daily Planet are among those who could gain the most from health-care reform. Cuccinelli, their VIP friend, and his lawsuit, stand in their way.

The toughest moment, he says, came recently, at a dinner of U-Va.'s Soren-sen Institute for Political Leadership, when a woman introduced herself and described how she had walked into her daughter's room and cried on March 21, the day Congress passed health-care reform. "She thought," says Cuccinelli, "'My 17-year-old daughter, who's bipolar and depressed, will finally have guaranteed health insurance and, therefore, a normal life.'"

He immediately went into debate mode with the woman, then stopped in mid-sentence.

"I'm a left-brain, cold-bloodedly objective individual," he says. "I'm not really that way, but that's how I think." But he says he realized, "This isn't a policy debate; this is a mother. I expressed my understanding, and I do understand, even if I don't agree."

Dressed in green camouflage and wearing a black cap with the motto "Don't Tread on Me," Cuccinelli leads a column of faithful followers through a pine forest to higher

ground.

"In this game, the way to win, by which I mean kill people, is flank shots," Cuccinelli tells them. "You have to play the angles."

Cuccinelli's annual summer paintball fundraiser reunites a few dozen close associates from the length of his career for a strenuous competition in the nearly 100-degree heat of Hogback Mountain in rural Loudoun County. It's never too early for Cuccinelli to be girding for his next electoral contest.

"We're already running," he says, chugging water during a lull. "I'm a target, so I've got to act like one. Which just means work hard. Don't wait for the election."

The joke in Virginia is that AG stands for "almost governor," and that's what the last few attorneys general appeared to be planning. Cuccinelli maintains that he'll run for reelection.

"I look forward to voting for you for president in 2020," says a paint-spattered Michael C. Sacks, project director at a logistics design company.

"I don't see that happening," Cuccinelli says.

As he ponders his future, he has resolved to take a pass on what could be his big chance to argue a historic case before the U.S. Supreme Court. The health-care lawsuit, in which arguments are underway, is expected to land there eventually. Cuccinelli has designated his solicitor general, E. Duncan Getchell Jr., to argue the case from beginning to end. "I'm perfectly well-prepared, but he's better prepared," Cuccinelli says, heading back into the woods. "This is far more important than any individual."

The last skirmish of the afternoon will not be a capture-the-flag style competition. The team with the last person standing wins. "Take no prisoners," Cuccinelli says. "My kind of game."

He sprints through the grass, ducks behind a wall, fires a burst of paintballs. This afternoon, some of the projectiles have been bouncing off his camouflage outfit, giving him an aura of invincibility. In reality, those paintballs were fired too glancingly, from too great a distance, to break against the baggy material. Only if a paintball breaks on you are you out.

It happens near the end of the death match. "I got it in the head," he says, fingering a splotch of yellow on his black cap. "It's the most certain break, because my head is so hard."

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SUPERFUND

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San Francisco's Hunters Point project moving forward (*San Jose Mercury News*)

California
August 1, 2010 Sunday
SECTION: BREAKING; News; State
San Francisco's Hunters Point project moving forward
By Robin Hindery Associated Press
After more than 20 years of environmental cleanup efforts, San Francisco's largest swath of undeveloped land will someday be home to thousands of families, as well as parks, businesses and perhaps even a new football stadium.

The county Board of Supervisors last week overwhelmingly approved a project to turn the abandoned Hunters Point Naval Shipyard into a bustling 700-acre residential and commercial center on the southeast shoreline of San Francisco Bay. The Miami-based developer, Lennar Corp., is in the process of negotiating with lenders to finance the initial home construction, which could begin later this year.

Supporters say the development, which will stretch west to Candlestick Park, will breath new life into the rough-edged Bayview-Hunters Point neighborhood by bringing jobs, affordable housing and recreation options into an area plagued by gang crime and poverty.

"This is a part of San Francisco desperately in need of revitalization," said Board of Supervisors President David Chiu. "This area is the last remaining plot of land to help develop the future of what San Francisco is going to be."

But critics have raised concerns that portions of the federal Superfund site are a long way from being environmentally sound. They also fear the disappearance of the city's last predominantly black community, citing the displacement of poor black residents during the earlier redevelopment of San Francisco's Western Addition neighborhood.

"Part of San Francisco died yesterday," Supervisor Chris Daly, the board's lone dissenting vote on the current proposal, said Wednesday. "The city is essentially green-lighting gentrification."

Daly had lobbied unsuccessfully for an amendment requiring 50 percent of the new residences to be set aside as affordable housing. The current plan reserves 32 percent of the units for low and moderate income residents.

The U.S. Environmental Protection Agency, which oversees the cleanup of the shipyard along with the Navy, is approaching the development plan with cautious optimism, stressing that there is still work to be done.

"It's getting really close to where we feel the site can be safely transferred and development can occur, and we're trying to clean things up as fast as we can," said John Chesnutt, a manager in the EPA's Superfund Division.

The 936-acre base, which was closed in 1974, is one of 20 former military sites in California whose high levels of pollution have earned them a spot on the EPA's National Priorities List.

The shipyard received its Superfund designation in 1989, and the Navy has since spent $700 million addressing hazards such as toxic metals and chemicals and low-level radiation contamination. Only one 88-acre parcel of land has been fully transferred to the city, while the rest is still undergoing decontamination work.

Now that the Board of Supervisors has acted, the EPA will enter into a formal legal agreement with Lennar Corp. to ensure the developer takes certain environmental safety precautions during the construction phase, Chesnutt said. Those include applying a cover layer of soil or pavement over "hot spots" where the original soil was contaminated.

As a symbol of the shipyard's evolution from environmental blight to eco-friendly urban model, the development plan includes space for a green technology research hub within the 2.65 million square feet of commercial space.

The new community also will include about 10,500 new homes, 885,000 square feet of retail space and more than 300 acres of open space. Additional land has been set aside for a new stadium if the 49ers decide to stay in San Francisco rather than move to Santa Clara. Hunters Point is between San Francisco International Airport and downtown, and not far from the current stadium.

Lennar Corp. first won control of the shipyard site in 1999, when San Francisco Mayor Gavin Newsom was a county supervisor. He called the current board's vote on Tuesday a "proud and historic day" for the city and for those who had devoted the past decade to seeing the project to fruition.

"Together we have secured a critical engine for our city's economic future and embraced a new vision of jobs, housing and hope for the Bayview-Hunters Point community," Newsom said in a statement.

At full build-out, the development is expected to generate $11 billion in additional property tax revenues and create up to 12,000 direct jobs, according to an economic impact report earlier this month by the city controller's office.

The majority of San Francisco residents seem to view the shipyard development favorably. In 2008, 61 percent of city voters approved Measure G, endorsing the plan and starting it down the path toward an environmental review and final approval by the city.

On the Web: Hunters Point Shipyard, http://www.hunterspointcommunity.com

TOXICS

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Tuna's mercury above 'safe' cutoff (*Atlanta Journal-Constitution*)

August 1, 2010 Sunday
Main Edition
NORTHWEST; Pg. 2ZF
Tuna's mercury above 'safe' cutoff
BYLINE: For the AJC

When University of Nevada scientists tested more than 300 samples of canned tuna --- all from three popular brands --- they found that 55 percent of the tins contained levels of mercury above the Environmental Protection Agency's "safe" cutoff. Simple solution: Make salads and lunchbox sandwiches with canned salmon, which is virtually free of mercury. Can't kick tuna? Go with chunk light rather than solid white albacore --- chunk light varieties contained less mercury in the test. But don't eat chunk light more than one or two times a week.

WATER

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A voyage of discovery in L.A. (*Los Angeles Times*)

August 1, 2010 Sunday
Home Edition

SECTION: MAIN NEWS; Metro Desk; Part A; Pg. 33
CALIFORNIA;
A voyage of discovery in L.A.;
Expedition offers a glimpse of an urban river's recreational potential
By Louis Sahagun
Environmental activist George Wolfe has always believed the best way to know a river is to kayak it. So when the U.S. Environmental Protection Agency recently designated the entire Los Angeles River a "traditional navigable waterway," he organized an expedition.

Toting a waterproof first-aid kit and a sack of binoculars, Wolfe led seven people clad in T-shirts, shorts, sun hats and life vests to a lush eight-mile stretch of river bottom near Griffith Park known as the Glendale Narrows.

Awaiting them downstream were quiet pools draining into noisy chutes, strewn with shoes, clothing, shopping carts, tires and plastic bottles, and shaded by cottonwood trees, cane forests and cattails. Plastic grocery bags snared in tree limbs rustled in the breeze. The river was running warm, greenish and, as one of the kayakers put it, "smelly as old socks."

Normally, the U.S. Army Corps of Engineers and the Los Angeles County Department of Public Works, which have operated the river for decades as a flood-control channel, would not allow such a voyage because of safety and water-quality concerns. In this case, however, they would neither approve nor deny a boating permit pending clarification of what is allowable in the river under the new EPA designation.

Wolfe's party took advantage of that legal gray area, launching at dawn on a recent workday in one canoe and five brightly colored kayaks just south of Los Feliz Boulevard in Atwater Village -- one of the few stretches of the Los Angeles River that has a soft bottom and still looks like a river.

It is a rambunctious urban patch of rumbling water, serene greenery and occasional homeless encampments, framed by slanting concrete walls rising to electrical power-line towers, set to an endless soundtrack of freeway traffic. Paddling on the murky water, the kayakers surprised hundreds of shorebirds and waterfowl. Huge carp darted past like bronze torpedoes.

Wolfe aimed for the trip to be a floating expose of what the river has become and its potential as a recreational area and nature preserve. In addition, he wanted to gauge the prospects of a program to conduct tours under the auspices of The River Project, a nonprofit organization.

"I've already got a name for our program: LA River Expeditions, and a waiting list of about 200 people wanting to take a trip with me," said Wolfe, paddling into the current.

Along for the ride were Joe Linton, a frequent contributor to the L.A. Creek Freak blog

and a former staffer of the nonprofit organization Friends of the Los Angeles River; Gabriela Castaneda, a naturalist at the Audubon Center at Debs Park; Dave Lumian, government liaison for the American Sailing Assn.; three Times staffers and Glen Jochimsen, who provided the kayaks.

Most people see the Los Angeles River from a freeway: a flood-control channel of treated water a few inches deep flowing between graffiti-marred concrete banks strewn with trash and occasionally polluted with chemicals illegally dumped in storm drains and gutters that empty into it.

Frequent catastrophic floods prompted civic leaders in the 1930s to transform the river into a flood-control channel to protect the burgeoning flatlands. Nearly the entire 51-mile river bottom was concreted over, except a few spots where the water table was too high.

Among them were the Glendale Narrows, which drain through downtown past blue-collar neighborhoods, industrial zones and levees rimmed with chain-link fences and barbed wire.

Awareness of the river as a natural resource began to grow in the 1980s when environmental groups put pressure on the county and Army Corps of Engineers. The waterway is slowly being transformed into a greenbelt of parks, trees and bike paths as a result of a statewide recreational bond measure approved by voters.

Now, it has been formally christened a navigable waterway, subject in its entirety, from Chatsworth to Long Beach, to the protections of the federal Clean Water Act.

Still, the kayakers ran aground a mile downstream beneath the Glendale-Hyperion Bridge, an important artery in the city's history. Dragging his boat by tether, Linton marveled at the austere octagonal pylons of the massive structure built in 1927.

The bridge was originally named Victory Memorial Viaduct in honor of the veterans of World War I, he said. Empty platforms at the south end of the bridge's piers historically supported a leg of the Red Car commuter rail line.

"This was the first $1-million bridge built in Los Angeles," he said. "A city engineer at the time described it as 'a jewel in a landscaped setting.' "

A few minutes later, the vessels were hurtling down shallow rapids that dropped 10 feet, leaving everyone sopping and exhilarated.

Overhead, an osprey hunted for fish near a Metro Rail facility. Thousands of shimmering young carp the size of half-dollars zigzagged in the shallows. Pigeons sipped groundwater burbling out of fissures in the channel's concrete shoulders. Sirens and horns blared in the distance.

Savoring the sights and sounds, Castaneda said, "This is the most exciting thing I've done in downtown Los Angeles since I moved here from Ecuador 11 years ago. It's hard to believe we're floating through the heart of one of the biggest cities on Earth."

Lumian agreed. "I've kayaked around the world my whole life, but this particular trip is more than a little unusual. More people should see this place from the bottom up. Amazing."

A fisherman seated on a felled palm tree greeted the passing kayakers with a smile.

A group of Conservation Corps crew members pulling up weeds near the river's edge waved hello.

A woman with an infant in her arms and an incredulous expression on her face said in Spanish, "We come out here to look at turtles. We've never seen boats in here before."

Residents of Frog Town, an area of Elysian Valley along the 5 Freeway that took its name from the amphibians that swarmed there before the channel was paved, expressed mixed feelings about the kayakers.

Among them was Grove Pashley, a professional photographer who worried that increased recreational activities could harm wildlife.

"Los Angeles has this little hidden treasure which will only grow more popular as it gets discovered and developed as a green space for California residents," he said. "My hope is that its wildlife is protected through thoughtful regulation of any boating or fishing that occurs."

The expedition concluded under the 5 Freeway, where the soft bottom comes to an abrupt end. Pulling his boat ashore, Wolfe said, "With increased public access to this river it could be the heart and soul of the city again."

U.S. Army Corps of Engineers Col. Mark Toy, the new commander of the Los Angeles district, agreed, up to a point.

On Wednesday, Toy and a dozen federal, county and city engineers and biologists in vehicles toured the Glendale Narrows on a mission to better mediate conflicting interests in the channel.

"The time has come," he said, "to find a balance between flood control, recreation and habitat restoration on this beautiful river."

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Pipeline break is located (*Los Angeles Times*)

August 1, 2010 Sunday
Home Edition
MAIN NEWS; National Desk; Part A; Pg. 18
NATIONAL BRIEFING / MICHIGAN;
Pipeline break is located
By: Times Wire Reports

Officials say they've located the pipeline break that caused hundreds of thousands of gallons of oil to spew into the Kalamazoo River in southern Michigan.

An official with the Canadian company that owns the pipeline confirmed the break's discovery during a news conference in Marshall.

"It is highly unlikely there is any other break in the pipe," said Steve Wuori, an executive vice president at Enbridge Inc. Wuori also says no oil was leaking from the exposed pipe.

The company shut down the pipeline Monday and had been looking for the break since.

Enbridge says 820,000 gallons of oil leaked. The **Environmental Protection Agency** puts the total at more than 1 million gallons.

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