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ADMINISTRATOR JACKSON
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Gulf of Mexico has long been a sink of pollution (*St. Petersburg Times*)

Florida
August 5, 2010 Thursday
A; Pg. 1A

HOUMA, La. - Loulan Pitre Sr. was born on the Gulf Coast in 1921, the son of an oysterman. Nearly all his life, he worked on the water, abiding by the widely shared faith that the resources of the Gulf of Mexico were limitless.

As a young Marine staff sergeant, back home after fighting in the South Pacific, he stood on barges in the gulf and watched as surplus mines, bombs and ammunition were pushed over the side.

He helped build the gulf's first offshore oil drilling platforms in the late 1940s. He worked on a shrimp boat and later as the captain of a service boat for drilling platforms.

The gulf has changed, Pitre said: "I think it's too far gone to salvage."

The BP oil spill has sent millions of barrels gushing into the Gulf of Mexico, focusing international attention on America's third coast and prompting questions about whether it will ever fully recover from the spill.

The notion of a recovery strikes some as short-sighted. The gulf has been suffering for decades.

"There's a tremendous amount of outrage with the oil spill, and rightfully so," said Felicia Coleman, director of Florida State University's Coastal and Marine Laboratory. "But where's the outrage at the thousands and millions of little cuts we've made on a daily basis?"

Like no other U.S. body of water, the gulf bears the environmental consequences of the country's economic pursuits and appetites.

About 4,000 offshore oil and gas platforms and thousands of miles of pipeline are in the central and western Gulf of Mexico, where 90 percent of the country's offshore drilling takes place.

At least half a million barrels of oil and drilling fluids had been spilled offshore before the BP spill, according to government records.

Much more than that has been spilled from pipelines, vessel traffic and wells in state waters, records show.

Runoff and waste from cornfields, sewage plants, golf courses, and oil-stained parking lots drain into the Mississippi River from vast swaths of the United States, and then flow down to the gulf, creating a zone of lifeless water the size of Lake Ontario just off the coast of Louisiana.

The gulf's floor is littered with bombs, chemical weapons and other ordnance dumped in the middle of last century, even in areas busy with drilling, and miles outside of designated dumping zones, according to experts who work on deepwater hazard surveys.

Even the coast itself - overdeveloped, strip-mined and battered by storms - is falling apart. The wildlife-rich coastal wetlands of Louisiana, sliced up and drastically engineered for oil and gas exploration, shipping and flood control, have lost an area larger than Delaware since 1930.

"This has been the nation's sacrifice zone, and has been for 50-plus years," said Aaron Viles, campaign director for the Gulf Restoration Network, a nonprofit group. "What we're seeing right now with BP's crude is just a very photogenic representation of that."

History of neglect

All along the coast, people speak of a lack of regulatory commitment and investment in scientific research on the gulf by state and federal lawmakers.

They note, for example, that over the past decade, the Environmental Protection Agency's financing for the Chesapeake Bay Program, a regional and federal partnership, was nearly five times the amount for a similar Gulf of Mexico program.

"The funding had never been equivalent to other great water bodies," said Lisa Jackson, the administrator for the EPA. "That's absolutely true. But it's also absolutely true that this administration changed that long before the spill."

While the Gulf of Mexico program financing remains at roughly the same levels, Jackson pointed to other programs to address gulf health that have been created and received millions of dollars in the past two years.

Jackson added that it is not all about money. Some of the key coastal issues present thorny jurisdictional complications between the federal government and the states.

And while billions of dollars would be required to restore the coast - much more than has already been committed - the maintenance of a healthy gulf also demands rigorous enforcement of regulations.

Some of the strongest resistance to tough regulation, as well as the most permissive attitude toward industry and property development, has come from the gulf states

themselves.

While the states formed an alliance in 2004 to address the gulf's overall health, the group includes some of the poorest states in the country, and they are concerned tighter rules could chase away jobs.

In a federal ranking of states for annual toxic release, three of the top 10 are along the gulf.

This has led to a cycle of lax oversight. Members of several national environmental groups said they had found much of the gulf a hostile fundraising and political atmosphere.

A regional difference

But without the aggressive watchdog role played by well-financed environmental groups in places like California and the mid-Atlantic, threats to the gulf have largely gone unmonitored.

Kieran Suckling, a founder of the Center for Biological Diversity, said he was shocked in the days after the BP spill to discover the U.S. Minerals Management Service's lax oversight of the offshore drilling industry.

"The blatant, extremely public actions of the MMS would not survive for 10 minutes if they were doing this very same thing in the Northeast or the Pacific Northwest," he said.

But his organization, like many others, did not have an office on the gulf.

"The environmental movement was either so far removed from it that it was unaware, or it was aware and afraid to challenge it because of local politics," Suckling said. "Or it was unwilling to challenge because it has written off the gulf as America's dumping ground."

By the time the environmental movement gained steam, in the 1970s, the gulf had already established a reputation as a place where the country did its dirty work.

Oil and gas companies have been drilling offshore in the central and western gulf for more than 60 years, providing tens of thousands of jobs for states with ailing agrarian economies.

In that time, only the Ixtoc I spill off Mexico in 1979 has come close to the Deepwater Horizon disaster. But still, a report from the Ocean Studies Board and other federal scientific advisory groups found that the waters of the northwestern gulf take on more oil on average per year, from spills, natural seeps and land-based sources like coastal refineries and everyday transportation, than any other North American marine waters.

According to data from the Minerals Management Service compiled and analyzed by Toxics Targeting, a firm that documents pollution and contamination, at least 324 spills involving offshore drilling have occurred in the gulf since 1964, releasing more than 550,000 barrels of oil and drilling-related substances. Four of these spills even involved earlier equipment failures and accidents on the Deepwater Horizon rig. Thousands of tons of produced water - a byproduct of drilling that includes oil, grease and heavy metals - are dumped in the gulf every year. The discharges are legal and regulated by the EPA.

EPA chief: too early to assess oil spills' damages (*Minnesota Public Radio*)

by Stephanie Hemphill, Minnesota Public Radio
August 4, 2010
St. Paul, Minn. — The head of the federal Environmental Protection Agency says it's too early to assess the damages from two oil spills -- one in the Gulf of Mexico and the other in Michigan's Kalamazoo River.

EPA Administrator Lisa Jackson is in the Twin Cities for a listening session on how to get more people out and enjoying the great outdoors.

At a news conference along the Mississippi River, Jackson said Enbridge Energy has responded adequately to federal requirements after about a million gallons leaked from its pipeline into the Kalamazoo River. The oil traveled about 25 miles downriver, but Jackson said it will not reach Lake Michigan.

"I feel very confident we're not going to see it getting any further than that," she said. "As the warm days come up, we're seeing a lot of sheen."

On the spill in the Gulf, she said more data is needed before the long-term effects will be known. She said there's a lot more work to be done on the spill in the Gulf.

"It is not the time to write the history of the Gulf of Mexico oil spill, but rather to get the data we need to determine exactly what the effects were on that ecosystem," Jackson said.

Texas defies EPA on regulation of greenhouse gases (*Greenwire*)

(08/04/2010)
Robin Bravender, E&E reporter
Texas officials warned U.S. EPA this week they won't change or reinterpret their air pollution laws to comply with federal greenhouse gas regulations, arguing that the Obama administration's climate rules are illegal.

EPA plans to begin regulating stationary sources of greenhouse gases next January and asked states to inform the agency by this week whether they would need to change state laws or regulations to comply with federal policies.

But Texas Commission on Environmental Quality Chairman Bryan Shaw and Texas Attorney General Greg Abbott (R) blasted EPA for unlawfully attempting to force states to "pledge allegiance to its rules." The dispute marks the latest in a series of altercations between the Obama EPA and Texas as federal officials have moved to overhaul the state's air permitting program.

"In order to deter challenges to your plan for centralized control of industrial development through the issuance of permits for greenhouse gases, you have called upon each state to declare its allegiance to the Environmental Protection Agency's recently enacted greenhouse gas regulations -- regulations that are plainly contrary to United States law," the officials wrote in a **letter** sent Monday to EPA Administrator Lisa Jackson and EPA's Dallas-based Region 6 Administrator Al Armendariz.

"On behalf of the state of Texas, we write to inform you that Texas has neither the authority nor the intention of interpreting, ignoring, or amending its laws in order to compel the permitting of greenhouse gas emissions," the Texas officials say.

Specifically, the officials are taking issue with EPA's "tailoring" rule for greenhouse gases. The tailoring rule seeks to substantially raise the Clean Air Act's permitting thresholds for greenhouse gases from the current limits of 100 or 250 tons per year. Without the rule, even small facilities would be required to obtain greenhouse gas permits when the agency officially begins to regulate tailpipes' greenhouse gas emissions in January.

"Instead of acknowledging that congressionally set emission limits preclude the regulation of greenhouse gases, you instead re-write those statutorily-established limits," the letter says.

EPA air chief Gina McCarthy told *Greenwire* in June that the final tailoring rule was written to allow states to avoid regulating except in the narrow way her agency intended (*Greenwire*, June 2).

"We wrote it after talking to the states and realizing that some of the rulemaking uses the same exact language, and if we interpreted that language at the federal level to mean that you don't need to regulate, except the way in which the tailoring rule has designed it, that you can simply decide when to use our interpretation and move forward," she said. "And we know that many of the states are perfectly comfortable doing that."

For states that can't or won't immediately comply with the rules, EPA is planning to use its authority to bring them into compliance with federal rules. The agency sent a proposal to the White House regulatory review office last month that seeks to guarantee

authority for federal implementation plans, or FIPs, that could replace state programs if the states do not comply with federal requirements by the deadlines (*E&ENews PM*, July 9).

"We'll work with the states to see what needs to be done both in regulation and in the law, so that we can make sure we're aligned on this," McCarthy said in June.

'Shootout at the O.K. Corral'

Bill Becker, the executive director of the National Association of Clean Air Agencies, said Texas is in the minority when it comes to compliance with EPA's climate rules.

"Texas is the only one I've heard who have said, 'Over my dead body,' but most others are trying to make this work," Becker said.

"The vast majority of states will be successful in having regulations ready to go by January 2, 2011," Becker said. "There will be some, maybe 20 percent or so, who won't make it, but not for lack of trying. They won't make it because either their legislature and/or regulatory bodies have processes in place that are protracted and difficult to achieve quick decisions, but they're working toward making this program operate."

For states that do not align with the federal program, EPA could issue FIPs to curb emissions or issue sanctions including the withholding of federal highway funding.

The battle between Texas and EPA "is going to be a shootout at the O.K. Corral," Becker said. But he said EPA won't give up without a fight.

"I think that EPA is very serious about taking this forward," he said.

Opening Statement of Senator James M. Inhofe (*Canada Free Press*)

Oversight Hearing on the Use of Oil Dispersants in the Deepwater Horizon Oil Spill
By EPW Wednesday, August 4, 2010
Thank you, Madam Chair, for scheduling today's important hearing to examine the use and impacts of oil dispersants to mitigate the BP oil spill. Following the tragic Exxon Valdez oil spill, the National Contingency Plan (NCP) was updated to address new issues that might arise in the event of an oil spill of national significance. Among other things, the NCP was amended to require a pre-approved list of dispersants deemed safe for emergency use by the Environmental Protection Agency. By creating a pre-approved list, oil spill responders have an effective tool to fight the devastating effects of an oil spill quickly and without bureaucratic delay.

Let me be clear: nobody is advocating for the use of dispersants unless they are absolutely necessary, but with the BP disaster, they appear to be the lesser of two evils. I am disappointed that this important tool-which was first approved for use by EPA and then-Administrator Carol Browner in 1994-was implemented in fits and starts. EPA first approved, then stopped, then approved again the use of dispersants. I am concerned that EPA's back and forth-which runs counter to having a list approved prior to an emergency-may have exacerbated the damages caused by the BP spill.

The Administration's actions are somewhat baffling considering top officials have clearly stated that dispersants are safe and effective. Carol Browner, now President Obama's Energy and Climate Change Czar, has been quoted comparing dispersants to dish soap and just last week said, "We have been using dispersant. We do monitor, the EPA monitors regularly. Right now they're not seeing anything of concern. NOAA is also monitoring. They're not seeing anything of concern and right now the monitoring is telling us that everything is OK, but we will continue to monitor." EPA Administrator Lisa Jackson said, "We know that dispersants are less toxic than oil," and that they "break down over a period of weeks, rather than remaining for several years as untreated oil might." In a report last Tuesday, NOAA Administrator Jane Lubchenco said, "The light crude oil is biodegrading quickly…we know that a significant amount of the oil has dispersed and been biodegraded by naturally occurring bacteria."

The current dispersant being used, Corexit 9500, was formulated following the Exxon Valdez spill and approved by EPA for use in 1994. This dispersant is currently approved for use in 28 countries, and 30 groups have access to samples as well as complete access to its ingredients and mixtures. These groups include 16 academic institutions, multiple federal agencies, including numerous divisions and regions of EPA, and 5 departments within the state government of Louisiana. Legislation covering dispersants has now been introduced in the Senate and passed in the House. The House-passed language institutes a 2-year moratorium on dispersants and requires full public disclosure of ingredients. This would greatly limit our ability to respond to any potential future spills and could drastically diminish our domestic manufacture and supply of dispersants in the future.

Clearly there are uncertainties due to the volume and method of use of dispersants in this current response effort. But we must be measured in how we address these uncertainties, because we could ultimately do more harm than good. I applaud Senator Lautenberg's efforts in drafting a more reasoned alternative to the House bill. At this point, based on the extensive federal research on dispersants initiated after the BP spill, I'm not sure if Senator Lautenberg's legislation is needed. I also have some additional concerns with aspects of the bill but will continue to study this issue, and I commit today to work with Sen. Lautenberg on bipartisan legislation if there's a need for it. Thank you.

August 4, 2010

Texas Defies EPA on Regulation of Greenhouse Gases (*New York Times*)

By ROBIN BRAVENDER of Greenwire

Texas officials warned U.S. EPA this week they won't change or reinterpret their air pollution laws to comply with federal greenhouse gas regulations, arguing that the Obama administration's climate rules are illegal.

EPA plans to begin regulating stationary sources of greenhouse gases next January and asked states to inform the agency by this week whether they would need to change state laws or regulations to comply with federal policies.

But Texas Commission on Environmental Quality Chairman Bryan Shaw and Texas Attorney General Greg Abbott (R) blasted EPA for unlawfully attempting to force states to "pledge allegiance to its rules." The dispute marks the latest in a series of altercations between the Obama EPA and Texas as federal officials have moved to overhaul the state's air permitting program.

"In order to deter challenges to your plan for centralized control of industrial development through the issuance of permits for greenhouse gases, you have called upon each state to declare its allegiance to the Environmental Protection Agency's recently enacted greenhouse gas regulations -- regulations that are plainly contrary to United States law," the officials wrote in a letter (pdf) sent Monday to EPA Administrator Lisa Jackson and EPA's Dallas-based Region 6 Administrator Al Armendariz.

"On behalf of the state of Texas, we write to inform you that Texas has neither the authority nor the intention of interpreting, ignoring, or amending its laws in order to compel the permitting of greenhouse gas emissions," the Texas officials say.

Specifically, the officials are taking issue with EPA's "tailoring" rule for greenhouse gases. The tailoring rule seeks to substantially raise the Clean Air Act's permitting thresholds for greenhouse gases from the current limits of 100 or 250 tons per year. Without the rule, even small facilities would be required to obtain greenhouse gas permits when the agency officially begins to regulate tailpipes' greenhouse gas emissions in January.

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"We wrote it after talking to the states and realizing that some of the rulemaking uses the same exact language, and if we interpreted that language at the federal level to mean that you don't need to regulate, except the way in which the tailoring rule has designed it, that you can simply decide when to use our interpretation and move forward," she said. "And we know that many of the states are perfectly comfortable doing that."

For states that can't or won't immediately comply with the rules, EPA is planning to use its authority to bring them into compliance with federal rules. The agency sent a proposal to the White House regulatory review office last month that seeks to guarantee authority for federal implementation plans, or FIPs, that could replace state programs if the states do not comply with federal requirements by the deadlines (E&ENews PM, July 9).

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EDITORIAL / OP-ED / COMMENTARY / LETTERS

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Safety isn't what was measured (*Times-Picayune*)

New Orleans
August 5, 2010 Thursday
METRO; Pg. B 06
The title for the recent article "Dispersants are safe for sea life, EPA testing says" (Page A4, Aug. 3) is misleading. The EPA has not stated that dispersants are safe for marine life. The 2005 National Academy of Sciences report "Oil Spill Dispersants: Efficacy and Effects" states that corals have been shown to bio-accumulate dispersed oil, making them more vulnerable to environmental stressors.

Short-term toxicity tests only determine the concentration of oil and dispersant needed to kill 50 percent of the test organisms after 96 hours. EPA's short-term tests determined that the dispersant plus crude oil mixture has the same ability to kill mysid shrimp and silverside fish as oil by itself.

Ultimately, testing the toxicity of dispersants after tons of it has already been released into the Gulf is like studying your medical textbooks after you performed surgery. This information, while interesting, does not help us understand the possible long-term effects of almost 2 million gallons of dispersant and more than 200 million gallons of crude oil on our Gulf waters, fisheries and communities.

It is past time for the federal government to step up and give us the critical information we need to make important decisions about our recovery and future.

Casey DeMoss Roberts

Assistant Director of Water Resources

Gulf Restoration Network

New Orleans

EPA petition a threat to hunting, shooting, fishing (*Press & Sun-Bulletin*)

By Dave Henderson •Correspondent • August 4,
2010, 6:25 pm
We've been here before, but that doesn't make the situation any less threatening.

A contingent of conservation groups Wednesday petitioned the Environmental Protection Agency to ban the use of lead in hunting ammunition and fishing tackle.

If approved, hunting and shooting would become cost prohibitive. The price of lead ammunition is already exorbitant, but is a fraction the price of alternatives such as

copper and tungsten alloys, not to mention the expensive retooling and supplying for new ammunition.

The American Bird Conservancy, Center for Biological Diversity, Association of Avian Veterinarians, Public Employees for Environmental Responsibility, and a California hunters' group Project Gutpile are asking for the ban under the Toxic Substances Control Act, which regulates dangerous chemicals in the United States.

The petitioners, calling this "the most significant move in two decades," cite 473 studies that they claim show an estimated 10 million to 20 million birds and other animals that die each year from lead poisoning in the United States.

Detractors contend that many of the studies are unproven, and many more disproven, but the
petition nevertheless claims that 3,000 tons of lead are "shot into the environment by hunting every year" and also claims "80,000 tons are released at shooting ranges, and 4,000 tons are lost in ponds and streams as fishing lures and sinkers."

In the past we dodged such challenges because of the fact that EPA has no jurisdiction over
ammunition, despite the Toxic Substances Control Act's regulating dangerous chemicals in the United States.

Because ammunition is subject to a federal excise tax, ammunition is exempt from the Toxic
Substances Control Act. It falls under other guidelines.

But the petitioners believe the guidelines can be circumvented. They claim that since "viable
alternatives" to lead exist today, they are justified in asking that the components of ammunition be covered by the Toxic Substances Control Act.

This, the petitioners contend, would theoretically allow the EPA to exert control over ammunition without endangering the revenues produced from the federal excise tax collected from ammunition manufacturers.

The argument from this side has long been that forcing non-traditional ammunition on hunters and shooters would cause many to stop pursuing both.

The prohibitively expensive ammunition would be a major obstacle for hunters but would essentially kill high-volume shooting like trap, skeet, and sporting clays, which encompasses nearly 25 million people. It would also ban the use of the estimated hundreds of millions of rounds of lead ammunition that exist in private hands right now.

It's obvious that a significant drop in ammunition and hunting/shooting equipment sales would have a catastrophic effect on American wildlife.

The 11 percent federal excise tax manufacturers pay on ammunition is a primary source of funding for states' wildlife management funding.

The arguments rage, but the EPA has 90 days after the petition's filing to either grant or deny that
petition.

If the EPA Administrator grants the petition, "appropriate proceedings" would commence
immediately. If the petition is denied, the administrator would be required to publish the reasons for the denial in the Federal Register.

We'll be sweating this one for the full three months.

Henderson's outdoors columns appear in the Press & Sun-Bulletin on Thursdays and his Field Notes column on Sundays. If you have a comment or data pertinent to the columns, send it directly to Henderson Outdoors (www.HendersonOutdoors. com), 202 Prospect Street, Endicott, N.Y. 13760 or e-mail it to dddhender@aol.com.

AIR

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EPA Guidance Allows States To Prioritize Air Toxics Rules For Compliance (*Inside EPA*)

Posted: August 4, 2010
EPA has quietly released guidance offering state air officials a method for prioritizing compliance and enforcement efforts for a specific set of area source air toxics rules for lower-emitting facilities, recommending strict compliance monitoring for the highest priority rules and lesser compliance assistance for other area source rules.

The agency recently sent a guidance to the air office directors in its ten regions detailing how state, local and tribal air agencies with delegated authority to implement Clean Air Act programs should prioritize compliance with area source rules. The guidance issued June 4 expands on a 2008 agency document that prioritized area source emission rules by creating three classes of rules based on their potential for achieving emission reductions.

The guidance could have significant impacts on EPA's pending revisions to a slew of area source rules. The agency is under a court-ordered deadline to issue by Dec. 16 a number of revised area source air toxics rules, and several of the sectors for which EPA is revising its rules are listed as high priority in EPA's 2008 guidance.

Area source rules cover facilities that emit less than 10 tons per year of a single hazardous air pollutant (HAP) or less than 25 tons per year of a combination of HAPs. "This guidance provides delegated agencies/implementing regions with flexibility to develop a compliance and enforcement strategy for addressing each rule in a manner they deem would be the most effective in achieving environmentally beneficial results," EPA says.

One state air official welcomes EPA's new guidance and says the prioritization of air rules is appropriate. States have long complained that they have insufficient resources to meet all federal emission rule requirements, and the guidance would allow states to focus compliance resources on high-priority rules.

EPA in the guidance suggests that for the highest-priority sectors covered by area source rules, states should focus on compliance monitoring -- a broad term that can include facility inspections, surveillance, investigations and other measures.

For lower-priority area source rules EPA suggests that state and other air officials take lesser steps such as compliance assistance. According to EPA's website, under this approach regulators offer advice through training and other steps to regulated communities to explain their duties under environmental laws.

EPA's 2008 document, "Area Source Program Implementation Priorities Assistance Document for Regional Air Division Directors," outlined the three priority groups for the agency's area source rules.

So-called Group One rules are the highest priority because HAP emissions from the affected sectors are otherwise unregulated by other state or federal air rules. Sources included in Group One include electric arc furnaces, iron and steel foundries, glass manufacturing, and chemical manufacturing, according to EPA.

For Group One rules, "EPA recommends delegated agencies/implementing regions focus their efforts and direct resources to the use of compliance monitoring and enforcement," the June guidance says. "Compliance monitoring provides the greatest deterrent to non-compliance and therefore, may increase compliance with the Group One rules."

The guidance emphasizes that agencies must maintain a "complete and accurate inventory of all regulated sources" in order to target compliance activities, assess impacts on sensitive communities, evaluate compliance trends and promote "good governance" by allowing citizens to assess the facilities as well.

Group Two includes facilities that might individually emit low volumes of HAPs but there are a large number of those facilities. The group also includes area source rules that might lead to significant reductions in criteria pollutants, boosting states as they attempt to meet EPA national ambient air quality standards. Sectors covered by Group Two include facilities dispensing oil and gas.

Group Three covers the largest but lowest priority category of area source rules. The rules generally tend to only codify existing control approaches and therefore represent a minimal potential for emissions reductions. Sectors that fall under the scope of Group Three include aluminum and other foundries.

Promoting Compliance Assistance

For Group Two and Three rules, the guidance promotes compliance assistance -- in which agencies promote the regulated community's understanding of regulations -- rather than monitoring.

"Many of these facilities are small businesses which previously had limited or no regulatory experience and compliance assistance provides an effective and efficient opportunity to work with these small sources," according to the agency's June guidance. Among the assistance options EPA suggests are mass mailings, workshops or training courses, web-based tools, telephone "hotlines," or fact sheets as options for providing such assistance.

The state source says the guidance reflects ongoing state efforts to prioritize enforcement, but raises questions for states seeking to take over federal air programs in order to ensure better compliance.

"Delegation is tricky, because it then becomes a matter of specific commitments and reporting and other administrative requirements which have a high probability of becoming a burden," the source says. "Without the commitments, delegation is unlikely, and without delegation, enforcement will have to be done by the feds, which means it won't get done at all." -- *Molly Davis*

BP SPILL

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EPA forced to defend use of dispersants (*Times-Picayune*)

New Orleans
August 5, 2010 Thursday
NATIONAL; Pg. A 06

EPA forced to defend use of dispersants ;
Scientists attack it as a vast 'experiment'
By Jonathan Tilove Washington bureau
WASHINGTON -- The head of the EPA's office of research and development defended Wednesday the unprecedented use of dispersants in breaking up the Gulf of Mexico oil spill, even as a panel of environmentalists characterized BP's massive application of Corexit to the oil as an "experiment" with still uncertain outcomes.

"My colleagues and I that have been studying this situation believe that a massive eco-toxicological experiment is under way," Ronald Kendall, director of the Institute of Environmental and Human Health at Texas Tech University, told the Senate Environment and Public Works Committee. "We have very limited information on the environmental fate and transport of the mixture of the dispersant and oil, particularly in the deep ocean."

How, Kendall wondered, might the dispersant-oil mixture affect sperm whales -- an endangered species -- or larval bluefin tuna, or the seaweed that provides food and refuge for young Kemp's ridley sea turtles.

"The decision to use dispersants may have saved some birds and marshes while increasing the impacts on fish and other marine life," said Jackie Savitz, a senior scientist with the environmental organization, Oceana. "How can we say which is more important?

"Moving oil below the sea surface presents significant challenges to the organisms residing in this habitat," said David Smith, professor of oceanography at the University of Rhode Island. "Impacts will be less noticeable, but could be as devastating as oil washing ashore."

"These damages are not readily observed during a spill and may not be obvious for several years after the damage takes place," said Edward Overton, professor emeritus of environmental sciences at Louisiana State University, who, along with the other environmental scientists, questioned the adequacy of testing by the Environmental Protection Agency.

Paul Anastas, dubbed "the father of green chemistry" before his appointment by President Barack Obama to head the EPA's research and development office, has been placed in the difficult role of explaining and defending the dumping of 1.8 million gallons of Corexit, the oil industry's dispersant of choice, into the Gulf, both at the surface and, for the first time ever, at the wellhead a mile below the ocean surface.

The use of dispersants, which break down the oil into smaller, more biodegradable droplets, is credited in a new federal report with dispersing about 8 percent of the 4.9 million barrels of oil spewed into the Gulf since the blowout of the Deepwater Horizon well April 20.

Anastas testified that the use of dispersants, which are less toxic than the oil, had helped protect the shoreline and were degrading quickly.

EPA monitoring, he said, "shows the dispersants are not persistent in the environment; dispersants are not depleting oxygen in the water to dangerous levels."

He said two rounds of testing, comparing dispersants alone and in combination with oil, confirmed that Corexit had been a reasonable choice.

But the use of dispersants has roiled many environmentalists as well as state officials in Louisiana, who opposed the subsea application, even though National Incident Commander Thad Allen said Wednesday that that is where it proved most effective.

In a low-key but methodical cross-examination of Anastas, Sen. Sheldon Whitehouse, D-R.I., laid out just how woefully unprepared EPA was to make the momentous decision about whether to let BP use large quantities of Corexit after the well blew.

Whitehouse noted that EPA's National Contingency Plan Product Schedule, listing dispersants that could be used in such an event, was treated by the Coast Guard and others as an "approved" list, even though all that was required to be on that list was for a manufacturer to nominate itself and provide data indicating it was effective. It also had to provide its own toxicity data, but there was no threshold that would disqualify it from inclusion on the list.

"I can't think of another circumstance in which a regulatory agency approves something for use without actually coming to a formal decision that it is safe to be used," Whitehouse said. "There doesn't appear to be an evaluating moment. Whether to use dispersants, which dispersants to use, when to use them, these are all difficult decisions. And more difficult when made on the fly and without prior review from agencies responsible for protecting our health and natural resources."

And yet, Whitehouse said he imagined that for the EPA, when the crisis came, it would have been "a little hard to say, you know, 'Sorry, B.P.; sorry, Mr. President, we're not ready to authorize the use of dispersants here because we need to do a little bit more studying, because we haven't done that yet.' You, kind of, have to say, 'Well, here's what we got. Take your best shot.' And it sounds like that is more or less what happened."

Amid concerns on Capitol Hill about the how much Corexit was being used, the EPA in May ordered BP to find a less toxic alternative. But when BP balked, EPA found it could not rely on the data on its product list to rebut BP's assertion that it could not readily find an effective and safer alternative to Corexit, and undertook two rounds of testing. The results of the second round were announced this week.

"While this was a necessary undertaking, it is regrettable that this analysis was not

available before the spill began," said Whitehouse. "And we still know very little about the long-term ecological impact of using so much dispersant on top of so much oil."

Anastas agreed that going forward, "applying the principles of green chemistry to dispersants is going to be essential" to find more environmentally friendly alternatives.

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Jonathan Tilove can be reached at jtilove@timespicayune.com or 202.383.7827 .

AUGUST 4, 2010, 4:08 P.M. ET

Oil-Spill Dispersants Come Under New Scrutiny At Senate Hearing (*Wall Street Journal*)

By Siobhan Hughes Of DOW JONES NEWSWIRES WASHINGTON (Dow Jones)--The dispersants used to break up the BP PLC (BP, BP.LN) oil spill came under new scrutiny Wednesday in the U.S. Senate, where a panel warned that the U.S. government lacks critical information about whether the chemicals threaten sea life in the Gulf of Mexico.

"Relief workers and wildlife in the gulf have become unwitting participants in a dangerous science experiment," said Sen. Frank Lautenberg (D., N.J.) at a Senate Environment and Public Works subcommittee hearing. "There are enough warning signs about the risks of the dispersants to know that we need more federal testing."

The U.S. Environmental Protection Agency authorized BP to use Corexit 9500A, aiming to keep oil from reaching the shore. Dispersants break up oil into small droplets, making it easier for microbes to digest oil. The agency has said that its decision was a tough one, but that recent EPA-sponsored testing show dispersed oil is no more toxic to two types of sea life than oil itself. The EPA also said it hasn't found dispersants near coasts or on wetlands.

"Dispersants are working to help keep oil away from our precious shorelines and away from sensitive coastal ecosystems," Paul Anastas, assistant administrator for the EPA's office of research and development, told the Senate panel.

David Westerholm, the director of the office of response and restoration at the National Oceanic and Atmospheric Administration, said that early-life stages of fish and shellfish would likely be most affected by dispersants, since the organisms are more sensitive than adult fish and live just below the surface of the ocean, where concentrations of dispersed oil are greater.

Still, fish, shrimp and oysters analyzed by NOAA aren't showing up with contaminants associated with the BP oil spill in concentrations that exceed regulatory guidelines, "ensuring seafood reaching the marketplace is safe to eat," he said.

But oceanographers, toxicologists and others are raising questions about the risks posed to sea turtles, diving birds and organisms that live below the surface or in the deep waters. BP used about 1.8 million gallons of dispersant, taking a novel approach by injecting a significant amount into the deep waters near the mile-deep oil gusher. The well was capped July 15.

"Moving oil below the sea surface presents significant challenges to the organisms residing in this habitat," said David Smith, a professor at the University of Rhode Island's graduate school of oceanography. "Impacts will be less noticeable, but could be as devastating as oil washing ashore."

He said one thing that concerns him about the EPA testing released earlier this week was that the tests don't address long-term effects on sea life. Smith also said the testing involved organisms that are common in the gulf but "have no relevance whatsoever in the deep sea," making it impossible to draw broader conclusions about the toxicity of the dispersants.

The U.S. Congress is starting to respond to the dearth of information, tucking $2 million into a recent spending bill to fund research on dispersants. Last week, the U.S. House of Representatives took a tougher approach, voting to ban the EPA from approving the use of dispersants until the agency writes new dispersant rules and studies the potential risks.

Sen. Sheldon Whitehouse (D., R.I.) said the public was left with a misimpression that eight dispersants pre-approved to be used to combat oil spills had been fully evaluated by federal regulators. Instead, companies submit information about the toxicity of their own products. The EPA testing released earlier this week was the first time the agency had sponsored independent testing.

"I can't think of another circumstance in which a regulatory agency approves something for use without actually coming to a formal decision that it is safe to be used," Whitehouse said. "There doesn't appear to be an evaluating moment."

Republicans used the EPA data to defend the use of dispersants. Sen. John Barrasso (R., Wyo.) pointed to agency data and concluded that dispersants are less toxic than the oil released into the gulf.

Jacqueline Savitz, a senior campaign director for the ocean-advocacy group Oceana, said the problems showed that the U.S. should ban offshore drilling.

"If we're continually asking the oceans to take one for the team, we ought to be making sure we don't repeat the same mistake," she said. "Since we can't prevent, contain or

clean up oil spills without major ecological impacts, we need to stop offshore drilling, promote alternative energy sources and transition oil and gas workers to the clean-energy sector."

The results of EPA testing can be found at: http://www.epa.gov/bpspill/water.html

-By Siobhan Hughes; Dow Jones Newswires; 202-862-6654; siobhan.hughes@dowjones.com

Gov't has 'high confidence' oil spill almost over (*Associated Press*)

By DINA CAPPIELLO
WASHINGTON — No more oil is likely to leak into the Gulf of Mexico now that efforts to plug the blown-out well are succeeding, the government's point man on the spill declared Wednesday. A relieved President Barack Obama said the fight to stop the leak is "finally close to coming to an end."

At the White House, National Incident Commander Adm. Thad Allen said oil company BP's effort to plug the leak was progressing, giving officials "high confidence" that there will soon be no more oil leaking into the environment. The upbeat assessment came as a government report released Wednesday said only about a quarter of the spilled oil remains unaccounted for, whether still in the Gulf or cleaned off of beaches or marshes. The rest has been contained, dispersed or has otherwise disappeared.

Obama's team, however, was careful to emphasize that much work remains, from cleanup to damage assessment to help for hurting families. Obama said people's lives "have been turned upside down" by the spill.

And White House spokesman Robert Gibbs told reporters, "There's a lot of reasons why there's no 'Mission Accomplished' banner."

"There's a lot of work to do," Gibbs said. "We're not leaving the area, and more importantly, we're not leaving behind any commitment to clean up the damage that's been done and repair and restore the Gulf."

Jane Lubchenco, head of the National Oceanic and Atmospheric Administration, said the spill's effect on wildlife will continue for "years and possibly decades to come" and that assessments of that damage would be ongoing as well.

BP PLC earlier Wednesday announced it had reached a significant milestone when mud that was forced down the well held back the flow of crude in a procedure known as a "static kill."

Government officials defended the credibility of their report saying about 75 percent of the oil is gone. They said that description is based on direct measurements of the spill as well as estimates, and that the instruments they've used to capture the scope of the disaster have improved since it began April 20. They said the report was subject to peer review and involved both government and outside experts. White House energy adviser Carol Browner said the chance of any new information causing large-scale change to the conclusions is "very, very small."

In Congress, lawmakers pressed scientists to explain what effects a chemical used to get rid of some of the oil will have on the Gulf's ecosystem.

BP applied nearly 2 million gallons of a chemical dispersant to the oil as it spewed from the broken underwater well. The aim was to break apart the oil into tiny droplets so huge slicks wouldn't tarnish shorelines and coat marine animals, and to make the oil degrade more rapidly.

The government report released Wednesday shows that about 10 percent of the estimated 172 million gallons of oil released into the Gulf of Mexico was dispersed by the chemicals.

Sen. Sheldon Whitehouse, D-R.I., called use of the chemicals a "grand experiment." He said it was unclear whether it would limit damage from the spill, or cause greater harm.

Paul Anastas, the assistant administrator for the Office of Research and Development at the U.S. Environmental Protection Agency, said that while the effects of such a large quantity of dispersants are unknown, tests so far have not found dispersants near coasts or wetlands. Laboratory tests conducted by the EPA comparing the chemicals to oil alone and to mixtures of oil and dispersants also show that they are not more toxic.

"When you look at all of the tools to combat this tragedy ... dispersants have shown to be one important tool in that toolbox," Anastas told lawmakers.

Allen also said at the White House that the effectiveness of dispersants — as well as other tools such as skimmers — would be studied so that decisions could be made in the future about whether any risk is worth it.

But several independent scientists testifying before the panel Wednesday faulted the EPA testing.

"A laboratory experiment ... doesn't help us understand much of the environmental chemistry or its effects on other parts of the ecosystem," said Ronald Kendall, director of the Institute of Environmental and Human Health at Texas Tech University.

The chemical — Corexit 9500 — was on a federal list of preapproved dispersants, but in May the EPA directed BP to use less of the toxic chemical because its long-term effects were unknown.

Associated Press writers Ben Feller and Julie Pace contributed to this report.

EPA official defends role of dispersants in Gulf of Mexico oil spill response (*NOLA.com*)

Published: Wednesday, August 04, 2010, 10:00 PM
The head of the EPA's office of research and development defended Wednesday the unprecedented use of dispersants in breaking up the Gulf of Mexico oil spill, even as a panel of environmentalists characterized BP's massive application of Corexit to the oil as an "experiment" with still uncertain outcomes.

"My colleagues and I that have been studying this situation believe that a massive eco-toxicological experiment is under way," Ronald Kendall, director of the Institute of Environmental and Human Health at Texas Tech University, told the Senate Environment and Public Works Committee. "We have very limited information on the environmental fate and transport of the mixture of the dispersant and oil, particularly in the deep ocean."

How, Kendall wondered, might the dispersant-oil mixture affect sperm whales -- an endangered species -- or larval blue fin tuna, or the seaweed that provide food and refuge for young Kemp's ridley sea turtles.

"The decision to use dispersants may have saved some birds and marshes while increasing the impacts on fish and other marine life," said Jackie Savitz, a senior scientist with the environmental organization, Oceana. "How can we say which is more important?

"Moving oil below the sea surface presents significant challenges to the organisms residing in this habitat," said David Smith, professor of oceanography at the University of Rhode Island. "Impacts will be less noticeable, but could be as devastating as oil washing ashore."

"These damages are not readily observed during a spill and may not be obvious for several years after the damage takes place," said Edward Overton, professor emeritus of environmental sciences at LSU, who, along with the other environmental scientists, questioned the adequacy of EPA's testing to satisfy these concerns.
paul_anastas.JPGAlex Brandon, The Associated PressEPA assistant administrator Paul Anastas testifies on the use of dispersants in the Gulf of Mexico oil spill response during a Senate subcommittee hearing on Wednesday.

For Paul Anastas, who was dubbed "the father of green chemistry" before his appointment by President Barack Obama to head the EPA's research and development office, this summer has placed him in the difficult role of having to explain and defend

the dumping of some 1.8 million gallons of Corexit, the oil industry's dispersant of choice, into the Gulf, both at the surface and, for the first time ever, at the wellhead a mile below the ocean surface.

The use of dispersants, which break down the oil into smaller more biodegradable droplets, is credited in a new federal report with dispersing about 8 percent of the 4.9 million barrels of oil spewed into the Gulf since the blowout of the Deepwater Horizon well April 20.

Anastas testified that the use of dispersants, which are less toxic than the oil, had helped protect the shoreline and were degrading quickly.

EPA monitoring, he said, "shows the dispersants are not persistent in the environment; dispersants are not depleting oxygen in the water to dangerous levels" He said two rounds of testing comparing dispersants alone and in combination with oil, confirmed that Corexit had been a reasonable choice.

But the use of dispersants has roiled many environmentalists as well as state officials in Louisiana, who opposed the subsea application, even though National Incident Commander Thad Allen said Wednesday that that is where it proved most effective.

In a low-key but methodical cross-examination of Anastas, Sen. Sheldon Whitehouse, D-R.I., laid out just how woefully unprepared EPA was to make the momentous decision about whether to let BP use large quantities of Corexit after the well blew.

Whitehouse noted that EPA's National Contingency Plan Product Schedule, listing dispersants that could be used in such an event, was treated by the Coast Guard and others as an "approved" list, even though all that was required to be on that list was for a manufacturer to nominate itself and provide data indicating it was effective. It also had to provide its own toxicity data, but there was no threshold that would disqualify it from inclusion on the list.
sheldon_whitehouse.JPGView full sizeAlex Brandon, The Associated PressSen. Sheldon Whitehouse of Rhode Island questions EPA assistant administrator Paul Anastas on Wednesday.

"I can't think of another circumstance in which a regulatory agency approves something for use without actually coming to a formal decision that it is safe to be used," Whitehouse said. "There doesn't appear to be an evaluating moment. Whether to use dispersants, which dispersants to use, when to use them, these are all difficult decisions. And more difficult when made on the fly and without prior review from agencies responsible for protecting our health and natural resources."

And yet, Whitehouse said he imagined that for the EPA, when the crisis came, it would have been "a little hard to say, you know, 'Sorry, B.P.; sorry, Mr. President, we're not ready to authorize the use of dispersants here because we need to do a little bit more studying, because we haven't done that yet.' You, kind of, have to say, 'Well, here's

what we got. Take your best shot.' And it sounds like that is more or less what happened."

Amid concerns on Capitol Hill about the how much Corexit was being used, the EPA in May ordered BP to find a less toxic alternative. But when BP balked, EPA found it could not rely on the data on its product list to rebut BP's assertion that it could not readily find an effective and safer alternative to Corexit, and undertook two rounds of testing. The results of the second round were announced this week.

"While this was a necessary undertaking, it is regrettable that this analysis was not available before the spill began," said Whitehouse. "And we still know very little about the long-term ecological impact of using so much dispersant on top of so much oil.

Anastas agreed that going forward, "applying the principles of green chemistry to dispersants is going to be essential" in order to find more environmentally friendly alternatives.

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CLIMATE CHANGE / GLOBAL WARMING
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U.S. EPA rejects claims of flawed climate science (*EnergyPortal.eu*)

Wednesday, 04 August 2010 16:19
The U.S. Environmental Protection Agency (EPA) today denied 10 petitions challenging its 2009 determination that climate change is real, is occurring due to emissions of greenhouse gases from human activities, and threatens human health and the environment. The petitions to reconsider EPA's Endangerment Finding claim that climate science cannot be trusted, and assert a conspiracy that invalidates the findings of the Intergovernmental Panel on Climate Change (IPCC), the U.S. National Academy of Sciences, and the U.S. Global Change Research Program. After months of serious consideration of the petitions and of the state of climate change science, EPA finds no evidence to support these claims. In contrast, EPA's review shows that climate science is credible, compelling, and growing stronger.

"The endangerment finding is based on years of science from the U.S. and around the world. These petitions -- based as they are on selectively edited, out-of-context data and a manufactured controversy -- provide no evidence to undermine our determination. Excess greenhouse gases are a threat to our health and welfare," said EPA

Administrator Lisa P. Jackson. "Defenders of the status quo will try to slow our efforts to get America running on clean energy. A better solution would be to join the vast majority of the American people who want to see more green jobs, more clean energy innovation and an end to the oil addiction that pollutes our planet and jeopardizes our national security."

The basic assertions by the petitioners and EPA responses follow.

Claim: Petitioners say that emails disclosed from the University of East Anglia's Climatic Research Unit provide evidence of a conspiracy to manipulate global temperature data.
Response: EPA reviewed every e-mail and found this was simply a candid discussion of scientists working through issues that arise in compiling and presenting large complex data sets. Four other independent reviews came to similar conclusions.

Claim: Petitioners say that errors in the IPCC Fourth Assessment Report call the entire body of work into question.
Response: Of the alleged errors, EPA confirmed only two in a 3,000 page report. The first pertains to the rate of Himalayan glacier melt and second to the percentage of the Netherlands below sea level. IPCC issued correction statements for both of these errors. The errors have no bearing on Administrator Jackson's decision. None of the errors undermines the basic facts that the climate is changing in ways that threaten our health and welfare.

Claim: Petitioners say that because certain studies were not included in the IPCC Fourth Assessment Report, the IPCC itself is biased and cannot be trusted as a source of reliable information.
Response: These claims are incorrect. In fact, the studies in question were included in the IPCC report, which provided a comprehensive and balanced discussion of climate science.

Claim: Petitioners say that new scientific studies refute evidence supporting the Endangerment Finding.
Response: Petitioners misinterpreted the results of these studies. Contrary to their claims, many of the papers they submit as evidence are consistent with EPA's Finding. Other studies submitted by the petitioners were based on unsound methodologies. Detailed discussion of these issues may be found in volume one of the response to petition documents, on EPA's website.

Climate change is already happening, and human activity is a contributor. The global warming trend over the past 100 years is confirmed by three separate records of surface temperature, all of which are confirmed by satellite data. Beyond this, evidence of climate change is seen in melting ice in the Arctic, melting glaciers around the world, increasing ocean temperatures, rising sea levels, shifting precipitation patterns, and changing ecosystems and wildlife habitats.

"America's Climate Choices," a report from the National Academy of Sciences and the most recent assessment of the full body of scientific literature on climate change, along with the recently released "State of the Climate" report from the National Oceanic and Atmospheric Administration both fully support the conclusion that climate change is real and poses significant risk to human and natural systems. The consistency among these and previously issued assessments only serves to strengthen EPA's conclusion.

Information on EPA's findings and the petitions:
http://epa.gov/climatechange/endangerment/petitions.html

More information on climate change: http://epa.gov/climatechange

Review America's Climate Choices report: http://americasclimatechoices.org/

Review State of the Climate report:
http://www.noaanews.noaa.gov/stories2010/20100728_stateoftheclimate.html

Review information on Indicators of Climate Change:
http://epa.gov/climatechange/indicators.html

ENERGY
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In Brief: County building gets second Energy star Award (*Washington Post*)

August 5, 2010 Thursday
Every Edition
EXTRAS; Pg. PW16
Prince William County
in brief
County building gets second Energy Star award

The Prince William County Department of Public Works received national recognition this week for maintaining an energy-efficient building.

For the second year in a row, the Environmental Protection Agency granted an Energy Star rating to the Dr. A.J. Ferlazzo Building in Woodbridge. It is one of 6,200 buildings in the United States to be recognized for its energy performance.

County officials said the Ferlazzo Building was honored for using about 40 percent less

energy than the average building. Its energy performance rates in the top 25 percent of U.S. facilities, county officials said.

This is the third year the county has received the Energy Star designation, officials said. In 2008, the award went to the development services building.

County names director of social services agency

Prince William County officials announced Tuesday that Janine M. Sewell will be the new director of the county's Department of Social Services.

Sewell is a former employee of the department. She spent 13 years as a social worker and a project leader before heading to Fredericksburg to become the director of its social services department, county officials said.

Sewell has a bachelor's degree in social work from Misericordia University in Dallas, Pa. Her first day of work will be Sept. 13.

Credit union to close branches at some schools

The Belvoir Federal Credit Union will close branches at several Prince William County schools to prepare for the military personnel coming to the area as part of the base realignment and closure proceedings, school officials said.

The credit union will close branches at Gar-Field and Woodbridge high schools and Godwin and Woodbridge middle schools. Credit union officials said they need to realign their resources to prepare for the 20,000 people expected to come to Fort Belvoir.

Bonnie Andresakes, with the credit union, said that all students, parents and staff at these schools can continue to join the credit union and use the other facilities.

Historic Manassas Inc. receives national award

Historic Manassas Inc. received accreditation from the national Main Street program for its efforts in maintaining Old Town Manassas.

The organization received the award for meeting the commercial district revitalization performance standards set by the National Trust Main Street Center in Washington. Each year, the center honors organizations that have strengthened their local economy and preserved historic buildings.

County police department starts Facebook page

The Prince William County Police Department has launched a Facebook page for residents to join, officers said Monday.

The department, which recently celebrated its 40th anniversary, employs more than 700 people and has a budget of $73 million. Led by Chief Charlie T. Deane, it has scuba, motorcycle and horse-mounted divisions and a training academy.

-- Compiled by Jennifer Buske

EPA Names City of Houston Largest Municipal Purchaser of Renewable Energy in the U.S. (*Examiner.com*)

August 4, 5:09 PM · Pam McConathy - Houston Green Economy Examiner

Houston's moniker of the Energy Capital of the World could soon become the Green Energy Capital of the U.S.!

The City of Houston has been designated the number one municipal purchaser of green power and the fourth largest overall purchaser in the nation, according to the U.S. Environmental Protection Agency (EPA). The EPA this week released its list of top 50 green power partners using the most renewable electricity and named the City of Houston as a crucial leader in the alternative energy trend.

“Houston is already known as the energy capital of the world, but we are committed to becoming the alternative energy capital of the world as well,” said Mayor Annise Parker. “This ranking confirms we are taking the right steps in the right direction, and it’s going to benefit everyone.”

The City of Houston uses 50 Megawatts, or 32 percent of the City’s total electricity load, from wind energy. The City expects to use as much as 1.7 billion kilowatt-hours of renewable wind energy through 2013, equivalent to the amount of kilowatt-hours needed to power 26,000 homes each year. It also helps reduce the need to build more expensive power plants for the region’s rising energy needs. Additionally, the City is looking to increase the amount of renewable energy purchased.

The City, designated by the U.S. Department of Energy as one of its Solar America Cities, also is active in developing its own solar powered sources of energy. The City of Houston has solar power on a portion of the George R. Brown Convention Center, the City’s Code Enforcement building (3300 Main), Discovery Green Park and the City Hall Annex building (900 Bagby). In addition, the City of Houston recently received a $1.3 million State Energy Conservations Office (SECO) Distributed Renewable Energy Grant to purchase approximately 25 commercially available distributed renewable energy (solar) mobile generator systems to provide backup energy during an emergency.

POL Pushing For Gas Drilling Has Firm Ties (*Daily News)*

New York
August 5, 2010 Thursday
SPORTS FINAL EDITION

NEWS; Pg. 18
POL PUSHING FOR GAS DRILLING HAS FIRM TIES

BY KENNETH LOVETT DAILY NEWS ALBANY BUREAU CHIEF

ALBANY - A state senator who unsuccessfully tried to beat back a moratorium on upstate gas drilling stands to benefit if the project moves forward, the Daily News has learned.

Sen. George Winner's law firm has strong ties to the energy industry, which is pushing for gas drilling in the Northeast rock formation known as the Marcellus Shale.

"We have represented and are interested in helping firms involved in the Marcellus Shale," the Elmira Republican told The News yesterday. "However, nothing's happening in New York right now."

He said his firm had done title work in New York for companies looking at the shale formation, which extends near upstate reservoirs tapped by New York City.

Winner wouldn't reveal his firm's gas industry clients - and by law does not have to.

His latest state ethics filing shows he owns stock in companies doing business in Pennsylvania's portion of the Marcellus Shale, and added several energy companies to his portfolio from the previous year.

Winner, who is not seeking reelection, gave a passionate speech Tuesday in opposition to a bill that places a moratorium on the chemical-aided drilling technique known as hydrofracking in the Marcellus Shale until May 15, 2011.

Winner called the potential for gas drilling "one of the biggest opportunities that we've ever seen probably in our lifetimes for our area."

He dismissed criticism that moving forward would create environmental hazards. And he argued the state Department of Environmental Conservation should make the decision rather than a moratorium based on "politics, not science."

Senate Democratic spokesman Travis Proulx charged Winner had a "moral obligation" to recuse himself from the issue because his law firm stands to benefit.

The moratorium bill passed the Senate by a 48-to-9 margin, moments after midnight

yesterday.

Assembly Speaker Sheldon Silver didn't say if his house would take up the bill.

But the speaker said the state should not approve hydrofracking permits until the U.S. **Environmental Protection Agency** completes a study of the technique. He also said companies should be required to fully disclose all chemicals used in the drilling process.

klovett@nydailynews.com

FUEL
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Congressman says Enbridge violated oil spill regs (*Associated Press*)

By JOHN FLESHER (AP) – 9 hours ago
TRAVERSE CITY, Mich. — A member of Congress said Wednesday that Enbridge Inc. violated federal regulations by dragging its feet on reporting a pipeline rupture that poured hundreds of thousands of gallons of oil into a southern Michigan waterway, although the company said it met legal requirements.

Rep. Mark Schauer, a Michigan Democrat, said he was convinced the massive leak began the night of July 25, although the Canadian company insists it didn't confirm the spill was under way until about 11:30 a.m. the next morning.

Schauer also said Enbridge began laying boom material to contain the oil then but took two more hours to file a report with the National Response Center. Federal rules require pipeline operators to report releases of more than 5 gallons of hazardous liquids "at the earliest practicable moment" following their discovery.

"Can you imagine having a massive bleeding injury, putting a pressure bandage on it, and then waiting two hours before calling 911? That's what happened here," Schauer said in a phone call with reporters. "It's increasingly clear that the pipe was leaking for hours before it was reported."

In a separate media call, Enbridge Inc. Chief Executive Patrick Daniel said the company was "well within federal regulations with regard to reporting requirements."

Authorities are trying to determine what caused the failure of the 30-inch, 41-year-old pipeline, which carries about 8 million gallons of oil daily from Griffith, Ind., to Sarnia, Ontario. The Environmental Protection Agency has said the leak has spewed more than

1 million gallons into the Kalamazoo River and tributaries in Calhoun County, while the company estimates the total at 820,000 gallons.

The oil flow has been stopped and government officials say it's been contained in the stretch of the river from Marshall westward past Battle Creek. Most of the remaining oil is a thin sheen instead of thick blobs that can be vacuumed up easily, "so it's more of a challenge to capture," said Mark Durno, the EPA's deputy incident commander.

Government agencies and company executives reported further progress in the cleanup Wednesday, although EPA continued to demand improvements in plans submitted by Enbridge, based in Calgary, Alberta.

EPA rejected for a second time Enbridge's proposals for conducting water sampling and analysis, regional administrator Susan Hedman said. But the agency has approved plans for pipeline repair, oil recovery and containment, and waste treatment and disposal. Plans for other cleanup tasks are under review.

Hedman said EPA also had submitted a formal request for Enbridge documents involving the spill, events preceding it and the company's response.

Schauer, a member of the House Subcommittee on Railroads, Pipelines, and Hazardous Materials, said the panel was conducting its own investigation.

The National Transportation Safety Board believes the rupture may have occurred shortly before 6 p.m. on July 25, when Enbridge shut down the pipeline for maintenance, Schauer said. Alarms at Enbridge's control center signaled a drop in pressure then, he said. Within hours, people in the Marshall area were reporting strong gas odors to 911.

Enbridge restarted the pipeline at 4:26 a.m. the next day and repeatedly turned it on and off for the next several hours because of spikes in readings, Schauer said.

A company technician visited the site at 9:49 a.m. but found nothing amiss, he said. Enbridge confirmed the leak only after being notified by Consumers Energy at 11:16 a.m., he said.

Daniel declined to comment on Schauer's version of events, saying the timeline was part of the NTSB probe.

Enbridge officials have said they needed to gather information on the volume of oil escaping before notifying authorities and that they tried to report the leak about 1 p.m. but it took a half-hour for the call to get through.

Rep. Candice Miller, a Michigan Republican, said Wednesday the federal Pipeline and Hazardous Materials Safety Administration should examine more of the pipeline than

just the section including the rupture. Enbridge has acknowledged finding over 200 imperfections with the line in environmentally sensitive areas, Miller said.

The spill "shows additional potential dangers exist to other vital natural resources in our state," she said.

SUPERFUND
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Edgewater residents urge EPA to remove contaminated soil from Quanta site (*North Jersey.com*)

Wednesday, August 4, 2010
BY MERRY FIRSCHEIN
The Record
STAFF WRITER
EDGEWATER — Borough residents asked officials from the federal Environmental Protection Agency on Wednesday whether 150,000 cubic yards of contaminated soil from a River Road Superfund site could be removed instead of capped and left in place.

A dozen people attended the first of two question-and-answer sessions Wednesday, a day after an information session at which EPA officials announced the agency is proposing to cap contamination at the Quanta Resources and isolate toxic chemicals in the soil and groundwater into solid blocks.

“I think people just want it to be cleaned up,” borough resident Louise Taylor told the EPA
officials at Wednesday’s afternoon session.

Taking away the soil, instead of making sure the coal tar and other toxic chemicals, such
as arsenic, don’t reach the surface, could cost more than $300 million, said Grant Anderson, an EPA hydrogeologist. The a gency would have to close down City Place, the neighboring hotel, and sections of River Road to remove all of the contamination, he said.

If the agency did remove the contaminated soil, the site “is going to look like the LaBrea Tar Pits [in Los Angeles], but without the cool mastodons,” Anderson said.

Capping the parcel, the EPA’s preferred plan, could cost $72.2 million, he said.

Solidifying the contamination on-site will be a permanent solution, just like removal,

project manager Richard Ho said.

Some residents were not convinced.

“Anything that does not include the removal of arsenic, I am against,” said Mary Hogan, a
lifelong borough resident. “You are talking about coal tar like it’s nothing.”

Residents also asked questions about the safety of workers and residents during a cleanup operation.

The cleanup will include “monitoring of workers and the community at large,” said John Prince, the EPA’s section chief for New Jersey remediation. “We have whole tiers of
oversight,” he added.

Residents also criticized the agency.

“You have done everything possible to make sure you’ve got as minimal input as possible”
by scheduling the meetings during the summer, when many people are on vacation, Jill Kleinman said.

The EPA has decided to cap the contaminated 5.5-acre site by solidifying the coal tar, arsenic and other toxic compounds into underground blocks. Under the proposed plan, the agency also would install a filter to make sure contaminated groundwater doesn’
t reach the Hudson River.

The agency would install a vapor mitigation system and basement seal at 115 River Road,
but otherwise leave it alone for now, with the option to revisit that decision in the future. That neighboring building contains about 50 or 60 small businesses, including a day-care
center.

The agency will hold another public meeting before the Sept. 20 deadline for public comment, EPA officials said. The agency hopes to choose a remedy no later than October, Prince said.

The state shut down the Quanta site in 1981 after polychlorinated biphenyls — PCBs — were found on the property and in some of the 61 aboveground storage tanks and 10 underground tanks.

The EPA conducted an initial cleanup of the site in the 1980s, removing more than 9

million gallons of waste. The site was added to the federal Superfund National Priority List
in 2002.

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TOXICS
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Lead ammo ban sought from EPA threatens gun owners, game agencies, say critics (*Washington Examiner*)

August 4, 10:52 AM · Dave Workman - Seattle Gun Rights Examiner
On Tuesday, a coalition of environmental groups petitioned with the Environmental Protection Agency asking that lead-based sporting ammunition and fishing tackle be banned.

What that could ultimately mean to Evergreen State gun owners, hunters and anglers is not only much higher ammunition prices, but a dramatic loss of revenue for the Department of Fish & Wildlife, because declining ammunition and tackle sales translates to a decline in federal excise tax revenues, which in turn will result in a decline in federal monies apportioned to this and other states through the Pittman-Robertson and Dingell-Johnson federal wildlife and fisheries restoration programs. That money is administered by the U.S. Fish & Wildlife Service.

Almost immediately, the National Shooting Sports Foundation (NSSF) threw down the gauntlet.

“There is simply no scientific evidence that the use of traditional ammunition is having an adverse impact on wildlife populations that would require restricting or banning the use of traditional ammunition beyond current limitations, such as the scientifically based restriction on waterfowl hunting,” said NSSF President Steve Sanetti.

The National Rifle Association has an on-line “Q & A” about lead at its NRA Hunters Rights web page.

This is a very real threat. It has touched off furious discussions on at least three popular hunting and gun rights forums, TheHighRoad.org, NorthwestFirearms.com and Hunting-Washington.com.

What is at stake? A ban would outlaw the use of lead in every hunting cartridge and shotshell, period. That means anything from .17-caliber on up, including the .22-caliber

rimfires owned by tens of millions of Americans for recreation, competition, hunting and even personal protection.

Hunters have eaten venison taken with lead bullets for hundreds of years. Yet there is not one documented case of lead poisoning from eating deer meat. Doctors are required to report all cases of lead poisoning to the Centers for Disease Control (CDC), yet according to CDC public health advisor Kimball Credle, no cases have ever been traced to wild game meat.—NRA Hunters Rights

Granted, bullet makers including Oregon's Nosler, Inc., Idaho's Speer and Nebraska's Hornady Manufacturing have all developed so-called "green" bullets, and the Utah-based Barnes Bullets, which produces projectiles made from copper, has been at the front end of the curve for years. Non-toxic shot became required for waterfowl hunters a generation ago, and in recent years, many states have adopted regulations banning the use of lead shot for upland birds and small game.

This anti-lead coalition consists of the American Bird Conservancy (ABC), the Center for Biological Diversity (CBD), the Public Employees for Environmental Responsibility (PEER), the Association of Avian Veterinarians and an ostensibly "grassroots hunters' group" calling itself "Project Gutpile. A visit to the Project Gutpile blog shows no entries since 2008.

A visit to the ABC website reveals that in 476 AD, the Roman Empire collapsed and that a "major contributing factor" was the use of lead in water pipes, cosmetics, pottery and food. That might come as a surprise to all of those foolish historians who thought barbarian invasions and the rise of Christianity had something to do with Rome's fall. Maybe when the Visigoths sacked the place in 410 AD, all they found were sick Centurions.

Down in Arizona, the PEER group has, as its southwest region director, a Democrat state representative, Daniel Patterson. He reportedly recently criticized the Arizona Game and Fish Department for being "hostile" to "non-game" wildlife. In a story published by the Arizona Republic, PEER reportedly doesn't even like the agency's name. Patterson wanted to change the name of the agency earlier this year to Arizona Wildlife Conservation Service.

Hunting and fishing licenses generate almost all of the department's revenue. The department receives no money from the general fund, an arrangement similar to that in most other states.

Ask Evergreen State hunters how well the change in agency focus has worked for them since the Washington Department of Game became the Department of Fish and Wildlife.

In what must qualify as one of the dumber observations attributed to a lawmaker Rep. Patterson was quoted by the newspaper that “I think the agency (Arizona Game & Fish) forgets its role. Everything that isn’t hunting and fishing is just ‘non-game,’ stuff they can’t sell licenses for.” Patterson indicated to this column (see below) that "the paper got it wrong and tried to play up a conflict."

UPDATE: Almost as a testament to the speed of the Internet, within minutes of this column’s posting, Rep. Patterson called this reporter from Tucson to “clear the record.”

Describing himself as a devoted hunter and Second Amendment advocate, Patterson said he had no involvement in PEER’s decision to join in the petition. He is the state’s southwest area director of the group, and “that decision came out of our office in Washington (D.C.).” He seemed a bit surprised by the effort.

Patterson said there is a voluntary program for hunters to use non-toxic ammunition in parts of Arizona – such as the Kaibab Plateau – where California condors might be present. He hunts wild turkeys up there, with steel shot, he said.

“I’m not sure what the motivation is for pushing this (ban petition) forward,” he stated. “There could be some issues with lead toxicity in gut piles…but generally my view would be that you want to deal with that in a place-by-place situation.”

He believes wildlife management decisions should be based on scientific research “and regional details.”

Patterson insisted that the attempt to change the name of the Game and Fish Department was to “broaden the appeal” of what the agency does to a wider audience.

“Maybe people don’t understand what our mission is, which is all wildlife,” he stressed.

This column suggested that Rep. Patterson explore what has occurred in the Evergreen State since the transition within the Game Department to become the Wildlife Department, and how many hunters now feel alienated. That change, as many Washington sportsmen will recall, was largely for the same reasons; to "broaden the appeal" of wildlife management to a broader audience.

Having been drawn for a whitetail tag during this fall’s hunting season, Patterson said fishing and hunting is important, and he would like to see more youngsters get involved.

Patterson also now understands the broader implications of changing the name, and perhaps the public perception of the mission, of the Game and Fish Department. He is

not favorable to attempts to merge the agency with another state natural resources agency, acknowledging that there would be attempts to raid the Game and Fish dedicated fund budget.

And on a personal note: Patterson seems like a stand-up guy whose message may have been misinterpreted. This column wished him good luck on his whitetail deer hunt.

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The newspaper noted correctly that hunting and fishing license sales generate “almost all of the department’s revenue.” This may come as a shock to some people, but an agency that does not pay attention to its primary constituents is derelict. Not addressing the interests of the people who “pay the freight” is a good way to discourage them and end up with budget deficits. This results in declining revenue, which bureaucrats typically think can be boosted by raising license and tag fees, which results in further revenue declines as hunters and anglers simply go somewhere else. Montana and Idaho are loaded with non-resident Washington hunters in the fall, and they contribute millions of dollars to those states’ economy.

Helping to demonstrate the validity of Sanetti’s statement are recent statistics from the United States Fish and Wildlife Service (USFWS) showing from 1981 to 2006 the number of breeding pairs of bald eagles in the United States increased 724 percent. And much like the bald eagle, raptor populations throughout the United States are soaring.

Also fueling concerns over the CBD petition is the likely ramification a ban on traditional ammunition would have on wildlife conservation. The federal excise tax that manufacturers pay on the sale of the ammunition (11 percent) is a primary source of wildlife conservation funding and the financial backbone of the North American Model of Wildlife Conservation. The bald eagle’s recovery, considered to be a truly great conservation success story, was made possible and funded by hunters using traditional ammunition – the very ammunition organizations like the CBD are now demonizing.—NSSF statement

This column does not entertain conspiracy theories, but it would be negligent to ignore the fact that many people who dislike guns also dislike hunting, and many advocates of gun control have suggested that instead of attacking firearms, the focus should be on eliminating ammunition. The anti-hunting Humane Society of the United States, notes the NRA on its Hunter’s Rights page, “has called for a total ban on lead ammunition, and they are the most radical anti-hunting group in the country. A ban on lead ammunition would force hunters to buy alternatives (such as copper) which tend to be much harder to find, and ultimately cause some people to actually drop out of hunting.”

The NRA strongly opposed a 2009 measure to authorize Washington's Fish & Wildlife Commission to ban the use of lead shot for hunting anywhere in the state it deemed necessary.

This campaign against lead-component ammunition highlights a survey in North Dakota two years ago that found some slight elevation in lead levels in blood samples taken from more than 730 volunteers. However, officials said there was "nothing conclusive" about the preliminary results of that study, according to the Bismarck Tribune at the time.

Lead levels from those in the study ranged from none to 9.82 micrograms per deciliter.
Levels of 25 micrograms per deciliter in adults and 10 in children are considered elevated.—Bismarck Tribune

NSSF vice president and general counsel Larry Keane told this column on Tuesday that calling for a ban has no scientifically sound basis.

"Needlessly restricting or banning traditional ammunition absent sound science will hurt wildlife conservation efforts as fewer hunters take to the field," Keane said in a prepared statement. "Hunters and their ammunition have done more for wildlife than the CBD ever will. And the CBD's scientifically baseless petition and endless lawsuits against state and federal wildlife managers certainly do not serve the wildlife that the organization claims to protect."

For more info: National Shooting Sports Foundation. Assault on Weapons: The Campaign to Eliminate Your Guns

Groups want to get lead out of hunting, fishing (*Milwaukee Journal Sentinel*)

Say it contributes to poisoning in animals and humans
Posted: Aug. 4, 2010
Environmental groups Tuesday filed a petition with the Environmental Protection Agency seeking a nationwide ban on lead-based sporting ammunition and fishing tackle.

According to the petitioners, "it is now incontrovertible fact" lead fragments are "a serious source of lead exposure to scavenging animals" and a health risk to humans who eat game killed with lead bullets. In addition, they claim numerous alternatives to lead are available.

The petition was filed under Section 21 of the Toxic Substances Control Act. The petitioners are the Center for Biological Diversity, American Bird Conservancy, Association of Avian Veterinarians, Project Gutpile and Public Employees for Environmental Responsibility.

"It's long past time to do something about this deadly - and preventable - epidemic of lead poisoning in the wild," said Jeff Miller of the Center for Biological Diversity. "Over the past several decades we've wisely taken steps to get lead out of our gasoline, paint, water pipes and other sources that are dangerous to people. Now it's time to get the lead out of hunting and fishing sports to save wildlife from needless poisoning."

The petition prompted strong reactions from many sporting groups that oppose the ban as an attack on hunting and fishing or because they feel it lacks justification.

"There is simply no scientific evidence that the use of traditional ammunition is having an adverse impact on wildlife populations that would require restricting or banning the use of traditional ammunition beyond current limitations, such as the scientifically based restriction on waterfowl hunting," said Steve Sanetti, president of the National Shooting Sports Foundation.

As an example, the number of breeding pairs of bald eagles, a species known to die from lead poisoning, increased 724% from 1981 to 2006 in the U.S., according to the U.S. Fish and Wildlife Service.

The toxic nature of lead has long been acknowledged, however.

An estimated 10 million to 20 million birds and other animals die each year from lead poisoning in the United States, according to the Center for Biological Diversity.

In Wisconsin, lead poisoning caused the death of 16% of 583 bald eagles necropsied between 2000 and 2007, 25% of 143 trumpeter swans between 1991 and 2007 and 29% of 26 loons beginning in 2006, according to the Department of Natural Resources.

The DNR study found lead fishing tackle in all loons that died of lead poisoning.

Eagles typically ingest lead bullet fragments when scavenging on deer carcasses or gut piles.

The American Sportfishing Association acknowledges lead can kill water birds, and lead sinkers may be part of the cause. But based on a review of the effect of lead sinkers on water bird populations, ASA has found "that insufficient data exists to warrant state or federal bans on lead sinkers used for fishing."

The group cites stable and increasing populations of loons in the lower 48 states and Canada. In general, loon populations, as well as other waterfowl species, are subject to

much more substantial threats such as habitat loss through shoreline development, according to the ASA's position statement on lead in fishing tackle.

Depending on the alternative metal and current prevailing raw material costs, non-lead fishing tackle products can cost from six to 20 times more than lead products, according to the ASA, and non-lead products may not be as available and most do not perform as well.

Mandatory transitioning to non-lead fishing tackle would require significant changes from both the industry and anglers.

ASA recommends that before additional laws are enacted to restrict lead sinkers for fishing on a state or national basis, sufficient data must exist to demonstrate that discarded lead sinkers are an actual threat to the sustainability of loons or other water bird populations.

The group leaves room, however, for local regulations on "hot spots" if sound science supports such action.

Changes to the use of lead in traditional outdoor sports have precedent. Waterfowl hunters made the transition to non-lead shot nearly two decades ago.

And several northeastern states, starting with New Hampshire in 2000 and then Maine (2002), New York (2004) and Vermont (2007), have total or partial bans on lead sinkers for fishing.

Wisconsin will likely see a ban of lead sinkers in the Horicon National Wildlife Refuge beginning next year. The ban would apply only to sinkers of less than 1 ounce and within the borders of the federal refuge.

State residents gave passing approval to a wider ban on lead fishing tackle at the Wisconsin Conservation Congress meetings in April.

A congress advisory question from its air, waste and water committee asked: Would you support efforts by the state to phase out the use of lead fishing tackle less than one inch in length and less than one ounce in weight for use in Wisconsin waters?

The vote was 1,980 for and 1,818 against. Whether the DNR advances the idea will be learned in the coming months.

The petition to the EPA is by no means a sure thing. A similar petition in 1992 dealing only with fishing tackle was not approved by the agency.

And the Toxic Substances Control Act exempts ammunition, said Larry Keane, senior vice president and general counsel of the National Shooting Sports Foundation.

"That's been the law since it was enacted in 1976," Keane said. "So we think the EPA won't have legal authority to do what is proposed in the petition."

Additionally, since the petition applies to civilian target shooting and military and law enforcement uses of ammunition, it will encounter extra heavy opposition, Keane said.

Miller said he didn't believe, if successful, the petition would result in a drop in hunting and fishing. Hunter numbers haven't fallen in the condor range of California, he said, where lead bullets are now prohibited.

He also said the price of non-lead alternatives would come down if the petition were successful.

"Compact florescent light bulbs were prohibitively expensive when they first came out," Miller said. "Now they are almost the same cost as conventional light bulbs."

Miller said he thinks the petition has a chance if it is evaluated on its merits. He believes the EPA has the ability to regulate the components like lead in ammunition.

"There will be pressure put on the EPA, no question," Miller said. "But with the opportunity to help our wildlife and with alternatives to hunters and anglers available, I think it is time."

The Toxic Substance Controls Act requires the EPA to grant or deny the petition within 90 days of filing.

Trappers meeting: The 51st annual National Trapper's Convention and Sports Show is being held Thursday through Sunday in Marshfield. It's the first time in 14 years the event has been held in Wisconsin.

More than 100 vendors have reserved booth space at the Central Wisconsin State Fairgrounds; the show includes seminars and workshops on topics such as fur handling, rodent control, predator calling and crafts.

The Marshfield Convention & Visitors Bureau estimates 5,000 visitors will come to the show, and the local economic impact will be $513,000.

For more information on the show, visit *www.nationaltrappers.com/2010nat.html*.

Send e-mail to psmith@journalsentinel.com

Lead ban proposed for sportsmen (*Paducah Sun*)

Written by Steve Vantreese

Wednesday, August 04 2010

A move is afoot to ban lead from all ammunition and fishing tackle.
Five groups claiming environmental motives have petitioned the Environmental Protection Agency to prohibit lead in bullets, shot pellets, sinkers, lures, etc., because they claim it is poisoning wildlife on a mass scale.
The Center for Biological Diversity, the American Bird Conservancy, the Association of Avian Veterinarians, Public Employees for Environmental Responsibility and a self-described hunters group called Operation Gutpile have joined to press for EPA prohibition of lead in shooting and fishing.
The coalition claims 10 to 20 million birds and animals die each year in the U.S. from lead poisoning.

Inhofe slams EPA for dispersant strategy (*Greenwire*)

(08/04/2010)
Elana Schor, E&E reporter

The Senate environment committee's senior Republican today led a defense of BP PLC's use of more than 1.8 million gallons of chemical dispersants in the Gulf of Mexico but left the door open to working with Democrats on reforming the use of the products "if there's a need for it."

Sen. James Inhofe (R-Okla.), a conservative who has battled the majority party on cap-and-trade climate legislation and other regulatory efforts, held his fire at Democrats while chastising U.S. EPA for its dispersant strategy over the course of the 86-day Gulf oil gusher. The agency initially pressed BP to choose a less toxic alternative to its preferred Corexit dispersant but shifted to emphasizing limits on the chemicals' use after the oil company resisted.

"I am concerned that EPA's back and forth" over dispersant approvals, Inhofe said, "which runs counter to having a list approved *prior* to an emergency -- may have exacerbated the damages caused by the BP spill."

Another Republican on the Senate Environment and Public Works Committee, which today examined the effects of dispersant spraying in the Gulf, said the Obama administration and BP "made the right choice" to deploy the products.

"I would suggest that those who criticize the use of dispersants are the same people who cannot offer one alternative to the use of dispersants in this situation," Sen. John Barrasso (R-Wyo.) said.

The environment panel hearing comes as senators weigh politically feasible responses to the Gulf disaster. Even as Democratic leaders punted votes on a scaled-down energy

plan until September at the earliest, a dispersant reform measure authored by Sen. Frank Lautenberg (D-N.J.) appears unlikely to move forward without hitching a ride on that broader bill (*E&E Daily*, Aug. 4).

Inhofe criticized provisions in an oil spill bill approved by the House last week that would impose a moratorium on dispersant use until EPA could perform more in-depth testing, stating that he is "not sure" new legislation is needed to enhance the approval process for using the products during emergencies. But "I commit today to work with Senator Lautenberg" on bipartisan dispersant reform, Inhofe added, "if there's a need for it."

EPA Administrator Lisa Jackson told senators last month that changes to existing dispersant rules would help in arming the agency with "critical transparency and openness protections that right now EPA cannot provide by law" (*Greenwire*, July 15). The agency's assistant administrator for research, Paul Anastas, echoed those remarks today in telling Barrasso that "we do need to look back how the National Contingency Plan [governing oil-spill response] brings us in the data that we need."

Lingering concern over the consequences of dispersant use continues among some Gulf residents and scientists, particularly as states along the coast open up more waters to commercial fishing and the government performs sensory "smell" tests on seafood samples for components of dispersants. The advocacy group Public Employees for Environmental Responsibility today filed a legal petition aimed at pressing the Food and Drug Administration to begin more in-depth chemical testing for dispersants in seafood, as is currently done for polycyclic aromatic hydrocarbons present in spilled oil.

PEER executive director Jeff Ruch has said that several EPA toxicologists have approached his group to raise concerns about the internal process that led to the agency's strings-attached approval of dispersants in the Gulf,

EPA has conducted limited acute toxicity tests on dispersants alone and mixtures of the products with oil, but Anastas told senators that more long-term research was in the works. "While we have some knowledge of how these dispersants travel in the water column," he said, EPA hopes to study "specifically, how long it will take, how they will be metabolized, what are the breakdown products."

WATER

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Time to stop watching your money go down the toilet (*Washington Post*)

August 5, 2010 Thursday
Every Edition

EXTRAS; Pg. PG04
Prince George's County
By Jeanne Huber
For many families, the main focus of August is getting
out of town on vacation. But there are a few simple maintenance tasks to tackle first.

Replace hoses on washing machine

Washer hoses become brittle with age. That's a problem because water in them is under pressure except when the machine is filling. So any crack quickly becomes a serious issue, especially if you're not there to notice.

The State Farm insurance company, which estimates leaking washer hoses cause $170 million in damage each year, recommends replacing hoses every three to five years, or any time you notice signs of bulging or cracking.

For extra protection, install a leak-detection device that shuts off water automatically. Find a list of manufacturers in the "learning center" section of the insurance company's Web site, www.statefarm.com.

Clean the dryer vent

While you're in the laundry room, clean out the dryer exhaust vent. Too much lint keeps a dryer from operating at peak efficiency and could start a fire. Cleaning the vent is easy: Just loosen the screws or nuts that hold the vent piping in place and vacuum out the tubing. If the vent is made of flimsy plastic, replace it with metal ducting. Also clean any lint off the fins where the vent releases the exhaust air to the outdoors.

Check toilets

Your water bill should drop if you're away for a couple of weeks, but you could be in for a rude surprise if you leave when a toilet flapper isn't sealing tightly between flushes. This kind of leak doesn't leave a puddle or even make a sound, but it can waste 200 gallons of water a day, enough to make a big difference on a water bill. To test for a toilet leak, put a few drops of food coloring in the tank and wait 10 minutes without flushing. If the color shows up in the bowl, you have a leak. The Environmental Protection Agency's WaterSense program details how to repair the problem; see http://www.epa.gov/watersense.

One smart tip: When you go to a hardware store for a replacement flapper, take the old one with you so you get one that fits.

Fix leaks

A dripping faucet or a leaky sprinkler head might seem like a trivial home maintenance

issue. But if the drips continue while you are away for a few weeks, you could be wasting a significant amount of water. And if the water winds up causing wood to rot or water to seep into your basement, you could be out of thousands of dollars in repairs. Damage from a leaking toilet, for example, averages about $10,000, according to State Farm.

The Environmental Protection Agency's WaterSense Web site, http://www.epa.gov/watersense, tells how to check for many kinds of leaks and has links to videos on how to fix the problems.

Upgrade locks

More residential burglaries occur in August than any other month. (February has the least.) To keep your house from becoming a statistic, replace or repair any locks that don't work properly. If your house doesn't have deadbolts, install them. Deadbolts that require a key to open on the inside might make you feel more secure, especially if you have a door with glass, but they aren't legal in Washington and many other communities because someone without a key couldn't escape from a fire. The D.C. Department of Consumer and Regulatory Affairs posts details of what's required at http://www.rentmydcbasement.com, its new Web site focused on helping homeowners create legal basement apartments.

Although you can install a lock yourself if you are handy, calling in a locksmith might be wise. A professional can also evaluate your doors and door frames and make sure you have high-security strike plates and heavy-duty screws long enough to bite into the framing behind the door trim.

EAB Ruling May Limit EPA Discretion To Preempt State Water Quality Rules (*Inside EPA*)

Posted: August 4, 2010
EPA's Environmental Appeals Board (EAB) has rejected a bid by Region VI to require Texas to use a strict toxicity test method to determine discharge permit limits, saying the agency did not adequately justify its decision when implementing portions of the state's rules.

One industry source says the ruling may limit the agency's discretion on whether and how it may preempt state water quality permits at a time when the agency is increasingly scrutinizing state permits to ensure they comply with federal requirements.

The industry source says because the board found that the agency has to adhere to the state's water quality standards entirely, not selectively, state regulators that want to fend off EPA preemption of their permits should codify their policy preferences in their state water quality guidelines.

“It raises the question of, if other states do what Texas did and put these provisions in the water quality standards, does EPA have to honor that?” the source says. “It indicates that states may be well advised to deal with toxicity issues in their standards rather than just putting in a general statement.”

This could be significant as the agency is increasingly scrutinizing state-issued permits in a host of industry sectors -- including mountaintop mining operations, power plants and wastewater treatment facilities -- to ensure they comply with federal requirements. The ruling could also be significant as the agency is planning to tighten its own procedures for how regulators set and implement water quality standards, which could include several steps to increase EPA scrutiny of state standards.

The industry source says the EAB ruling could provide states with a means of counteracting that heightened scrutiny by EPA by requiring the agency to adhere to state water quality standards and procedures, or at least requiring the agency explain why the state permits are inadequate or to go through a regular rule promulgation process if it chooses to invoke its Clean Water Act section 303(c) authority to supersede the state’s delegated authority.

“There’s a lot left to debate on the issue,” the industry source says. “It didn’t settle everything, but it’s a positive step in terms of . . . the board saw a limit on EPA imposing its will.”

EPA did not respond to requests for comment by press time.

EAB Rejects Region VI Bid

EAB ruled July 16 to reject a bid by Region VI to require the state of Texas to use Whole Effluent Toxicity (WET) tests to set discharge limits for the San Jacinto River Authority, saying the agency had failed to explain why Texas’ rules require the use of WET limits.

The region had withdrawn Texas’ authority to issue the SJRA’s permit, demanding that the permit limits be set using the WET test, which is meant to protect aquatic organisms from the aggregate effects of multiple pollutants in a single waterway.

The EPA requirement reignited a long-running dispute in the state over the issue, with scores of other regulated entities in Texas and beyond awaiting the outcome of the case.

In its July 16 ruling in *In re: San Jacinto River Authority*, EAB remanded EPA’s permit in part and denied a request to review in part, saying EPA Region VI had failed to reconcile two different clauses in Texas’ water quality standards. One of those clauses requires “dischargers whose effluent has a significant potential for exerting toxicity in receiving waters [are] required to conduct [WET] biomonitoring at appropriate dilutions,” whereas another clause in the same section requires a toxicity reduction evaluation

(TRE) and toxicity identification evaluation (TIE) prior to the imposition of a WET test. In EPA's decision to require a WET limit based on the clause requiring WET limits alone, without regard to the portion of the law that required a TRE first, the Region had erred, EAB said.

While many of the arguments in the case focused on the merits of the WET test, the board declined to rule on the issue, thus avoiding larger questions of whether the agency's broader efforts to incorporate WET testing in other permits, such as mountaintop mining permits, is appropriate.

Instead, the board considered a narrower issue of whether EPA had adequately interpreted Texas' water quality rules when it federalized the SJRA permit.

The issue was raised in the case by the National Association of Clean Water Agencies -- a trade association that represents public water utilities -- which filed an amicus brief on behalf of SJRA. In its March 25 brief, the group argued that Region VI had "effectively substituted a Federal water quality standard for a state water quality standard" without following the procedures in CWA section 303(c).

And at oral argument, lawyers for SJRA argued that EPA's interpretation of Texas' regulations was wrong because the state rules require TRE and TIE evaluations before a WET limit, rules that EPA had previously approved.

EPA responded that the state water quality standards say that WET limits may be included as a condition of a permit, but did not mention that the state standards also require TRE and TIE testing.

EPA's Arbitrary Argument

EAB sided with the SRJA's point of view that EPA had arbitrarily cited one part of the state regulations and ignored another. "At oral argument, the Region did not provide any meaningful legal analysis on how [the clause requiring WET limits] should be read together with [the clause requiring TRE], which precludes chronic total toxicity, or why the TIE and TRE provision . . . is not to be read in tandem with [the WET provision]," the ruling reads. "In the [EPA's fact sheet accompanying the permit], the Region appears to construe it as permissible, rather than mandatory, to conduct a toxicity identification evaluation ("TIE") and TRE prior to imposing a WET limit."

The industry source familiar with the case says EAB essentially identified some fundamental errors in EPA's reasoning and so those flaws precluded the board's need to answer all the technical issues raised during the oral arguments. But the ruling was clear in its denouncement of EPA's legal argument that one clause in the Texas water quality standards supersedes another.

"I think when you read the opinion you get the sense that the board did think there were very basic flaws in the agency's thinking," the source says. "There are two different

provisions in the state regulations and [EPA] applied one and not the other and never explained why, so the board in essence didn't get to all the issues" because they had already determined to remand the permit. -- *John Heltman*

Landmark CAFO Ruling Holds Industry Liable For Contractor's Discharges (*Inside EPA*)

Posted: August 4, 2010
A federal court has backed environmentalists' claims that major livestock processors are potentially liable under the Clean Water Act (CWA) for their contract growers' discharges -- a victory for environmentalists who hope their novel suit will lead to regulators using a similar legal approach to holding the farming industry liable for pollution.

The U.S. District Court for the District of Maryland ruled July 21 in *Assateague Coastkeeper, et al. v. Alan & Kristin Hudson Farm, et al.* Perdue Farms Inc. could be jointly responsible for animal waste allegedly discharged into the Pocomoke River -- a tributary to the Chesapeake Bay -- by its contract grower, Hudson Farms, in violation of the contractor's National Pollution Discharge Elimination System (NPDES) permit.

Perdue indicated in a statement that it would fight the liability claims at trial. "This is a very narrow ruling on a routine procedural motion. The ruling has nothing to do with the merits of the case. We are looking forward to prevailing once the case itself is argued in the courtroom," Michael Schatzow, a company attorney, said in a statement following the ruling.

Environmentalists have said that they hope the Maryland lawsuit could lead EPA and state regulators to use a similar legal approach toward holding major farming companies liable for their contractors' environmental violations. In that vein, Environment Maryland July 29 unveiled a petition to Gov. Martin O'Malley signed by 55 organic and other local farmers asking him to ensure state plans to clean up the Chesapeake Bay would hold processors like Perdue and Tysons liable for their contractors' releases.

"If you required poultry processors in Maryland to be responsible for their pollution, they would have a tangible incentive to help their growers manage the animal manure properly. This would help level the playing field for those who are already engaged in more sustainable farming practices," the petition says.

But such an approach is expected to prompt strong opposition from Perdue and others in the industry, who have pushed back against environmentalists' efforts. Shortly after the suit was filed, Perdue founder James Perdue lobbied state lawmakers to cut funds

from the University of Maryland environmental law clinic -- which is litigating the case on behalf of the plaintiffs.

The state Senate earlier this year passed a budget bill that would withhold $250,000 in funding for the University of Maryland environmental law clinic until the clinic hands over information on how it has spent its funds and on which clients over the last two years. But the language did not make it out of the state House.

Liability For Unpermitted Releases

Environmentalists had argued in their complaint that because Perdue essentially controls the contractor's operations, it should be liable for unpermitted releases. "Because Perdue at all times owns its birds being raised in the Chesapeake Bay area, formulates and owns the feed being fed to its birds, and supervises, dominates and controls the actions and activities of its growers, including Hudson Farm, Perdue is responsible for the safe handling and disposal of the poultry waste generated in the course of the poultry growing operations associated with their respective birds," the activists argued in their lawsuit.

But Perdue argued in a May 17 motion to dismiss that its contractual relationship with the Hudson Farm is not enough to make Perdue potentially liable under the CWA. So-called "integrators" like Perdue that hire independent concentrated animal feeding operations (CAFOs) like Hudson to raise their live stock cannot be liable for the CWA violations of its contractors, because the contractor, not the integrator, holds the NPDES permit, the company argued.

In its July 21 ruling, however, the court notes that the CWA "clearly makes violations by 'any person' unlawful, not solely permit-holders" and that other courts "have held that 'the CWA imposes liability both on the party who actually performed the work and on the party with responsibility for or control over performance of the work.'"

"Defendant Perdue's argument that it cannot be held liable solely because it is an integrator stems from decisions by EPA and [the Maryland Department of the Environment (MDE)] that integrators do not need to be co-permitees with their contractors' chicken operations," the court notes. "Defendants' contention is overstated, however, because having a permit is not the basis of an integrator's potential liability. Rather, an integrator's liability is determined on the basis of its level of control over their contractors' chicken operations..."

The court said that "EPA acknowledged this basis of liability for integrators in its 2001 Proposed CAFO Rule, in which it stated that "under the existing regulation and the existing case law, integrators [that] are responsible for or control the performance of the work at individual CAFOs may be subject to the CWA as an operator of the CAFO." The court ruled that had "the EPA and MDE wanted to preclude integrators from liability for CWA violations, they could have written their regulations to make that explicit, but they

did not do so. Instead, they have acknowledged that an integrator may be held liable for its CAFO's violations."

Perdue had also argued in its motion to dismiss the case that in order for it to be liable it must exercise "more control over the operation of the Hudson Farm than other integrators do over their contract growers," the court noted. But the court rejected this argument, saying "the level of control other integrators exert is irrelevant to whether Plaintiffs have alleged sufficient facts regarding Perdue's control over the Hudson Farm CAFO to establish their liability for its alleged illegal discharges under the CWA."

Activists' Failure To "State A Claim"

The company also argued the activists failed "to state a claim" because they did not allege sufficient Perdue control over the farm. But the court disagreed, noting the activists made "specific factual allegations as to the control . . . Perdue exercises over the Hudson Farm CAFO" including that "Perdue owns the chickens and provides all of the feed, fuel, litter, medications, vaccinations and other supplies necessary for the Hudson Farm CAFO to grow the chickens."

The activists also alleged that Perdue "dictates the aspects of care for the chickens such as the type of buildings, equipment, and other facilities used in the operation, and makes periodic site visits to ensure compliance with its dictate." The court ruled the activists allegations "are sufficient to state a plausible claim against Perdue" and denied the company's motion to dismiss the case accordingly.

The environmentalists' suit comes as regulators have been struggling to limit harmful releases from CAFOs under federal waste laws. For example, Oklahoma Attorney General Drew Edmonson (D) has lost a series of rulings in his efforts to hold poultry producers in Oklahoma and Arkansas liable under Superfund and the Resource Conservation & Recovery Act for increased phosphorous levels and other contamination in the Illinois River Watershed resulting from animal waste runoff.

EPA approves list of 434 impaired waters in Iowa (*Associated Press*)

Story also appeared: *Chicago Tribune*

Associated Press
4:41 PM CDT, August 4, 2010
DES MOINES, Iowa
The Environmental Protection Agency has approved Iowa's list of impaired waters, a step that will help the state's Department of Natural Resources set its priorities for improving water quality in the coming years.

EPA Administrator Karl Brooks says it's an important step toward reducing sources of water pollution in the state and ensuring cleaner water for Iowa residents.

Iowa's list added 183 bodies of water to previous lists and removed 54, bringing the total number of impaired waters in the state to 434.

A full list of the impaired waters can be found at:
http://epa.gov/region07/news(underscore)events/legal/

EPA: 8 Alaska drinking water systems in violation (*Associated Press*)

Story also appeared: *KTUU*

by The Associated Press
Wednesday, August 04, 2010
SEATTLE -- Federal regulators say eight Alaska drinking water systems have violated the law and must conduct tests required to protect public health or face potential fines.

The U.S. Environmental Protection Agency said Wednesday the eight systems did not complete required sampling or did not submit a summary report to the EPA that was due on July 1. In some cases, both violations were committed.

The agency has ordered the systems to conduct the required sampling and complete their reports.

The EPA compliance orders were issued to these Alaska systems:

- Alakanuk Water System, 570 customers

- Bethel - City S/D Water System, 700 customers

- Bethel Heights Water System, 1,270 customers

- Craig Public Works, ,475 customers

- Emmonak Water System, 820 customers

- Klawock, 904 customers

- Kotlik Water System, 591 customers

- YK Delta Regional Hospital, 510 customers

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