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ADMINISTRATOR JACKSON

EPA chief visits rural Alaska communities (*Anchorage Daily News*)

(07/28/10 10:30:34)

The head of the Environmental Protection Agency is in the state listening to concerns expressed by southwest Alaska communities.

EPA Administrator Lisa Jackson on Wednesday was scheduled to visit Dillingham to meet with Bristol Bay region tribal governments, Native corporations and other organizations to get their views on the proposed Pebble Mine.

If the proposed mine's backers apply for development permits, EPA will be in charge of the environmental impact study.

The companies have indicated they may apply for permits next year.

Jackson also is scheduled to visit Kasigluk (kuh-SEE'-guh-luck), Napakiak (nuh-PAH'-key-ack), Chefornak (chuh-FORE'-nuck) and Bethel.

EPA releases data on local toxics (*Associated Press*)

Story also appeared: *Washington Post*

The Associated Press
Wednesday, July 28, 2010; 10:59 AM

WASHINGTON -- The Environmental Protection Agency is making public data on the release and transfer of nearly 650 chemicals at 21,000 locations across the country during last year.

EPA Administrator Lisa P. Jackson said Wednesday in a statement that it was vital that communities have access to the information that affects health and the environment.

The Toxics Release Inventory data can be viewed, by ZIP code, athttp://www.epa.gov/tri

Industries such as manufacturing, metal mining, electric utilities and commercial hazardous waste treatment facilities are required to report their data by July 1 of each year.

Some reports are still being processed and the data will be updated in August and September, EPA said.

July 28, 2010

Sen. Lautenberg Proposes Overhaul of Oil Dispersant Rules (*New York Times*)

By ELANA SCHOR of Greenwire

Sen. Frank Lautenberg (D-N.J.) today proposed a broad overhaul of rules for the use of oil dispersants, requiring U.S. EPA to set minimum toxicity standards for the products, publicly release their ingredients, and balance their health consequences against their effectiveness before clearing the chemicals for use in future spills.

BP PLC sprayed more than 1.8 million gallons of chemical dispersant into the Gulf of Mexico during its 86-day oil gusher, raising alarms among lawmakers and scientists who warned that such massive use could upend the Gulf ecosystem while posing unknown health risks to exposed humans. Lautenberg's legislation responds with strict new standards for the products' deployment, even as BP and dispersant manufacturer Nalco Co. continue to defend their effectiveness under the wary eye of EPA.

"Because these chemicals have not been fully tested, relief workers, families and wildlife up and down the coastline have been put in the middle of a dangerous science experiment," Lautenberg said in a statement on his bill, co-sponsored by Sens. John Kerry (D-Mass.), Barbara Mikulski (D-Md.) and Ben Cardin (D-Md.). "We simply must have better protections in place."

The measure mirrors some of the provisions House leaders included in their wide-ranging spill response bill, which is poised for a floor vote as soon as Friday (*E&E Daily*, July 27).

Both proposals would require the EPA administrator to set toxicity standards for new testing of dispersants for use in oil-spill emergencies -- the National Contingency Plan that governs such events currently requires toxicity tests on dispersants but sets no minimum that would lead to a federal de-listing.

But the House language goes further than Lautenberg's bill in several respects, adding a mandate that the formulas for approved dispersants be publicly released in addition to their ingredients -- the Senate legislation allows the EPA chief to decide that question -- and a short-term moratorium on any dispersant use until EPA completes new studies of the products.

EPA Administrator Lisa Jackson aligned her agency with the general principles of Lautenberg's bill earlier this month during Senate testimony, telling Lautenberg that new dispersant legislation "would give us critical transparency and openness protections" not available under current law (*Greenwire*, July 15).

Asked for comment on the House dispersant language, a Nalco spokesman said the company is continuing to review the bill and declined to comment further.

Today's Senate bill also would require the release of health and safety data for dispersants, including studies of their occupational and ecological effects. The potential impact of dispersants on Gulf workers and residents exposed to dispersant has proven particularly controversial, although BP and the federal government continue to cite sampling results that show no significant exposures to hazardous components in the products (*Greenwire*, July 19).

KLA: Coalition Of Senators Opposes More Strict EPA Standard For Dust (*Cattle Network*)

07/28/2010 09:42AM
A bipartisan coalition of 21 U.S. senators is warning the Environmental Protection Agency (EPA) a stricter standard for large particulate matter (dust) could impose significant costs on the agricultural sector. A July 23 letter to EPA Administrator Lisa Jackson urges the agency to forego its proposal to tighten the national ambient air quality standard for dust. EPA's proposed standard would be twice as stringent as current regulations.

The senators suggested a tougher standard would be "extremely burdensome for farmers and livestock producers." They pointed to higher projected costs for farmers due to the excessive dust control measures.

"We all want a clean and healthy environment, but it defies common sense to mandate that farmers keep dust between their fence rows when combining or that the county government keep gravel dust on the road," said U.S. Sen. Chuck Grassley of Iowa .

In addition to Grassley , U.S. Sens. Pat Roberts and Sam Brownback of Kansas were among those signing the letter to Jackson . NCBA also has provided input to EPA suggesting the proposed standard would make it virtually impossible for many critical U.S. industries, including ranching and feeding, to comply.
For more information visit www.kla.org.

During rural Alaska tour, EPA chief says she'll fight to protect funding (*Arctic Sounder*)

Published on July 28th, 2010
By ALEX DEMARBAN

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EPA Administrator Lisa Jackson meets with residents in the Southwest Alaska village of Chefornak. (Photo courtesy of Chefornak Traditional Council, Alaska Newspapers)

After visiting Yukon-Kuskokwim Delta villages that lack running water and sewer, the head of the Environmental Protection Agency told leaders in the region's hub city of Bethel that she'll fight to protect programs in rural Alaska as she considers potential budget cuts.

She pointed out that some cuts to her agency's budget, a possibility in light of the president's commitment to hold domestic funding flat, would have a "devastating impact here."

That commitment, as she called it, came during a round-table meeting Tuesday at the Yukon-Kuskokwim Health Corp., the primary health provider in the Southwest Alaska region, following a visit to the villages of Chefornak, Kasigluk and Napakiak.

The delta region is home to 56 Yup'ik villages that rely on subsistence hunting and fishing, as well as the Wade-Hampton Census Area along the lower Yukon River, one of the nation's poorest corners.

Jackson told local leaders that the tour, part of her first trip to Alaska, opened her eyes to critical disparities with the rest of the country, such as the lack of sanitary wastewater systems.

"You have my commitment that we'll continue to do everything we can to put money into programs that benefit Alaska Natives, but we're still trying to make up for lost time in funding those programs," she said.

The roughly 45-minute meeting was part of a listening tour in rural Alaska designed in part to enhance relations between the EPA and tribal governments. The effort follows a presidential executive order requiring regular consultation between federal agencies and tribes, Jackson told reporters in Anchorage on Monday.

Alaska has many of the nation's 564 federally recognized tribes.

Jackson is scheduled to be in the Bristol Bay region today, which includes a tour of the Dillingham boat harbor, eroding areas and a listening session on the Pebble copper and gold prospect.

In the coastal village of Chefornak, Jackson toured a riverbank that's creeping closer to homes because warmer temperatures in recent years have thawed and weakened the permafrost, said Jonathan Lewis, tribal administrator in the village.

Jackson and other top EPA officials saw the undersized landfill and sewage lagoon that blanket the village with stench when the wind blows the wrong way. They learned how the villagers use small buckets for toilets and dump the waste into the lagoon -- or pay a honeybucket hauler if they can afford it.

Getting drinking water means filling drums at spigots around town called watering points. When those are contaminated with salt water, residents collect rain in tanks or cut ice blocks from a local pond.

Jackson's visit was the first time a member of the presidential administration visited the village of 500.

"First time I've seen someone from down states come and see first hand how we are living, what kind of problems we face in small villages," Lewis said. "It was a big deal for us."

Residents are hopeful the visit could lead to improvements like a new landfill and sewage lagoon managed by local workers who control public access to prevent diseases from spreading, he said.

"Even the elders are optimistic," he said.

At the roundtable Tuesday evening, a reporter listened in by phone.

Gene Peltola, chief executive of tribally run YKHC, thanked Jackson for EPA's role in providing money for water and wastewater projects in Alaska.

But he pointed out that too many are getting sick because so many homes still lack running water.

"We'd like to see to see the continuation of funding to meet the devastating sewer and water needs in our villages," said Peltola. "It's totally deplorable that some of our villages are living in third-world country (conditions)."

Matthew Nicolai, president of Calista Corp., the regional Native corporation, said he hopes EPA and other agencies who will play a role in permitting the region's proposed Donlin Creek gold mine provide a "fair and equitable" process untainted by outside groups who don't have Alaska's interests in mind.

Nicolai gave the officials a letter also signed by Myron Naneng, president of the Association of Village Council Presidents, which provides social services in the region.

Studies show that providing adequate water and sewer in the region will cost $248 million, about 25 percent of the need in Alaska, the letter said.

"Rural Alaska has been largely ignored when it comes to water and sewer services in the form of piped water," the letter said, noting there's a long waiting list to receive state and federal money for those projects.

"Many Alaska village residents continue to suffer, having to use 5-gallon paint buckets as toilets and keep them in the home until they can be disposed of when they become full," it said.

The letter said the region also needs millions of dollars for improved boardwalks, landfills, sewage lagoons, renewable energy projects and to create energy raters to provide weatherization audits of homes.

Jackson said she was most surprised to learn from villagers that despite their challenges getting clean water, they cite riverbank erosion and loss of land due to global warming as their top environmental concern.

"That's pretty surprising for someone like me who takes for granted clean drinking water and sewer," she said.

She offered the group a second commitment.

After returning to Washington, D.C., she promised to urge other federal agencies to establish an "on the ground" relationship with rural Alaska.

"Everyone should know that still in this country there are communities, and these are not the only ones, that are struggling to have the things we take for granted in the Lower 48," she said.
Alex DeMarban can be reached at alex@alaskanewspapers.com, or by phone at (907) 348-2444.

After the Oil Spill: Is Your Seafood Safe (*The Faster Times*)

In mid-June most of the seafood shacks along the bayou roads between New Orleans and Grand Isle were closed. A seafood market that I stopped by on the western edge of New Orleans was virtually devoid of customers despite bins brimming with bright blue crab and tawny shrimp. Business was so slim that two women who should have been tending to customers were playing Yahtzee. “We’ve never done this on a workday before,” they told me. Another woman unloading sacks of shrimp frowned at my notepad and said, “I blame the media. We’ve got plenty of shrimp and it’s safe.” She wouldn’t tell me where her shrimp came from, but the woman tending a nearby stall said theirs were inland rather than coastal shrimp.

Even if not one more drop of oil flows into the Gulf of Mexico from the ruptured Deepwater Horizon well, given that nearly 200 million barrels of oil have entered those waters - the AP “spill meter” estimate based on the 35-60,000 barrels a day - chased by nearly 2 million gallons of chemical dispersants, seafood safety will remain a question for some time to come.

Based on the presence of oil in specific areas of the Gulf - and in fish and shellfish - federal and state agencies are determining which areas should be closed to fishing and overseeing the safety of seafood destined for markets. Consumers’ confidence in the agencies doing these jobs will influence their willingness to purchase Gulf seafood - and may even affect how consumers feel about seafood from other places.

Closing Areas to Fishing

Nearly 84,000 square miles of the Gulf of Mexico have been closed to fishing since July 13th. But on Thursday afternoon, July 22, NOAA (National Oceanic and Atmospheric Administration) - NOAA’s jurisdiction begins 3 miles off shore and they’ve been working in tandem with the states that oversee near-shore waters - re-opened 26,388 square miles of this area, along what’s called the Florida shelf, which, at its closest, is 190 miles from the well site. “There been no oil in this area for over a month,” explained NOAA administrator Jane Lubchenco during a call with reporters.

“Today’s decision is good news for Gulf fishermen and American consumers,” said Commerce Secretary Gary Locke in a statement, and “provides important assurance to the American people that the seafood they buy is safe and protects the Gulf seafood brand and the many people who depend on it for their livelihoods.”

On the 22nd the state of Alabama also announced that limited areas of Mobile Bay will be open to shrimping beginning 6 a.m. on July 23rd. “We collected shrimp in June and sent them off for analysis. No (oil compounds) were found,” state biologist John Mareska told the Mobile Press-Register.

NOAA cautions, “Modeling and mapping the actual and projected spill area is not an exact science. NOAA Fisheries Service strongly advises fishermen not to fish in areas where oil or oil sheens (very thin layers of floating oil) are present, even if those areas are not currently closed to fishing.”

According to NOAA, the federal agency responsible for fishing regulations, the most important first step in ensuring seafood safety where there’s been an oil spill is to close the area to fishing. During a July 22 press call, Dr. Lubchenco explained that oil was tracked visually, including on overflights, as well as with subsea and water sampling testing by NOAA research ships. After that comes testing the seafood itself by NOAA along with the FDA (Food and Drug Administration).

Sniffing Seafood

“Crude oil has the potential to taint seafood with flavors and odors imparted by exposure to hydrocarbon chemicals. The U.S. Food and Drug Administration regulates the

presence of hydrocarbons as a possible adulterant in seafood," explains a NOAA factsheet on oil spill seafood safety. The first line of testing defense against oil-contaminated seafood is what's technically called "sensory analysis," explains Steven Wilson, Chief Quality Officer of NOAA's Seafood Inspection Program - in layperson's terms: sniffing. "The concept is simple," Wilson tells me in an interview. "The brain is good a differentiating odors and flavors, at differentiating what's acceptable and not acceptable." According to NOAA, sensory testing experts can detect aromatics associated with oil down to parts per million.

NOAA's battalion of expert sniffers are trained to fine-tune their senses to detect aromatic compounds - the hazardous chemicals that are the hallmarks of oil contamination, Wilson tells me. These tests have repeatability and confidence criteria, he explains. And they are backed up by chemical testing. But since it's not possible to test every piece of seafood, the sampling is representative, with the affected geographic area divided into sampling stations. There are currently 30 such stations in the Gulf, says Wilson. "Seventy percent of the testers must pass samples from a single station as clean, and if any one sample fails, that station fails," he explains.

The situation in the Gulf is challenging in terms of determining where seafood won't encounter oil since so much oil has entered the water column and is now so widely dispersed. "It's very difficult to deal with while the oil can come back [to any one place]," says Wilson. The area of the Gulf just reopened to fishing will stay under ongoing surveillance for oil and dockside seafood testing for the next 30 days.

"Much of this area was not oiled," said Dr. Lubchenco of the Gulf area re-opened to fishing. "I feel confident that this seafood is very safe to eat," she said.

Despite this rigor, what seems to remain somewhat unclear is how specifically NOAA and the FDA are testing for the presence of dispersant chemicals in seafood. Wilson told me they were not when we spoke earlier in July. This also came up under questioning of EPA and NOAA witnesses at the July 15th Senate Appropriations Committee's Commerce, Justice, Science and Related Agencies Subcommittee hearing on the use of chemical oil dispersants in the Deepwater Horizon response.

"Is FDA testing for dispersants [in seafood]?" asked Senator Lisa Murkowski (R-AK). "Our seafood tests are for oil. They're not specifically looking for dispersants or by products of dispersants," explained Dr. Larry Robinson, NOAA assistant secretary of commerce for oceans and atmosphere.

EPA Administrator Lisa Jackson explained that because the dispersants being used are made up primarily of petroleum products, screening for oil in seafood would also catch these hydrocarbons. Further, she explained, bioaccumulation studies and models conducted thus far indicate that the other chemical constituents of these dispersants don't stick around." EPA, while not a regulator of seafood, is the agency responsible for approving chemicals used in oil spill mitigation. Impacts on marine life is an essential part of that process.

But, acknowledged Larry Robinson under further questioning, “This is something on our list of things we’d like to know more about.”

Even if the non-hydrocarbon chemical components of dispersants don’t bioaccumulate, that doesn’t mean they won’t be present, notes Jackie Savitz, senior campaign director for the NGO Oceana’s pollution campaigns. “I think we should be taking a more precautionary approach,” she says.

Consumer Perceptions
Under these circumstances, asked Murkowski, “How do we give the consumer assurance?”

“To people in the Midwest of this country, seafood is seafood and if they don’t know where it comes from people err on the side of not eating it,” said Murkowski, noting that questions about Gulf seafood has an impact on seafood as far away as Alaska. “Without that confidence, it’s going to be hard to bring back that market,” she pointed out. Her words reminded me of the empty New Orleans area seafood market.

Concerns about consumer perceptions also arose during the July 22nd NOAA press call. “We have talked to several fishermen today in our area. We thought they would be excited about areas reopening, but they were actually more concerned saying this decision was made to soon and wondering who would be held responsible if seafood caught from these waters being reopened does make someone sick? If that does happen, who will be held responsible?,” asked Steven Norris, reporter with WPMI, a Mobile, (AL) TV station.

“The testing is very rigorous testing, and we are able to detect very, very small amounts of potential contaminants in seafood, and every single one of the samples that was tested from this region is clean. And so, for this particular area, we feel very confident that the seafood is completely safe to eat,” replied NOAA administrator Jane Lubchenco. “I would feel completely comfortable eating any seafood from this area that we are opening today,” she said.

Despite these assurances, questions remain - particularly about contaminants we can’t see, smell or taste - especially as storms blow in pushing oiled and dispersant-laden water with increased vigor. “Are you at all wary of eating seafood from the Gulf after the oil disaster? - Vote Now,” asks a July 23rd poll on the website for Local-15TV, the Mobile-Pensacola area NBC affiliate.

Lautenberg proposes overhaul of dispersant rules (*Greenwire*)

(07/28/2010)
Elana Schor, E&E reporter

Sen. Frank Lautenberg (D-N.J.) today proposed a broad overhaul of rules for the use of oil dispersants, requiring U.S. EPA to set minimum toxicity standards for the products, publicly release their ingredients, and balance their health consequences against their effectiveness before clearing the chemicals for use in future spills.

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sampling results that show no significant exposures to hazardous components in the products (*Greenwire*, July 19).

EDITORIAL / OP-ED / COMMENTARY / LETTERS

Hooray for the EPA at Gowanus Site (*Wall Street Journal*)

Regarding Julia Vitullo-Martin's " (Cross Country, July 24): The ex post facto and transferrable liability for environmental damage has always bothered me, and Gowanus is no exception. However, given the admittedly toxic condition of the canal, can we know it is safe based on the say-so of the building contractor, who has a potential conflict of interest? Likewise, the New York State Department of Environmental Conservation has possible conflicts and may lack the expertise of the EPA. The EPA like most federal agencies tends to overly study things, but I'd like to know of any site it has declared to be safe that is still toxic.

While the contractor and state together might do a good job at half the cost, would Ms. Vitullo-Martin, if she lived there, be confident enough to allow her children and pets to run on the banks and splash in the water every day? I think not.

Saul Snatsky
Seattle

AIR

Jul 28, 2010 3:55 pm US/Mountain

EPA Reviewing Air Pollution Rules For Oil, Gas (*Associated Press*)

Story also appeared: *CBS 4 Denver*

CATHERINE TSAI, Associated Press Writer
DENVER (AP) — Federal air pollution standards for the oil and gas industry are sorely outdated amid ramped up drilling, leaving thousands of emissions sources "under the radar," citizens groups said Wednesday.

The Environmental Protection Agency is reconsidering air pollution rules for oil and gas operations as part of a settlement with WildEarth Guardians and the San Juan Citizens

Alliance. The groups say existing rules aren't enough to handle increased drilling and don't account for advances in technology that could reduce emissions.

The EPA is getting the public involved in its review by holding meetings in Arlington, Texas, on Aug. 2 and in Denver on Aug. 3 for government, industry and citizens to weigh in.

The EPA has agreed to finalize updates to three sets of rules under the Clean Air Act by Nov. 30, 2011.

The oil and gas industry continues to be one of the heaviest regulated industries, said Kathleen Sgamma, the Western Energy Alliance's director of government affairs. The group's members already are working with the Western Regional Air Partnership — an effort of tribal and state governments and federal agencies — in voluntarily providing detailed emissions data to state regulators.

"We want to make sure to reduce emissions from oil and gas production," she said.

Mike Eisenfeld of the San Juan Citizens Alliance said loopholes in existing rules have allowed thousands of air pollution sources to operate without permits. He said inventories are needed along with studies on public health.

The Four Corners area has thousands of wells that are "major contributors" to ozone levels that are edging close to federal limits, Eisenfeld said.

Sgamma said the industry accounts for only a small percentage of emissions of specific pollutants.

Artisanal cheesemaker Deborah Rogers operates a goat dairy in the Fort Worth, Texas, area, where residents have been concerned about health effects of drilling on the Barnett Shale. She is hoping the EPA decides to ban flaring, in which excess vapors are burned off from wells. She called it an antiquated process and said technology is available today to help capture emissions.

Other environmental groups said they hope for more monitoring, studies of cumulative effects of toxins, and limiting the use of open waste pits in favor of closed-loop systems.

Sgamma said there is no one-size-fits-all solution, since conditions can vary for exploratory wells and production wells and from basin to basin.

"A lot of variables go into deciding what controls and technologies can be used," she said.

Online:
EPA's notice of public meeting: http://edocket.access.gpo.gov/2010/2010-17042.htm

Groups press EPA to increase regulation of energy industry emissions (*Government Executive*)

By Katherine McIntire Peters kpeters@govexec.com July 28, 2010
Citing threats to human health and the environment, environmental groups are increasing efforts to force the Environmental Protection Agency to strengthen air quality standards for the oil and gas industry.

"Ramped up oil and gas drilling has outgrown the regulations meant to protect clean air, public health and the environment," said Jen Powis, the Sierra Club's senior regional representative for Texas, in a conference call on Wednesday with representatives from five other environmental advocacy groups and individuals affected by drilling.

"Regulations are unclear, there are a variety of loopholes and because different regulatory agencies are doing different things, there's no [analysis of] cumulative impacts," Powis said. For example, in the Barnett Shale formation near Fort Worth, Texas, where more than 9,000 horizontal wells operate, no entity has assessed the full impact of those wells, she said.

Deborah Rogers, a landowner and artisan cheese maker in Fort Worth whose livelihood depends on the quality of her pastures, said she spent $30,000 out of pocket to have environmental testing done on her property after an energy company began drilling near her home and the air quality plummeted. The test results have shown high levels of benzene and carbon disulfide, she said.

The groups are urging citizens to attend public meetings EPA will be sponsoring on Aug. 2 and Aug. 3 in Dallas and Denver, respectively. EPA is holding the meetings as the result of a legal settlement earlier this year between the agency and Southwestern environmental groups over its obligations to regulate oil and natural gas emissions under the Clean Air Act. A court-ordered consent decree requires EPA to review air regulations affecting those industries. The agency must propose standards by Jan. 31, 2011, or determine standards do not apply.

While natural gas drilling has increased nationwide, the San Juan basin in the Four Corners region of the Southwest has seen some of the most intense activity in recent years. There are 35,000 natural gas wells along with 10,000 compressors in the rural region, said Mike Eisenfeld with the San Juan Citizens Alliance. Three EPA regional offices, four states and a number of Native American tribes all play oversight roles, Eisenfeld said, but none is adequately regulating emissions.

Voluntary mitigation measures have not sufficiently addressed air quality problems in the basin, he said. "We don't have complete inventories, we don't have strict oversight, we have spotty permitting. Many of our natural gas facilities are unpermitted, yet they are 24-hour emitters," he said.

Gopa Ross said she became involved in the Sierra Club's Rocky Mountain Chapter after an energy company began drilling near her home in southern Colorado. She said she developed headaches and nosebleeds as a result of toxic fumes released during the drilling process.

"We need the EPA to do an honest, independent study with scientific data and investigate what has been going on across the nation," Ross said.

TVA emissions aren't an interstate nuisance, 4th Circuit rules (*Greenwire*)

(07/28/2010)
Gabriel Nelson, E&E reporter
A federal appeals court has reversed a ruling that would have forced the Tennessee Valley Authority to spend $1 billion on pollution controls at coal-fired power plants in Tennessee and Alabama.

North Carolina Attorney General Roy Cooper (D) had sued TVA in 2006, arguing that the federally owned utility's plants posed a public nuisance because their air pollution crossed state lines and contributed to haze over his state's western mountains.

U.S. District Judge Lacy Thornburg of Asheville, N.C., sided with the state last year, ordering TVA to upgrade or install pollution controls for sulfur dioxide (SO2) and nitrogen oxides (NOx) at the Bull Run, Kingston and John Sevier plants in Tennessee and the Widows Creek Fossil Plant in Alabama (*Greenwire*, Jan. 14, 2009).

In a decision handed down Monday, a three-judge panel of the 4th U.S. Circuit Court of Appeals unanimously overturned Thornburg's injunction. The common-law claim would upset the delicate balance that has been struck by state and federal laws and regulations, Judge J. Harvie Wilkinson III wrote in his **opinion** for the court.

"If allowed to stand, the injunction would encourage courts to use vague public nuisance standards to scuttle the nation's carefully created system for accommodating the need for energy production and the need for clean air," Wilkinson wrote. "The result would be a balkanization of clean air regulations and a confused patchwork of standards, to the detriment of industry and the environment alike."

The ruling in *North Carolina v. TVA* deals a blow to environmentalists, who had hoped that common law could provide another means of addressing pollution. Nuisance claims are the basis for several climate change lawsuits now working their way through federal courts.

In one such case, *Connecticut v. AEP*, the 2nd U.S. Circuit Court of Appeals ruled that states have standing to sue sources of greenhouse gas emissions for their contribution

to global warming. Industry groups in the 2nd Circuit case have until next week to file a petition for review by the Supreme Court.

Another nuisance suit is ongoing in the 9th Circuit, and the 5th Circuit scrapped a similar ruling last month because of a procedural matter (*Greenwire*, June 1).

'Not an appropriate course'

The TVA case had been closely watched by business groups, environmentalists, states and lawmakers.

Sixteen state attorneys general, including New York's Andrew Cuomo (D), filed a friend-of-the-court brief urging the court to uphold the public nuisance claim. The top attorneys of Alabama and Tennessee filed briefs in support of TVA along with a handful of lawmakers from those states.

Business groups including the U.S. Chamber of Commerce, the National Association of Manufacturers, the American Petroleum Institute and the Utility Air Regulatory Group argued in another brief that allowing public nuisance claims would undermine the certainty provided by the Clean Air Act and state regulations.

There are several programs in place to address air pollution that crosses state lines, TVA had argued, including U.S. EPA's Clean Air Interstate Rule (CAIR), the Nitrogen Oxide Budget Trading Program (NOx SIP Call), acid rain rules and haze regulations intended to improve visibility in national parks and wilderness areas.

Earlier this month, EPA unveiled a proposed "transport" rule intended to prevent any state from causing any other state to flunk federal air standards for ozone and particulate matter.

"As a practical matter, the district court's decision could expose virtually any source of emissions above an arbitrary case-by-case threshold anywhere in the country to liability for causing or contributing to a public nuisance," TVA's brief said.

The appeals court agreed. Because the air pollution standards set by EPA are stricter than the rules under common law, Wilkinson wrote, a company that is in compliance with federal requirements cannot logically be a public nuisance.

"North Carolina has a number of possible paths to pursue in its entirely laudable quest to guarantee pure air to its citizens. Seeking public nuisance injunctions against TVA, however, is not an appropriate course," Wilkinson wrote. "The laws in place have been designed by Congress to protect our air and water. [North Carolina] would replace them with an unknown and uncertain litigative future."

ASBESTOS

Fairfax to replace asbestos-ridden site (*Washington Post*)

July 29, 2010 Thursday
Suburban Edition
METRO; Pg. B01
Maryland
Fairfax to replace asbestos-ridden site;
County considers options for public safety headquarters
By Derek Kravitz
Fairfax County is planning to move its public safety headquarters as the 43-year-old, asbestos-plagued Massey Building continues to deteriorate and spark health concerns.

Several architectural firms responded by Wednesday's deadline to bid on the construction of a building for Fairfax's police, fire and sheriff's departments. Officials are looking to build or move into a 268,000-square-foot building to replace the Massey Building on Chain Bridge Road, a 14-story office tower that opened in 1967. Many of the 460 employees at Massey have complained for years about the building's slow elevators, sparse parking, poor ventilation and cramped quarters.

In February, The Washington Post obtained hundreds of pages of government reports, inspections and internal e-mails that revealed that the Massey Building has been falling into disrepair, creating increasingly dangerous working conditions. Portions of it have been closed twice in the past year, including once in mid-December, when water flooded the top two floors and asbestos fell from holes in the ceiling.

A March PowerPoint presentation to the Fairfax County Board of Supervisors showed that a complete renovation, including asbestos removal from ceilings and walls, would cost about $81.1 million. The 1960s-era design also limits a full expansion: The building is not in compliance with the Americans With Disabilities Act, and any additions could encroach on the neighboring county courthouse.

That presentation also highlighted The Post's findings about the Massey Building's health hazards.

"We all agree that something needs to be done. It's an old, old building, and it's just a place that's not worth renovating," said supervisors Chairman Sharon Bulova (D), who also leads the board's budget committee.

Fairfax officials are considering several options, including building a headquarters on county-owned property, possibly on a baseball field near the county's Government Center or at an office park in Chantilly; or purchasing or leasing an existing building. Bids and cost estimates are expected to be formally reviewed this fall.

Asbestos, a carcinogen once used to fireproof buildings, is the biggest concern in the

Massey building, officials say. Air tests performed this year have not found any violation of Environmental Protection Agency health standards. But internal county reports concluded that the continued presence of asbestos "may pose a potential health risk" for employees and visitors. Asbestos removal would cost at least $5.2 million, officials say.

"The building is really at the end of its useful life," said JosÃ© A. Comayagua Jr., the county's facilities management director. "We have to look at all of our options, and the chief one is to move."

Comayagua said that the building has not been closed since the mid-December incident but that workers have noticed leaks and tripped breakers recently.

Of about 180 county-owned buildings, Massey is in the worst shape. Among the most critical problems are the building's overloaded electrical system, outdated heating and cooling systems, faulty plumbing and roof, obsolete fire alarms and asbestos-caked pipes and beams, according to county inspections and reports.

Several of Fairfax's aging public buildings, including Massey and the Pine Ridge police facility in central Fairfax, have been slated for renovation or demolition for years. More than a third of county buildings are more than 30 years old, and almost 60 percent are more than 20 years old.

BP SPILL

Majority of spilled oil in Gulf of Mexico unaccounted for in government data (*Washington Post*)

By David A. Fahrenthold and Leslie Tamura
Washington Post Staff Writer
Thursday, July 29, 2010; A01

Was Tony Hayward right, after all?

Back in May, BP's chief executive told a British newspaper that "the Gulf of Mexico is a very big ocean," and the vast amounts of oil and chemical dispersants dumped into it were small by comparison. After he said that, BP's well leaked for two more months. Hayward's upbeat assessment was cast as one of many gaffes committed on his way to resignation.

Now, 14 days after the well was closed and 100 days after the blowout, U.S. government scientists are working on calculations that could shed some light on

Hayward's analysis (even if they can't shed light on why he said it). They are trying to figure out where all the oil went.

Up to 4 million barrels (167 million gallons), the vast majority of the spill, remains unaccounted for in government statistics. Some of it has, most likely, been cleaned up by nature. Other amounts may be gone from the water, but they could have taken on a second life as contaminants in the air, or in landfills around the Gulf Coast.

And some oil is still out there -- probably mixed with chemical dispersants. Some scientists have described it floating in underwater clouds, which one compared to a toxic fog.

"That stuff's somewhere," said James H. Cowan Jr., a professor at Louisiana State University. His research has shown concentrations of oil still floating miles from the wellhead. "It's going to be with us for a while. I'm worried about some habitats being exposed chronically to low concentrations of toxins. . . . If the water's contaminated, the animals are going to be contaminated."

'The truth is in the middle'

By July 15, when the mile-deep BP well was capped, it had leaked out enough oil to fill the Pentagon more than 10 feet high. The gulf's total volume is about 880 million times the size of the Pentagon -- although the oil's effects were concentrated in one corner of it.

On Wednesday, National Oceanic and Atmospheric Administration chief Jane Lubchenco said the oil is now much less visible on the surface and present only in microscopic, dilute droplets further down. She said that was a sign that the gulf ecosystem is resilient and processing the hydrocarbons.

But she said that "doesn't mean the situation is benign, because it is not."

"There's so much noise out there now saying the gulf is dead or the gulf will come back easily," Lubchenco said. "The truth is in the middle."

The government's accounting of what became of all the oil will be key to making this final judgment. Officials did not provide a date when that accounting would be ready. For now, government figures allow only a rudimentary estimate of the oil that might still be unaccounted for.

Relying on the latest estimate of the leak's total volume -- 60,000 barrels (2.5 million gallons) per day, at most -- then 5.2 million barrels may have escaped over 86 days. Of that, about 1.2 million barrels were either siphoned, burned or skimmed.

That would leave slightly less than 4 million barrels missing.

The best-case scenario is that much of this amount has been eaten by the gulf's natural stock of oil-munching microbes. Several scientists have said they are concerned that these microbes could cause their own problems, depleting the oxygen that gulf creatures need in the water.

But Wednesday, NOAA's Lubchenco said oxygen-free dead zones have not been detected so far. And Ed Overton, a professor at LSU, said he believed the microbial process, supercharged by summer heat, was helping.

"We have made a gigantic biological treatment pond in the gulf," Overton said. Because of its work, he said, "we're well, well over the hump. I would say that the acute damage -- we've seen it, it's [already] been done. And that the environment is in the recovery stage."

Air quality concerns

But, in some places, good news from the water has meant bad news in the air. A NOAA report on the air quality downwind of the blowout site -- where as much as 10,000 barrels of oil were burned off every day for more than a month -- found high levels of hydrocarbons in the air, as much as 10 times what would be detected in the air over Los Angeles. The amount of "particulate matter," which means microscopic particles suspended in the air, was about twice that found over Los Angeles.

But on Wednesday, Environmental Protection Agency officials said that the pollutants seem to dissipate in the 40-plus miles between the well site and populated places on land. They said they have taken samples of air at more than 400 sites around the Gulf Coast and have found no evidence that pollutants from the BP spill exceed safe levels.

"Probably the only good thing about the BP spill is that it was far away from the coastline," said Gina McCarthy, the EPA's assistant administrator overseeing air-pollution programs. "I'm not denying that people are smelling things. But the nose is a much more sophisticated tool . . . than many people realize," she said, and a bad smell doesn't mean toxic air.

Some other portion of those 4 million missing barrels of oil has been scooped off gulf beaches, placed into plastic bags and carted away. In total, 35,421 tons of oily waste has been taken to landfills around the gulf region, according to data from the EPA and BP -- a total that includes not just the oil itself but also oil-covered seaweed and beach debris, and oil-tainted protective gear worn by cleanup workers.

The EPA says its procedures will keep the oil from leaching out into groundwater. In Louisiana, in particular, the oily waste is kept in plastic-lined "cells," with a system for capturing leaking oil before it escapes.

In several communities near the landfills, residents have protested that if BP's cleanup workers need protective suits to get the oily debris off the beach, then the oil doesn't belong in their neighborhoods. They worry it will escape into the ground.

"It's like someone dumping something in your front yard, and then you call in and complain about it," said Marlin Ladner, 64, a member of the Harrison County, Miss., Board of Supervisors. His coastal county is home to Pecan Grove Landfill, which has received at least 1,210 tons so far. "And they come and pick it up and haul it to your back yard."

The environmental legacy of the spill -- the final proof or disproof of Hayward's optimism -- will probably depend on the oil that's left. NOAA scientists have offered upbeat assessments of the oil that remains below the ocean's surface, saying they've seen significant concentrations only near the wellhead.

But other scientists, working for Gulf Coast universities, have reported finding large "clouds" of oil miles away from the site.

Cowan, the LSU professor, said that two weeks ago his crew had detected a layer of something thick underwater, then sent a remote-controlled submarine down to look at it. They saw BB-size globs, he said, that were the same orangish color as the oil on the surface. He said that, in deeper water, cold temperatures will slow the breakdown of the oil -- and it could affect animals such as worms, fish, crabs and corals.

One recent study from a Tulane University researcher found what seemed to be a worrying snapshot of what this missing oil is doing. Professor Caz Taylor looked at baby blue crabs and saw something odd under their translucent shells: orange blobs. She speculates that the crabs may have molted in the midst of oil or dispersant and trapped some of it literally inside themselves.

"We're so unsure of what's going on at this point," including whether the oil might hurt creatures that eat the crabs, Taylor said. "The worrying thing is that we're seeing these droplets everywhere that we're sampling," she said, from Galveston Bay, Tex., to Pensacola, Fla.

Staff writers Marc Kaufman and Steven Mufson contributed to this report.

'BP squad' probes rig companies' ties to regulators (*Greenwire*)

(07/28/2010)
A team of federal investigators based in New Orleans will expand their criminal probe into three companies linked to the sunken Deepwater Horizon rig to explore their relationship with federal regulators.

The "BP squad" includes investigators from U.S. EPA, the Coast Guard and several other federal agencies, according to law enforcement sources. The team is targeting BP

PLC, Transocean Ltd. and Halliburton Co., the three major companies blamed for the rig explosion and Gulf of Mexico oil spill.

The team was expected to be exploring violations of environmental laws, but now there is evidence investigators will be looking into whether the companies misled regulators, obstructed justice or falsified test results. The team may also look into the firms' close ties to the Bureau of Ocean Energy Management, Regulation and Enforcement, previously the Minerals Management Service, which was supposed to be regulating the industry.

The federal investigation, one of nine into the spill, has largely been working behind the scenes. The investigation was announced in June by Attorney General Eric Holder, who told CBS News this month that there were "a variety of entities and a variety of people who are the subjects of that investigation."

The probe is still young and investigators are leafing through tens of thousands of documents provided by the companies. Lawyers say the environmental charges should be easy to file, but the larger violations may be difficult to prove.

BP spokesman Scott Dean said the company "will cooperate with any inquiry the Justice Department undertakes, just as we are doing in response to other inquiries that are ongoing." Representatives of Transocean and Halliburton did not comment (Jerry Markon, *Washington Post*, July 28). **-- JP**

Missing oil in gulf: A good sign or bad? (*Washington Post*)

July 29, 2010 Thursday
Met 2 Edition
A-SECTION; Pg. A01
Maryland
Missing oil in gulf: A good sign or bad?;
Less visible on surface, it could be underwater or eaten up by microbes

By David A. Fahrenthold and Leslie Tamura
Was Tony Hayward right, after all?

Back in May, BP's chief executive told a British newspaper that "the Gulf of Mexico is a very big ocean," and the vast amounts of oil and chemical dispersants dumped into it were small by comparison. After he said that, BP's well leaked for two more months. Hayward's upbeat assessment was cast as one of many gaffes committed on his way to resignation.

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government scientists are working on calculations that could shed some light on Hayward's analysis (even if they can't shed light on why he said it). They are trying to figure out where all the oil went.

Up to 4 million barrels (167 million gallons), the vast majority of the spill, remains unaccounted for in government statistics. Some of it has, most likely, been cleaned up by nature. Other amounts may be gone from the water, but they could have taken on a second life as contaminants in the air, or in landfills around the Gulf Coast.

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"That stuff's somewhere," said James H. Cowan Jr., a professor at Louisiana State University. His research has shown concentrations of oil still floating miles from the wellhead. "It's going to be with us for a while. I'm worried about some habitats being exposed chronically to low concentrations of toxins. . . . If the water's contaminated, the animals are going to be contaminated."

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The **EPA** says its procedures will keep the oil from leaching out into groundwater. In Louisiana, in particular, the oily waste is kept in plastic-lined "cells," with a system for capturing leaking oil before it escapes.

In several communities near the landfills, residents have protested that if BP's cleanup

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Staff writers Marc Kaufman and Steven Mufson contributed to this report.

CLIMATE CHANGE / GLOBAL WARMING

Murkowski weighs bid to add EPA amendment to business bill (*Greenwire*)

(07/28/2010)
Robin Bravender, E&E reporter

Sen. Lisa Murkowski (R-Alaska) is considering offering an amendment that would block U.S. EPA climate regulations for two years to the small business package pending in the Senate, the senator's spokesman Robert Dillon said today.

"We have reserved our right to do so," Dillon said. "There is broad bipartisan concern about the impact EPA regulations of greenhouse gases would have on the economy starting at the beginning of the year."

Murkowski, the Senate Energy and Natural Resources Committee's top Republican, may offer legislation introduced by Sen. Jay Rockefeller (D-W.Va.) as an amendment to the small business bill, Dillon said.

Rockefeller's legislation would impose a two-year delay on EPA climate regulations for stationary sources like power plants and refineries, which are slated to kick in next January.

Senate Majority Leader Harry Reid (D-Nev.) promised Rockefeller a vote on the bill before the November election, Rockefeller told reporters yesterday.

Rockefeller said he had not decided yet whether to offer the bill as an amendment to the oil spill legislation that Democrats are bringing to the Senate floor this week. And it remains unclear whether Rockefeller would have that opportunity.

Many political analysts expect Reid to curtail amendments in an effort to stave off controversial debates and move the bill more quickly during the short window before the Senate breaks for the August recess.

Murkowski may seek to attach the measure to the small business bill because "it's what's on the floor now," Dillon said.

But President Obama would veto the measure if it made it to his desk, a White House aide said today.

Murkowski has failed in several previous efforts to stave off EPA regulations. In June, the Senate rejected, 47-53, a disapproval resolution from the Alaska Republican that would have nullified EPA's authority to regulate greenhouse gases under the Clean Air Act.

ENERGY

Energy company, EPA double efforts after Michigan oil spill (*CNN*)

By the CNN Wire Staff

Number of staff at site of spill, oil booms are doubled
Company does not know cause of oil spill
Estimates put spill at 19,500 barrels of oil
The EPA is overseeing efforts to clean up the oil
(CNN) -- A Canada-based energy company and the U.S. Environmental Protection Agency have doubled their resources in their bid to contain and clean up a Michigan oil spill, officials said Wednesday.

The action came a day after Gov. Jennifer Granholm demanded a large response to the spill, which was estimated at 19,500 barrels of oil.

Enbridge Energy Partners stopped the leak from its pipeline and is committed to cleaning up the oil, its CEO said.

"Our intent is to return your community and the waterways to its original state," Patrick Daniel said at a news conference in Battle Creek, Michigan. "We've made significant progress since yesterday. We still have a lot of work to do."

The company set up a website (www.response.enbridgeus.com) and a toll-free number (800-306-6837) for residents and volunteers.

Health officials continued Wednesday to advise residents, some of whom have been relocated, to stay away from oil fumes and not come near the scene.

"It's a very toxic and dangerous environment," Calhoun County health officer Jim Rutherford said. "We don't need people out there trying to get a closer look at the situation."

He reiterated concerns about air pollution from the spill and possible long-term effects on people and the environment.

Oil began leaking from the 30-inch line Monday, moving from Talmadge Creek into the Kalamazoo River, which flows from near the city of Battle Creek into Lake Michigan. The pipeline normally carries 190,000 barrels of oil per day from Griffith, Indiana, to Sarnia, Ontario. The leak was stopped Tuesday.

Enbridge and the EPA have doubled the size of their response teams to contain and clean up the spill. Daniel said the company has also doubled the number of oil booms and is excavating the broken pipeline to ascertain what went wrong.

Officials will be studying the oil sheen from the air to see the extent of the damage. They are concerned that more flooding from heavy rains could make matters worse.

"Maintain containment is the name of the game at this point," EPA spokesman Ralph Dolhoff said, adding that the agency hired a contractor to assist Enbridge in the cleanup.

"The last thing any of us want is to see a smaller version of what has happened in the Gulf," the governor said Tuesday, referring to the BP oil spill in the Gulf of Mexico.

Officials do not know what caused the leak.

The slick spans 16 miles, and the governor is worried that it could reach popular Morrow Lake, between Battle Creek and the city of Kalamazoo.

Crews staffed by Enbridge are using booms to try to contain the oil and vacuum trucks to clean it up. The effort is being supervised by the EPA.

Two homes near the spill site have been evacuated, and 25 people worried about health issues were relocated, according to Rutherford, who indicated Wednesday that there could be more evacuations.

Officials say there's no immediate danger to drinking or ground water. People are being urged to avoid swimming or fishing near the affected areas. Wildlife has been affected, with some fish and birds coated in oil. Enbridge is preparing a wildlife rehabilitation center for treating the animals.

FUEL

Governor Wants EPA To Take Over Cleanup In Marshall (*WKZO News*)

Posted Wednesday July 28, 2010
BATTLE CREEK (WKZO) -- Governor Granholm says she is not at all happy with the environmental response to the oil spill in Calhoun County and has asked the EPA to take over the cleanup. She wants a lot more resources applied to the problem and she wants it done now to stop the slick before it reaches Morrow Lake.

Enbridge President and CEO Pat Daniel says they have deployed 150 people, 30 vacuum trucks, and 43-thousand feet of boom to corral and recover the oil.

At an afternoon news conference, he said their response “borders on overkill” but the Governor disagreed by evening. Daniel says they will pick up the tab, but says it’s too early to estimate what the final cost might be.

The Governor has also declared Calhoun County a disaster area to make it eligible for federal aid. Both Calhoun and Kalamazoo Counties have declared a state of emergency because of the spill, estimated by the pipeline company at 19,500 barrels.

But Granholm says she wants to avoid the mistakes made in the Gulf, and that means not leaving it up to the firm, which she says may not have been totally honest about the spill.

Mary Detloff with the Michigan DNRE says the valve has been closed, but about 840-thousand gallons were spilled into a tributary of the Kalamazoo River, and has made its way to the river itself.

Anyone with health concerns or that has spotted wildlife in need of help is encouraged to call 1-800-306-6837.

100LL: FAA's Babbitt Contradicts EPA Statement (*AV web*)

July 28, 2010
by Glenn Pew
Contributing Editor, Video Editor

FAA administrator Randy Babbitt appeared to contradict Tuesday's statement by the EPA that it doesn't have the authority to regulate or control the use of tetraethyl lead in avgas. In answering a question at a press conference at EAA AirVenture on Wednesday, Babbitt said, in part, "We have some pretty good studies undergoing ... ATSM process is developing the standards for new unleaded fuel and we've had some pretty good discussions with the EPA. They've been cooperative and helpful. The EPA of course has the ability and they have the statutory authority, in fact, to say there will be no more lead in fuel. We have asked them to please don't get ahead of us. Let us develop the standards so that we will have an easily deliverable safe efficient fuel that performs just like 100 leaded fuel does today and let us get that in place and, the time track that we're both on, I'm very comfortable that we will have a suitable deliverable alternative fuel long before the EPA says no more." The EPA earlier this week offered a different understanding of its role.

On Tuesday, AOPA reported that EPA responded (PDF) to a request for clarification on the EPA's position on the future of lead regulation and clean air standards. The Environmental Protection Agency told GA's industry Avgas Coalition that the agency "has not established or proposed any date by which lead emissions from aircraft operating on leaded avgas would need to be reduced. In fact, the EPA does not have authority to control aviation fuels." Again, Babbitt said Wednesday, "The EPA of course has the ability and they have the statutory authority, in fact, to say there will be no more lead in fuel."

GRANT

Pittsburgh Port Gets $1.16 Million EPA Grant (*Journal of Commerce*)

John D. Boyd | Jul 28, 2010 8:09PM GMT
The Journal of Commerce Online
Funds will go toward repowering four towboats to cut diesel emissions
The Port of Pittsburgh Commission is getting a $1.157 million grant from the Environmental Protection Agency to refit some towboat engines, in the latest EPA project aimed at cutting diesel exhaust emissions in the freight sector.

The federal agency said the money will go "to oversee extensive repowering of four marine towing vessels with new, more efficient diesel engines and generators that will reduce air pollution, improve air quality and lessen overall environmental impacts."

The port commission and three towing companies will put up $1.97 million to match the grant, creating a fund totaling more than $3 million to put cleaner burning engines in the towboats.

Reresentatives from the three companies - - Campbell Transportation Company, Consol Energy and River Salvage – joined with officials from federal, state and county agencies plus environmental groups to announce the project.

"Putting clean diesel engines in these hard-working marine vessels will bring cleaner, healthier air for communities along the port's 200 miles of navigable waterways," said EPA Mid-Atlantic Regional Administrator Shawn M. Garvin.

The port's executive director, James McCarville, said "this grant and the actions of these companies will take the greenest, least polluting mode of surface transportation, and make it even greener."

He said each tow of 15 barges hauls more than 1,000 truckloads of cargo, and "just by taking trucks off of the roads we serve industries that could not be located here without the waterways."

Pittsburgh claims the nation's second largest inland port, handling up to 40 million tons of cargo a year worth $6.6 billion and generating 45,000 jobs in its region.

Some other recent EPA aid in the freight sector ranged from helping convert locomotives in Iowa into unpowered traction assist "slugs," to funding a range of ship and rail projects along the West Coast.

--Contact John Boyd at jboyd@joc.com.

Grants to Help Anhydrous Ammonia Facilities in (*Wisconsin Ag Connection*)

07/28/2010
EPA has awarded the Iowa Department of Agriculture and Land Stewardship (IDALS) a total of $70,000 to assist with outreach, education and implementation of the Clean Air Act's Risk Management Program. All fertilizer facilities that handle, process or store more than 10,000 pounds of anhydrous ammonia are subject to EPA's chemical safety requirements.'EPA wants to assure the continued safe handling of anhydrous ammonia which is a source of nitrogen fertilizer widely used for corn, milo and wheat,' said Karl Brooks, regional administrator. 'This grant is designed to prevent releases and protect the health and safety of area residents, employees at the facilities, emergency responders and the environment.'IDALS is receiving this funding to conduct on-site audits, workshops and follow-up safety assessments at agricultural retail anhydrous ammonia facilities in Iowa. Anhydrous ammonia is generally safe provided handling, storage and maintenance procedures are followed. However, it is toxic and can be a health hazard. Inhaling anhydrous ammonia can cause lung irritation and severe respiratory injuries.

EPA Region 7 receives more accidental release reports for ammonia than for any other chemical. In addition to releases caused by transportation accidents, human error and equipment failure, a number of releases have been caused by anhydrous ammonia thefts. Anhydrous ammonia is a key ingredient in the illegal production of methamphetamine. When stolen, the toxic gas can be unintentionally released, causing injuries to emergency responders, law enforcement personnel, the public and the criminals themselves.

Retailers were first required to be in compliance with the Risk Management Program in 1999. EPA then started facility inspections and enforcement of the program, which includes five components: hazard assessment system, management, accident prevention, emergency response and submittal of a risk management plan.

Eye to eye with poverty (St. Petersburg Times)

Florida
July 29, 2010 Thursday
PAN; Pg. 1PAN
LACOOCHEE
The tour guide pointed out the sights as the air-conditioned bus bumped along rutted roads. Look at the old lumber mill site, where the company pulled out and so did prosperity. See the porch where an old man sits all day and drinks, the football field with no benches for the players. And that tiny shed in front of the run-down home? "That little bitty old shed," he said, "has got somebody living in it." Inside the bus, the passengers

shook their heads.

The tour guide was Ronnie Deese, the Withlacoochee River Electric Cooperative official helping spearhead the effort to revitalize the power company's poorest service area - and Pasco County's poorest community.

And the passengers were mostly federal and local officials, who are looking for the money to make something happen in a community that has heard a lot of talk in the past but seldom seen improvement.

Half of Lacoochee residents live in poverty. Nearly all - 97 percent - of children at Lacoochee Elementary School qualify for free and reduced lunch.

"Can we as a society, we who sit on this bus and are better off, can we simply afford to turn our backs to these conditions and let them continue?" asked Deese.

Officials called Wednesday's meeting, organized primarily by residents and Withlacoochee, a "historic" event. The reason? They'd never before had that many people gather to talk about Lacoochee and Trilby, its somewhat better off sister community across U.S. 301.

Almost a dozen federal agencies sent representatives for the Wednesday meeting at the electric cooperative's Dade City office. County and school officials, and state Rep. Will Weatherford, R-Wesley Chapel, attended along with leaders of various social service agencies.

No one from the federal government promised any money. Instead, they told the locals about U.S. Department of Agriculture grants and loans they could get to bring water and sewer to residents and to the former mill site. They talked about clean-up grants from the **Environmental Protection Agency** and worker training grants from the U.S. Department of Labor.

But before they talked grants and loans, they took the tour.

Past the unpaved county road where someone keeps putting up a fence to block it, past the woman sitting cross-legged on her porch, smoking. Past the sprawling tree - what everyone calls "the tree of knowledge" - where people gather during work hours and late at night. Past a garden of sunflowers, protected by a white fence.

"What you're seeing is a mixture of people who are trying," said Deese, "and those who have given up."

The bus stopped near Charlie Crawford's home.

"I had a friend tell me they were coming," said Crawford, 70, who used to raise hogs on a lot across the road. "I didn't know they were going to stop in front of my house."

Next to his clapboard home, where three baby kittens of unknown origin danced near his feet ("Ma'am," he declared, "I do not have a cat.") is a small shed with a tarp door. That's where his 33-year-old daughter sleeps. She comes over to his house to eat, bathe and help take care of his ailing wife.

He said he hoped the officials on the bus could lure jobs for the younger people. But he said he liked his home and rural neighborhood. "I like everything like it is," he said. "I just need to get my yard clean."

The bus stopped again, in a lot where a health clinic once stood. Altamese Wrispus, 81, climbed aboard and told officials how, when she was a little girl in Lacoochee, she fell from a tree and hurt her leg. A local doctor fixed her wounds and let the family pay in installments.

Now, 70 years later, there are fewer nearby health care options for the community's poor. Her daughter, Evelynn, told officials the area needs a health center, with parking and lighting and "beautiful shrubbery."

"We don't want you to hand it to us," she said. "We want you to help us help ourselves."

On to Trilby, where a group of Boy Scouts stood in front of the Methodist Church and waved welcome signs. And to Mount Olive AME church, where community activist Roger Kaminski climbed aboard to reiterate what the area needs: Water and sewer. Sidewalks. Streetlights.

Don't let people complain that someone will only shoot out the streetlights, he said. "The excuse that that's just Lacoochee," he said, "we've heard that long enough."

Jodie Tillman can be reached at jtillman@sptimes.com or (727) 869-6247.

EPA gives Port of Pittsburgh $1.15M for tow boats (*Associated Press*)

- The Associated Press
July 28, 2010 11:28am EDT

PITTSBURGH — The Federal Environmental Protection Agency is giving the Port of Pittsburgh $1.15 to help three companies that use the cities three rivers retrofit four towboats with new diesel engines and generators that will pollute the air less.

Campbell Transportation Co., Consol Energy and River Salvage, Inc. will contribute $1.9 million, combined, for the four new boats.

Officials from the EPA, the state Department of Environmental Protection, the Port of Pittsburgh, and the Allegheny County Health Department attended Wednesday's announcement along the Allegheny River.

Read more: http://www.centredaily.com/2010/07/28/v-print/2119107/epa-gives-port-of-pittsburgh-115m.html#ixzz0v4Ey1RyK

HAZARDOUS WASTE

EPA targets Colorado site (*UPI*)

Published: July 28, 2010 at 10:13 AM
DENVER, July 28 (UPI) -- A 35-acre site in Colorado used to reclaim rare materials from catalytic converters poses a substantial health risk, U.S. regulators said.

The U.S. Environmental Protection Agency announced plans for the emergency removal of hazardous materials from a site owned by Elizabeth Mining and Development.

Christopher Wardell, a community EPA official in Denver, said his team was working to remove hazardous materials from the site.

"This cleanup will safely dispose of more than 6,000 gallons of acids, explosive material, and other liquids that pose a risk to nearby waters and residents," he said.

The EPA said the reclamation process to recover rare metals from catalytic converters uses acid baths and other methods that pose a threat to the environment.

The agency said there is also a "significant" risk of fire at the EMDI site.

The EPA said the site poses a substantial risk to the public health and the environment due in part to its proximity to a housing development and a regional flood plain.

The agency said operations at that 35-acre site would take about a week.

Draft DOD Cleanup Manual Reignites Munitions 'Waste' Debate With EPA (*Inside EPA*)

Posted: July 28, 2010
The Defense Department (DOD) is updating its cleanup manual, reigniting a long-running debate between DOD and EPA over when munitions can be classified as

hazardous waste -- a key to EPA's authority to compel DOD to clean up munitions at former ranges.
Classifying munitions as a hazardous waste is one of three issues that have sparked disagreement between EPA and DOD over the Pentagon's proposed update to its Defense Environmental Restoration Program (DERP) guidance manual, according to minutes from a May Munitions Response Forum meeting where a DOD official briefly outlined the disagreement. The forum includes representatives from states, EPA and DOD in an effort to tackle issues over munitions cleanup policy. The DERP manual provides guidance to the services on implementing their cleanup programs.

Over the years, EPA and DOD have periodically clashed over when a munition becomes a waste. EPA and DOD agree that the agency's military munitions rule gives a "conditional exemption" from the Resource Conservation & Recovery Act's (RCRA) subtitle C "cradle-to-grave" hazardous waste management rules when certain munitions are used for the intended purpose at operational ranges, sources say. But EPA believes that munitions, even if used for their intended purpose, at some point become solid waste potentially subject to RCRA and the Comprehensive Environmental Response, Compensation & Liability Act (CERCLA), according to agency documents. For instance, EPA in an October 2005 memo rebutted the Army Corps' stance that the munitions rule explicitly exempts munitions used for their intended purpose from regulatory control as a solid waste, including those on closed or transferred ranges.

In a draft version of the revised DERP manual, DOD describes how munitions on other than operational ranges -- previously referred to as closed, transferring or transferred ranges -- can be classified. In it, DOD says unexploded ordnance (UXO) on other than operational ranges can be deemed a "pollutant or contaminant" that may pose "an imminent and substantial endangerment to public health or welfare." And if UXO "is actively managed (e.g., excavated) for treatment (e.g., destruction) due to the UXO's reactive capability, the UXO may then be viewed as a RCRA regulatory hazardous waste and thus automatically also a CERCLA hazardous substance," the draft says.

But the DOD language restricts what can be labeled a RCRA solid waste, according to a government source who says under the DOD wording, except in cases of excavated ordnance meant for treatment, UXO and other munitions and explosives of concern left at closed or transferred ranges never become a RCRA solid waste. EPA, not DOD, is the authority to determine the point at which such ordnance is considered discarded and therefore a RCRA waste subject to cleanup authorities under RCRA or CERCLA, the source says.

If regulators deem a substance a RCRA solid and hazardous waste, unlike the terms pollutant or contaminant, then cleanup authorities under RCRA or Superfund law can be triggered. EPA could then use its cleanup authority to compel DOD to address the waste if it poses any imminent and substantial endangerment to public health and the environment.

The Justice Department in a 1998 legal brief also lays out EPA's long-held position upholding its munitions rule, explaining how the agency applies a narrower regulatory definition for solid waste for the purposes of the RCRA subtitle C waste management program, as opposed to the broader statutory definition of the term as it applies to other subtitles of the law, including a range of remedial and emergency authorities, such as abatement orders.

To that end, EPA in the 2005 letter noted that while the agency "postponed final action on a proposal that would have identified munitions remaining on a closed range as a statutory solid waste as part of the Military Munitions Rule," that "does not mean that munitions on a closed range are precluded from becoming a statutory solid waste."

A DOD spokeswoman said recently that DOD had sought informal input from EPA on the DERP manual's first update since 2001. "We received dozens of useful comments, most of which were worked into the document and some of which led to follow-on discussions," she said. She declined to comment on specifics related to the document.

An EPA spokeswoman said the agency could not respond to questions on the issue by press time.

EPA Overcomes DOD Resistance To Issue Munitions Cleanup Guide (*Inside EPA*)

Posted: July 28, 2010
Despite years-long opposition from the Defense Department (DOD), EPA has signed long-pending guidelines that reassert the agency's authorities governing the cleanup of military munitions on former military ranges.

EPA's Munitions Response Guidelines, issued July 27 in "interim final" form, are another signal in recent months of EPA pushing back against the Defense Department on cleanup policy, particularly on munitions cleanups -- an issue expected to cost the military as much as $35 billion to remediate more than 3,500 military munitions response sites.

Top EPA federal facilities officials July 27 signed a memo to remedial project managers to use the guidelines as regulatory oversight where the military, as the "lead agency," is undertaking a munitions response action at a site other than an operational range.

The document gives guidance to regional offices on cleanup responses at sites where explosive hazards or related contamination may pose an additional environmental threat. It specifically applies to responses related to munitions and explosives of concern (MEC) and munitions constituents (MC) at sites other than operational ranges. These include former ranges on active and closed bases and at privately owned formerly used defense sites, as well as munitions manufacturing areas, open burn and detonation areas, disposal pits and testing facilities.

DOD has long sought to insulate its operational ranges from EPA oversight, and EPA in the final guidance removes any references to agency policymaking regarding operational ranges.

However, the final guidance otherwise is largely identical to a draft version the agency issued in February 2008 but which DOD strongly opposed. The White House Office of Management & Budget (OMB), which intervened at the request of DOD, apparently never produced a decision on the matter.

EPA and DOD were unable to reach agreement during the Bush administration, Bush EPA waste chief Susan Parker Bodine said in an interview last year. And John Reeder, director of EPA's federal facilities cleanup office, said in an August 2009 interview that finalizing the guidelines was a high priority, citing munitions as one of the major challenges his office was facing.

The final guidance retains language opposed by DOD defining munitions as a hazardous substance and waste, which the military feared could result in cleanup liability under the federal Superfund law and the Resource Conservation & Recovery Act (RCRA) at operational ranges.

Under a section defining regulatory authority, EPA says MEC and MC at non-operational range sites “would meet the definition of a hazardous substance under [the Comprehensive Environmental Response, Compensation & Liability Act (CERCLA)] if the constituents are listed hazardous substances . . . or if the MEC/MC meets the definition of [RCRA] hazardous waste.” Releases of MEC or MC at non-operational ranges “should be evaluated in the same manner as any other release to determine if the material present meets the [Superfund] definition of a hazardous substance,” it says.

Debris Considered Inert Scrap

While some material, such as munitions debris considered inert scrap, may not be a hazardous substance, “a munitions response may still be appropriate to address MEC/MC which poses a threat, and a response should be evaluated on a site-specific basis to ensure that human health and the environment are protected,” the guidelines say.

In the 2009 interview, Bodine said DOD objected to the section defining EPA authority, specifically to the agency's reference to CERCLA, a law that does not distinguish between whether the munitions are on an operational range or not, even though the guidance excludes such ranges from its coverage. Bodine, who disputed DOD’s legal position, said DOD, while understanding the need to clean up munitions, refused to concede that munitions are a hazardous substance under CERCLA, or a RCRA hazardous waste.

Bodine said this was problematic at sites where DOD can undertake early transfers of shuttered base property because without the coverage, some communities that receive

munitions-contaminated property would be unable to pursue cleanup costs from the military.

In the document, EPA reiterates its long-held position that the exemption for munitions on operational ranges under RCRA's subtitle C "cradle-to-grave" hazardous waste management rules is a narrow one that does not bar the agency from addressing munitions risks under RCRA's emergency enforcement authority. At some point, if these remain on "locations other than operational ranges," then they would fit under the broader statutory definition of a solid waste.

"As a result, it potentially could be subject to the imminent and substantial endangerment authorities of RCRA 7003," the final guidelines say, reiterating EPA policy issued in 2005. "Regions or States should make a case-by-case evaluation of MEC, including [unexploded ordnance], and MC to determine whether it is subject to RCRA regulations, and if so, how the regulations apply," it says.

EPA and DOD's differences over when to classify munitions as waste is echoed in another similar ongoing debate between the two over a DOD cleanup guidance the department is updating. The language included in the updated version of DOD's cleanup manual restricts what munitions and explosives of concern can be labeled as a RCRA solid waste, one government source argues (*see related story*).

An EPA spokeswoman at press time said the guidelines were issued as "interim final," because they may be periodically updated. When asked whether the guidelines were changed to address DOD objections, she said it underwent "many technical changes" to reflect input from other departments, including DOD. -- *Suzanne Yohannan*

MINING

WV surface mine clears new EPA criteria (*West Virginia Public Broadcasting*)

By Erica Peterson
Download MP3
July 28, 2010 · A Logan County mine has cleared the federal Environmental Protection Agency's new criteria for mountaintop removal mining permits.

On Tuesday, the Army Corps of Engineers issued a final Clean Water Act permit to Arch Coal subsidiary Coal-Mac for its Pine Creek Surface Mine in Logan County.

This is the first permit that's been issued since the Environmental Protection Agency announced new permit evaluation guidelines in April.

In a news release, the agency said Pine Creek's original permit had been significantly changed, and its impact to water quality had been reduced. One valley fill has been approved for the mine and any subsequent ones will have to be evaluated individually.

The Pine Creek Mine was on the original list of 79 permits in Appalachia that the EPA put on hold for further scrutiny. Another one of the 79—Hobet Mine in Lincoln County—was approved in January before the new criteria were announced.

Many of the mines on the list have since withdrawn their permits, but there are still 36 waiting for approval. Fifteen of those are in West Virginia.

TOXICS

EPA rushes to clean toxic Montrose site (*Grand Junction Sentinel*)

By William Woody
Wednesday, July 28, 2010
Cleanup crews worked Wednesday at an abandoned industrial site near Montrose to transfer hazardous materials from rusting metal drums into more stable containers.

The Environmental Protection Agency began work Monday on what the agency termed a "time-critical" cleanup of the Elizabeth Mining and Development Inc. site at 11948 Road 63000, about four miles northwest of Montrose.

"This is basically just a junk yard," Christopher Wardell of the EPA said Wednesday morning as he surveyed the cleanup effort aimed at removing an estimated 6,000 gallons of acids, heavy metals, caustic substances and other chemicals.

The EPA considers the site abandoned, which played into its decision to step in and clean up the site before leakage from the containers could make its way into the groundwater or be taken by trespassers.

The Uncompahgre River runs near the site, which also sits near a residential neighborhood.

The substances were used in acid baths intended to recover valuable metals from catalytic converters by Elizabeth Mining and Development Inc., which was operated by Joseph and Steven Casebolt.

The EPA expects to remain at the site through at least this week working on the cleanup, EPA spokesman Richard Mylott said.

Officials are working to contain the hazardous materials and wastes and will decide where to send them for disposal, Mylott said.

“We’re just plowing forward with the cleanup right now,” Mylott said.

Staff writer Gary Harmon contributed to this story.

Gas Drilling Companies Claim to Use Safer Chemicals (*Texas Tribune*)

by Kate Galbraith
July 28, 2010
In Texas and across the country, controversy is escalating over the practice of "fracking," which involves shooting water, sand and chemicals far underground to retrieve natural gas. So some companies have responded by using less dangerous chemicals, and fewer of them.

Formally called hydraulic fracturing, the drilling practice has been suspected of contaminating the groundwater of some nearby homeowners. Range Resources, a Fort Worth-based drilling company, has "eliminated a number of the additives we've had in the past," says Matt Pitzarella, its public affairs director. In addition, he says, this year the company began using a "100 percent biodegradable friction reducer" in drilling operations and has also begun using other more environmentally benign chemicals. Many of Range's improvements apply to Pennsylvania, where it drills most, but the company plans to bring such practices to wells near Fort Worth.

Halliburton is testing ultraviolet light as a means of eliminating bacteria from drilling fluid, according to Bloomberg News, as opposed to a chemical biocide. Bacteria pose a risk because they can grow in the hot fluid and damage the pipes and reduce the flow of gas. Multi-Chem, which makes chemicals for gas wells for companies including Range Resources, also is working on "low toxicity" chemicals as part of its "NaturaLine" products. Some are already in use; others are being developed.

The effect of industry efforts remains uncertain. Companies use a variety of chemicals in hydraulic fracturing, which involves breaking up rock formations to free the gas. Company claims like "low toxicity" or "biodegradable" are difficult to evaluate. Also, companies closely guard the recipes for their chemical concoctions at the wellheads, claiming they are proprietary. Patricia DeMarco, who follows fracking issues as executive director of the Pennsylvania-based Rachel Carson Homestead Foundation, says she had not yet seen results of any research into such non-toxic chemicals.

Nonetheless, any steps toward limiting contamination may be welcome news to residents of Fort Worth, one of several national hubs for hydraulic fracturing. The city sits above a vast deposit known as the Barnett Shale, and many people with wells near their homes fear the potential impact on their water supply. A recent movie called Gasland, about fracking practices nationally, showed some homeowners lighting their gas-contaminated tap water on fire. Last week 1,000 people turned out in Pennsylvania at an Environmental Protection Agency meeting on fracking, and earlier this month,

more than 600 people flocked to a similar EPA meeting in Fort Worth. Calvin Tillman, the outgoing mayor of Dish, told of a local family whose well had tested positive for arsenic, lead and other chemicals.

The industry maintains that many fracking chemicals, like ethylene glycol and guar gum, are found in ordinary household products. But the U.S. House Energy and Commerce Committee, which is probing the practice, also received acknowledgement from some drilling companies that their fluids contain benzene, toluene, ethylbenzene and xylenes — which, according to the committee, "could pose environmental and human health risks." But the industry also argues that the chemicals are highly diluted, because the fracking concoction is generally 99 percent sand and water. Indeed, the process requires a vast amount of water: two to five million gallons of water per well, according to the EPA.

The industry arguments have some merit, according to Danny Reible, who holds an environmental health engineering chair at the University of Texas and has served on a committee that advises the EPA study on hydraulic fracturing. Most fracking-fluid ingredients aren't that toxic, he says. However, he adds, the water flowing back out of the natural-gas wells can pick up oily sediments. Anywhere between 25 and 80 percent of water flows back out of the wells, depending on the geologic formation, according to a representative of the industry website Energy in Depth.

"If you're not handling it right at the surface or near the surface, that's an issue as well," Reible says.

Drilling and chemical companies acknowledge that the recent wave of environmental agitation over fracking has made an impact. The push "has led to increased focus on alternative chemistries," says Cade Bourque, the health, safety and environment director at Multi-Chem. Borque says his company also uses an environmental evaluation system, with the help of the Britain-based Center for Environment, Fisheries & Aquatic Science, to help companies chose safer chemicals.

Pitzarella, of Range Resources, notes that some environmentally friendly practices carry an economic payoff: The chemicals often are expensive, so using them less saves money.

Environmentalists remain skeptical of industry safety efforts. DeMarco, of the Rachel Carson Homestead Foundation, points out that few outside the companies know what chemicals go into fracking projects in the first place, due to a special exemption that the gas industry obtained in 2005 from the Safe Drinking Water Act. "Many of these companies are also claiming that their fracking cocktail is a proprietary and privileged piece of information," she says. Range Resources, however, made a splash earlier this month by announcing that it would publish a list of its fracking chemicals — wellhead by wellhead — in Pennsylvania. The company has not announced plans to do so in the Barnett Shale.

DeMarco also pointed out that the enormous volume of water required for fracking meant that the absolute amount of the chemical, rather than the ratio, was important. "Even if it's only 1 percent, it's still a lot of stuff in absolute numbers," she says. In the Barnett Shale, Oklahoma City-based Devon Energy has earned praise for recycling some of the water used in fracking.

Meanwhile, the major Environmental Protection Agency study of fracking will get underway soon and should answer some of these questions. But for some irate drilling-area residents, the EPA study can't come soon enough: At the Pennsylvania meeting last week, one speaker said that the EPA was effectively studying the flammability of Rome while it is burning.

Children's Health Advisers May Urge EPA To Adopt Strict Risk Assessment Methods (*Inside EPA*)

Posted: July 28, 2010
EPA's children's health advisers are considering whether to urge EPA to adopt a host of conservative risk assessment practices, including California's strict cancer assessment methods, when EPA risk assessors meet later this year to decide how to revise the agency's practices in light of recent recommendations from the National Academy of Sciences (NAS).

Members of EPA's Children's Health Protection Advisory Committee (CHPAC) said at a July 21-22 meeting in Washington, DC, that they are interested in writing a letter to the agency's Risk Assessment Forum (RAF) -- prior to the forum's upcoming colloquium on revising the agency's risk practices -- urging adoption of strict cancer risk assessment approaches, including approaches adopted by California and Minnesota for protecting against childhood exposures, as well as conservative risk assessment approaches recommended by the National Academy of Sciences (NAS).

If adopted, the new approaches could result in significantly stricter regulatory standards. For example, California's cancer assessment approach -- which relies on expanded use of strict potency factors when calculating cancer risks from childhood exposures -- could force EPA to double its estimates of chemicals' cancer potency in its Integrated Risk Information System (IRIS) database, resulting in significantly more protective cleanup and other regulatory standards.

CHPAC's consideration of the issue was sparked by suggestions from Martha Sandy, a CHPAC member from California's Environmental Protection Agency, who proposed during the meeting that the panel write EPA a letter recommending it adopt the California cancer guidelines. Those guidelines expanded the use of children's cancer potency factors to all carcinogenic chemicals, not just chemicals thought to cause cancer through a mutagenic biological mechanism, or mode of action (MOA).

California's new policy also expands childhood to include the last trimester of pregnancy.

Sandy's proposed letter also recommended that EPA expand its use of linear modeling to non-cancer effects for some assessments, namely those of heavy metals. The appropriate method of extrapolating cancer risks from high dose animal studies to the low doses humans are anticipated to experience in their environment has been a long-standing argument, most recently stoked by the NAS' 2008 report, *Science and Decisions: Advancing Risk Assessment*, which recommends expanding the use of linear assessments.

But Peter Grevatt, director of EPA's Office of Children's Health Protection, expressed concern about what he called "process issues" if the committee rushed writing the letter. While several other members of the committee, including chair Pam Shubat, seemed interested in Sandy's proposal, they decided that a consensus letter from CHPAC would take more time to write than a few hours in the meeting.

The interested CHPAC members, however, voiced their interest in writing such a letter before EPA's RAF holds an October colloquium on risk assessment. The Forum, comprised of risk assessors from across the agency who draft assessment policy for EPA, is holding the internal colloquium to assist in preparation of the agency's response to three NAS reports on risk assessment, including *Science and Decisions.*

Sandy's push for EPA to adopt California's 2009 risk methods follows suggestions last year that EPA staff were considering adopting the state's strict new safety factors intended to protect against cancer from childhood exposures, arguing that a 2009 agreement between EPA and the state to coordinate chemical assessments and policies with California's risk assessment office bolstered the move.

But since then, talk has died down that EPA was considering the move.

Cancer Potency Factors

The California guidelines expanded the use of children's cancer potency factors -- extra safety factors to make assessments more health protective -- in two critical ways. The policy expanded the years for which the factors are applied from birth to age 16 to include the last trimester of pregnancy. And the policy expanded the use of the factors to all carcinogenic chemicals, not just chemicals thought to cause cancer through a mutagenic MOA.

In contrast, EPA's 2005 cancer guidelines only instruct agency assessors to use the children's factors if a chemical causes tumors by mutating genes or cells. An informed source explains that cancer potency in risk assessment is amortized over an average 70-year lifespan, with an assumption of equal risk in each year. Applying children's factors weights the risk higher for the years between birth and age 16, on the

understanding that exposures during development can result in significant adult health effects.

Minnesota's Department of Health has adopted a similar guideline to California's. The North Star State's recently adopted policy requires its assessors to use EPA's children's cancer factors for "all" carcinogens assessed with a linear model, "regardless" of MOA.

Linear modeling assumes that there is no safe level of exposure to the chemical, making cancer assessments more health protective and conservative. However, EPA has not applied this approach in assessment of non-cancer health effects, where assessment practice has long assumed a threshold, or a level of exposure below which adverse non-cancer health effects are not anticipated.

Sandy gave the examples of lead and arsenic as two metals whose risk should be estimated with a linear model. EPA's latest draft of its IRIS assessment of arsenic has come under fire from industry representatives and some members of Congress in large part because it uses a linear model to assess the metal's cancer risks. But Sandy argued that this model should also be used to assess arsenic's non-cancer risk, in accordance with the *Science and Decisions* report, she said. "CHPAC might like to make a couple of points [raised in CHPAC's] prenatal workgroup on risk assessment," Sandy said, noting "what a critical point prenatal is."

She continued, "perhaps CHPAC would want to [recommend EPA] apply the ADAF for all carcinogens and include prenatal as well as birth to age 16, as California and Minnesota have done?" Noting that her agency is reviewing the Science and Decisions report, Sandy added that EPA should consider "looking at lead and linear dose-response, perhaps other heavy metals" should be assessed this way as well.

Shubat appeared to agree with the proposal, noting that CHPAC "wouldn't want to miss an opportunity," to comment before EPA's scheduled October colloquium. "EPA should apply windows of exposure about children to any carcinogen. We'd like to ensure [EPA] staff are aware CHPAC has this concern."

One CHPAC member, Dan Hryhorczuk of the University of Illinois at Chicago, noted that lead's effects were even more severe than those represented in a linear model. He noted that the effects of lead on IQ loss are "not linear, the [IQ] decrements get steeper with higher blood lead levels. The effects are clearly not linear."

Linear Relations

Shubat agreed, adding that lead's effects are "assessed now as if there is a threshold. Perhaps we should clarify it's supralinear, not linear."

In a supralinear assessment, a line is imposed on the cancer slope factor, above the first line, making an assessment even more conservative than the usual linear default.

Sandy later presented a draft letter to CHPAC for its consideration. "I have the following recommendations. CHPAC recommends EPA take into account the prenatal period in developing cancer and noncancer effects of chemicals. EPA should evaluate [some noncancer effects with a linear model] including those for lead, arsenic, and other metals," she said. "With regard to cancer risk from carcinogens, expand the [use of the] ADAF."

But Grevatt said that Sandy's proposal "raises an important process question. The administrator and I of course take your recommendations very seriously," he said adding CHPAC needs a very thorough discussion before writing a letter. "These are very important issues, they are not simple issues. I think it would require that kind of process to have that kind of a letter."

CHPAC will instead consider crafting a consensus letter during a series of conference calls, as suggested by some other members of the committee. "I suggest we use the between-meeting process," said Anne Turner-Henson, a professor at the University of Alabama-Birmingham's nursing school. "It's a very important topic and I would not want to lose that opportunity."

Jerome Paulson, a professor at George Washington University's medical school, agreed. "I also think it's a very important topic," he said. "I'm not a toxicologist, I'm not sure what it gets into. Let's use the between-meeting process, and we can still get it done in an expeditious fashion." -- *Maria Hegstad*

WATER

Massive Mich. spill among worst in Midwest history (*Greenwire)*

(07/28/2010)
An estimated 840,000 gallons of crude oil has spilled into the Kalamazoo River and surrounding waterways since Monday, but officials are hoping to stop the spread of oil at a dam before the it enters Lake Michigan.
The oil leaked from an 40-year-old pipeline owned by Enbridge Inc., a Calgary, Alberta-based energy company.

"We're working to make sure that that's the last stand," said Ralph Dollhopf, senior on-scene coordinator with U.S. EPA. "We want complete containment so the oil never reaches Lake Michigan."

Enbridge CEO Patrick Daniel apologized for the spill yesterday.

"We have negatively impacted your lives and made a mess of your properties and waterways," Daniel said. "We will bring all resources to bear on this cleanup. We will do what it takes to make things right."

Several counties declared a state of emergency as cleanup crews worked to stop the oil from spreading, and Kalamazoo planned to close its municipal well field as a precaution in case it becomes polluted.

U.S. Rep. Mark Schauer (D-Mich.) said he had briefed President Obama on the spill, among the largest in the Midwest's history, and promised to push for hearings investigating the spill's cause and response (Chris Killian, *Kalamazoo Gazette*, July 28).
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EPA: 1M gallons of oil may be in Mich. River (*Associated Press*)

By TIM MARTIN (AP

BATTLE CREEK, Mich. — Federal officials now estimate that more than 1 million gallons of oil may have spilled into a major river in southern Michigan, and the governor is sharply criticizing clean-up efforts as "wholly inadequate."

The U.S. Environmental Protection Agency released the update Wednesday night, shortly after Gov. Jennifer Granholm lambasted attempts to contain the oil flowing down the Kalamazoo River. She warned of a "tragedy of historic proportions" if the oil reaches Lake Michigan, which is still at least 80 miles downstream from where oil has been seen.

Granholm called on the federal government for more help, saying resources being marshaled by the EPA and Enbridge Inc., which owns the pipeline that leaked the oil, were "wholly inadequate."

Calgary, Alberta-based Enbridge said earlier Wednesday that it had redoubled its efforts to clean up the mess. Chief executive Patrick D. Daniel said the company had made "significant progress," though he had no update on a possible cause, cost or timeframe for the cleanup. The company didn't return messages for comment after Granholm's statements.

The overall work force on the spill Wednesday was likely more than 400 people.

EPA officials said they're ramping up efforts with air and water testing. Local officials said they weren't concerned about municipal water supplies.

Tom Sands, deputy state director for emergency management and homeland security, said during a conference call with Granholm that he had seen oil past a dam at Morrow Lake. The lake is a key point in the river near a Superfund site upstream of Kalamazoo, the largest city in the region.

But his report could not be immediately confirmed. The company's latest update statement Wednesday said oil was about seven miles short of the opening to Morrow Lake. A press conference scheduled for late Wednesday, which was to include company and EPA officials, was canceled for what a company spokesman called scheduling conflicts.

State and company officials previously said they didn't believe the oil would spread past that dam.

"It's going to hit a Superfund site unless somebody like the EPA and the company get very serious about providing significant additional resources," Granholm said.

The spill has killed fish and coated wildlife as it made its way westward about 35 miles downstream past Battle Creek, a city of 52,000 residents about 110 miles west of Detroit.

Both company and EPA officials have said oil is no longer leaking.

Enbridge has been working to clean up the spill since the leak was reported early Monday.

Before the EPA announced its new estimate, Enbridge reiterated its belief that about 819,000 gallons of oil spilled into Talmadge Creek, which flows into the Kalamazoo River. State officials said they were told during a company briefing Tuesday that about 877,000 gallons spilled, but company officials disputed the number.

An 800,000 gallon spill would be enough to fill 1-gallon jugs lined side by side for nearly 70 miles. It also could fill a wall-in football field including the end zones with a 14-foot-high pool of oil.

Granholm has declared a state of disaster for some areas along the river, and President Barack Obama called Granholm to offer federal support.

An oily reflective sheen could be seen in patches along the Kalamazoo, and the affected area still had a strong odor, although not as strong as on Tuesday.

Anil Kulkarni, a mechanical engineering professor at Penn State University, said a quick response was vital to the river's ecology. Snails, frogs, muskrats and even birds eat, live and nest on or near the riverbank.

"The river banks are nearby. It has more potential to inflict damage because of the proximity to land. Anything that comes in contact with oil is going to be affected badly. It prevents the natural life of species, whether it's collecting food or anything else."

Enbridge affiliates have previously been cited for skirting environmental regulations in the Great Lakes region.

Houston-based Enbridge Energy Co. spilled almost 19,000 gallons of crude oil onto Wisconsin's Nemadji River in 2003. Another 189,000 gallons of oil spilled at the company's terminal two miles from Lake Superior, though most was contained.

In 2007, two spills released about 200,000 gallons of crude in northern Wisconsin as Enbridge was expanding a 320-mile pipeline. The company also was accused of violating Wisconsin permits designed to protect water quality during work in and around wetlands, rivers and streams, the Wisconsin Department of Natural Resources said. The violations came during construction of a 321-mile, $2 billion oil pipeline across that state. Enbridge agreed to pay $1.1 million in 2009.

The Michigan leak came from a 30-inch pipeline, which was built in 1969 and carries about 8 million gallons of oil daily from Griffith, Ind., to Sarnia, Ontario.

The river already faced major pollution issues. An 80-mile segment of the river that begins at Morrow Lake and five miles of a tributary, Portage Creek, have unsafe levels of PCBs and were placed on the federal Superfund list of high-priority hazardous waste sites in 1990. The Kalamazoo site also includes four landfills and several defunct paper mills.

Associated Press Writers David Runk and Corey Williams in Detroit contributed to this report.

July 28, 2010, 1:24PM

Arch Coal's 2Q earnings expected to rise (*Bloomberg Businessweek*)

By JIM SUHR
ST. LOUIS
Arch Coal Inc., one of the world's biggest coal producers, is expected to report earnings for the second quarter before the market opens on Friday. The following is a summary of key developments and analyst opinion related to the period.

WHAT TO WATCH FOR: St. Louis-based Arch, whose $1.8 million first-quarter loss reflected charges tied to its purchase of the Jacobs Ranch coal mine in Wyoming and

soft demand for coal used by U.S. power plants, is likely to highlight its production of thermal coal used in electrical generation. That's the bulk of the miner's business.

Arch, which fuels about 8 percent of all U.S. electrical generation, increasingly has looked to mine higher-margin metallurgical or coking coal -- a variety used in steelmaking and in big demand by China and other Asian countries -- as it waits for the market for thermal coal to regain its footing.

Arch's second-quarter earnings may reflect fallout from some production disruptions, including two suspensions of mining since April at its underground Dugout Mine in Utah -- the state's fourth-biggest coal mine -- to deal with rising levels of deadly carbon monoxide from smoldering fires. Dugout produced 200,000 tons of coal in this year's first three months, or about 2 percent of Arch's total production.

In April, an Arch Coal subsidiary sued the Environmental Protection Agency in federal court over the planned veto of a water quality permit for West Virginia's largest surface mine. Arch argued that the EPA doesn't have the authority to revoke a Clean Water Act permit once it has been issued; the permit for the Spruce No. 1 mine was issued to Arch's Mingo Logan Coal three years ago.

The EPA has insisted that the mountaintop removal operation would cause irreversible damage to the environment. The EPA says the project would affect nearly 2,300 acres of forest and that valley fills would bury 7 miles of intermittent streams and harm water quality.

The agency has started scrutinizing Appalachian surface mine permits under the Obama administration -- a change pushed by environmentalists in hopes of eliminating mountaintop removal coal mining.

Coal companies consider the practice highly efficient while opponents counter it devastates the ecosystem.

Montana's state Land Board voted in March to lease 572 million tons of coal reserves near the Wyoming border to Arch for $86 million and future royalties. But four environmental groups quickly filed suit, pressing that the board did not adequately consider the environmental consequences of the mine or of burning the coal.

WHY IT MATTERS: Analysts have been closely watching the recent performance of coal-mining companies to gauge the strength of the rebounding manufacturing economy. They also want to hear what mining companies have to say about tougher regulatory scrutiny, which eventually could affect earnings.

Arch also may weigh in on earlier expectations that the April blast that killed 29 miners at Massey Energy's Upper Big Branch mine in West Virginia could bring tighter safety monitoring, perhaps ultimately lowering coal production.

The Obama administration is proposing a new rule to tighten restrictions on pollution from coal-burning power plants in the eastern half of the country, a key step in cutting smog-causing emissions. Any climate legislation in the U.S. will certainly target coal producers and industries that burn the fuel. Utilities already are switching many power plants over to natural gas, which burns with fewer harmful emissions.

WHAT'S EXPECTED: Analysts polled by Thomson Reuters expect, on average, that Arch will earn 25 cents per share on revenue of $765.4 million.

LAST YEAR'S QUARTER: In the April-through-June period last year, Arch posted a loss of 11 cents a share -- nearly twice the per-share loss Wall Street expected -- on revenue of $554.6 million, citing a 20 percent drop in sales and production cutbacks. Arch said coal markets were weighed down by huge stockpiles of coal, while weak prices for natural gas were bottoming out and poised for a rebound.

Posted: 7:50 p.m. July 28, 2010 | Updated: 9:36 p.m. July 28, 2010

EPA: Michigan oil spill may have exceeded 1M gallons (*Associated Press*)

Story also appeared: *Detroit Free Press*

ASSOCIATED PRESS
BATTLE CREEK — The Environmental Protection Agency says it believes more than a million
gallons of oil may have leaked this week into a major southern Michigan waterway that leads to
Lake Michigan.

The estimate reported tonight from the EPA exceeds earlier estimates from the company
responsible for the spill into Talmadge Creek, which runs into the Kalamazoo River, of about
819,000 gallons.

EPA Administrator Lisa Jackson said in a statement the agency and Enbridge Inc. are taking action on the “serious spill.”

“EPA and other federal and state agencies mobilized immediately in response to this spill
and have taken a series of steps to minimize the damage this spill does to the river and surrounding communities,” Jackson said.

The EPA said it has requested the Coast Guard make $2 million available to fund the federal
government's operations in response to the spill. And the EPA will move additional vessels into the area within days to assist in the response.

The EPA has a Web site about the spill in Michigan.

Granholm: Cleanup resources 'inadequate'

Gov. Jennifer Granholm said more resources brought by the pipeline company and the EPA to
fight an oil spill making its way down the Kalamazoo River are "wholly inadequate."

Granholm's remarks this evening came as a state police official who conducted a flyover of the
spill site said the oil has spread past a key point in the river upstream of Kalamazoo.
Tom Sands is deputy state director for emergency management and homeland security.
He said that during his flyover today, he saw oil across Morrow Lake and a light sheen past a
dam, a few miles downstream from Battle Creek. Shortly after Granholm spoke to the media, a
news conference that was to include the company, EPA and other officials was postponed
because of what Enbridge spokesman Kevin O' Connor called scheduling conflicts. Another
briefing has not yet been scheduled.

EPA grant to fund Birch Bay watershed education (*Blaine Northern Light*)

Bookmark and Share
Published on Wed, Jul 28, 2010 by By Jeremy Schwartz
Birch Bay residents and landowners will soon receive advice and education on how their actions affect the Birch Bay watershed thanks to a grant from the U.S. Environmental Protection Agency (EPA).

The EPA has awarded the Whatcom Conservation District (WCD) $772,570 to inform Birch Bay landowners of agricultural and development practices that will reduce impacts on the watersheds.

George Boggs, the executive director of the Whatcom Conservation District, said the most immediate goal of the grant-funded project is to allow the nearby shellfish beds to be reopened. The $772,570 is one of two grants totaling almost $1.5 million the WCD has recently received from the EPA.

“This speaks well of the conservation district attracting two grants of this magnitude,” he said.

Boggs said the WCD will work with landowners along Terrell Creek in Birch Bay to identify possible sources of bacteria flowing into Birch Bay.

The grant will also allow the WCD to work with willing landowners in the area to create wetlands that would treat contaminated water, he said.

Many of the recommendations on low-impact practices came from a study conducted on the Birch Bay watershed in 2009, said Peter Gill, a senior planner for the Whatcom County planning and development services. The study was a combined effort among multiple agencies, including the EPA and the Washington State Department of Ecology, and sought to identify areas in the Birch Bay watershed that would be most sensitive to development, Gill said.

The study and the Birch Bay watershed project are important because they are examples of remediation that needs to be done in numerous areas on Puget Sound, Gill said. What’s learned in Birch Bay will most likely have effects on how many other wetlands areas are developed, he said.

While the conservation district and the county are focused on two different aspects of the study, Gill said it is in everyone’s interests for the two groups to work together. Whatcom County planning and developmental services primarily deals with future land use and development, while the WCD works to improve land owner stewardship of undeveloped land, he said.

The county is focusing on two main aspects as recommended by the 2009 study: What individual Birch Bay wetlands would benefit the most from increased conservation efforts, and how future development projects can be designed to have the least amount of negative impacts on the surrounding watershed.

Gill said any development near wetlands needs to obtain several different permits. One of the county’s goals is to streamline the permit process so low-impact development can grow quickly and in a way that’s not detrimental to the environment.

“The regulators are a little behind the science,” he said.

Birch Bay’s growth over the last few years has necessitated the efforts planned for the area, Gill said. Studies focusing on what can and cannot be developed near wetlands are important because many of the dry areas in Birch Bay have been used up.

“Birch Bay is full of wetlands,” Gill said.

Figuring out how landowners who do not want their land developed can reduce their negative impacts on the environment is where the WCD comes in.

The WCD is tasked with deciding which areas in the Birch Bay watershed need more protection and which areas are too degraded to save, Boggs said. The results of the 2009 study and the recent EPA grant will allow the district to develop tools for landowners that will aid in those decisions, he said.

“We’re pretty excited about the opportunity to address the concerns of Whatcom County residents when it comes to the environment,” Boggs said.

Michigan Governor Warns of Spill Threat (*New York Times*)

July 29, 2010 Thursday
Late Edition - Final
Section A; Column 0; National Desk; Pg. 13
By EMMA GRAVES FITZSIMMONS
BATTLE CREEK, Mich. -- Gov. Jennifer M. Granholm expressed growing worry on Wednesday that an oil spill, believed to be among the largest ever in the Midwest, might reach Lake Michigan if efforts to contain the oil were not strengthened.

"It would be a tragedy of historic proportions if this reached Lake Michigan," Ms. Granholm said.

More than 800,000 gallons of oil spilled Monday into the Kalamazoo River, a major waterway that flows into Lake Michigan, about 60 miles away. The leak came from a 30-inch pipeline that carries millions of gallons of oil each day from Griffith, Ind., to Sarnia, Ontario.

Response crews worked Wednesday to contain the oil spill, which had already reached at least 35 miles of the river and left fish and birds coated in oil.

On the river on Wednesday, Dan Backus arrived at his favorite fishing spot and found black water and oil-soaked plants. Looking out at the damage from the spill, he mourned the loss of fish and vegetation.

"It's all destroyed," said Mr. Backus, 64. "I'm just sick about it."

Enbridge Energy Partners, the owner of the pipeline, said the cause of the leak was being investigated. Patrick Daniel, the chief executive of Enbridge, said he did not think the oil would reach the Great Lakes.

Enbridge is Canadian owned, but based in Houston.

On Wednesday, Enbridge officials said they were doubling the amount of boom on the river to more than 28,000 feet. They also planned to double the number of workers responding to the spill to more than 300.

The pipeline remained closed as officials examined the piece of the pipeline where the leak occurred. Federal regulators issued an order on Wednesday saying the company could not reopen the pipeline without approval.

"Our intent is to return your community to its original state and the waterways to their normal state," Mr. Daniel said at a news conference on Monday. "We do commit to doing that."

The company had responded to criticism from Governor Granholm, who continued to plead for more resources to contain the oil.

Ms. Granholm criticized the company again on Wednesday evening, saying the response was still "wholly inadequate."

She said the oil had gone farther than previously known, to Morrow Lake, a big lake near Kalamazoo.

Other officials also questioned Enbridge's response. Representative Mark Schauer, a Michigan Democrat, said he was angry that it took Enbridge several hours on Monday to report the leak after it was discovered. He said he feared that the leak may have started earlier on Sunday and that the amount of oil in the river could be much more than the company's estimate.

Officials from the **Environmental Protection Agency** said they were investigating the timeline of events surrounding the oil spill. They said Enbridge could be penalized with fines if they did not complete the containment and cleanup work.

In this city of about 54,000 people that is best known as the global headquarters of Kellogg Company, residents could still smell oil on Wednesday as black masses of goop streamed down the river. Chris Simmons, the vice mayor who had been leading the city because the mayor was out of town, called the spill "a horrible disaster."

The city had worked hard over the years to restore the once dirty river, he said.

"This river has bounced back from being mistreated in decades past," he said. "We even had bald eagles come back. Now this is such a setback."

Officials have opened a rehabilitation center for birds and other wildlife.

Some people have been sickened by the strong fumes.

Enbridge has paid for at least 30 families to stay in hotels after they reported concerns about air quality and other problems after the spill. Rachel Campbell said the smell of oil woke her up at 3 a.m. on Tuesday.

Ms. Campbell, who is pregnant, lives about six blocks from the river in Battle Creek, and she said she had trouble breathing.

"My eyes were burning, and my nose was burning," she said. "It smelled like a diesel tanker had turned over in front of my house."

Enbridge paid for Ms. Campbell, her husband and their two children to stay at a hotel downtown.

But others were worried about whether the company would follow through with all their promises. David Pike, a 52-year-old auto mechanic who is building a home on the river, had his doubts.

"How long is it going to take them to clean it up?" he said. "Right now, I'm frustrated. If they don't fix this, it will turn to anger."

Environmental groups were frustrated as well to see another oil spill after the oil spill in the Gulf of Mexico. Danielle Korpalski, a regional coordinator for the National Wildlife Federation, said the group would watch to make sure the company restored the environment.

Workers fight Mich. spill (*Los Angeles Times*)

July 29, 2010 Thursday
Home Edition
MAIN NEWS; National Desk; Part A; Pg. 14
Workers fight Mich. spill;
Oil firm doubles crews to keep 800,000 gallons from reaching Lake Michigan.
By Associated Press
BATTLE CREEK, MICH.
A company operating a pipeline that dumped more than 800,000 gallons of oil into a southern Michigan river said Wednesday that it is doubling its workforce on the containment and cleanup effort.

Officials with Calgary, Alberta-based Enbridge Inc. made the announcement during an update on the spill, which coated birds and fish as it poured into a creek and flowed into the Kalamazoo River, one of the state's major waterways.

"We've made significant progress," company Chief Executive Patrick D. Daniel said.

"But we still have a long way to go in terms of cleanup."

The company had about 200 employees and contractors working on the spill Tuesday, and the **Environmental Protection Agency** is bringing in additional contractors.

There was no update on a possible cause of the spill, cost or length of cleanup.

Michigan Gov. Jennifer Granholm toured the area by helicopter Tuesday night and said she wasn't satisfied with the response to the spill. The leak in the 30-inch pipeline, which was built in 1969 and carries about 8 million gallons of oil daily from Griffith, Ind., to Sarnia, Ontario, was detected early Monday.

Granholm declared a state of disaster in Calhoun County and potentially affected areas along the river, which bisects the city of Kalamazoo and empties into Lake Michigan. Officials don't think oil will reach the lake, however.

Enbridge said Wednesday that it still estimated that about 819,000 gallons of oil spilled into Talmadge Creek. But state officials were told during a company briefing Tuesday that an estimated 877,000 gallons spilled, said Mary Dettloff, spokeswoman for the Michigan Department of Natural Resources and Environment.

Calhoun County officials said they weren't concerned about the municipal water systems supplying Marshall and Battle Creek. But groundwater testing was expected to begin Wednesday on other water supplies closer to the river.

Texas
July 29, 2010 Thursday

Texas beaches cleaner than many others in 2009 (*Fort Worth Star-Telegram*)

GALVESTON -- Texas beaches were cleaner last year than in many parts of the country, according to a report released Wednesday, though a state environmental group attributed the improvement to a two-year drought rather than efforts to prevent water pollution.

Texas has also escaped the worst of the oil that has fouled the Gulf of Mexico and caused 1,755 beach closings and advisories in the region since the oil spill disaster began with the April 20 explosion of the Deepwater Horizon drilling rig.

The annual Natural Resources Defense Council report found that in 2009 there were more than 18,000 beach closings and advisories nationally, the sixth-highest level in the 20 years they've been tracked.

Texas, however, enjoyed a 27 percent decrease, with closings and advisories dropping from 318 in 2008 to 231 last year.

"It's just raining less. We had a drought," Environment Texas director Luke Metzger said. "The lack of rain just means the pollution isn't running off into the Gulf."

Metzger expects pollution levels for this year to be far worse because of the rainy summer.

"There's no evidence that they are doing more to prevent it," he said.

Statewide sampling programs are aimed at reducing bacteria and other pollution in waterways, Terry Clawson, spokesman for the Texas Commission on Environmental Quality, said Wednesday in an e-mail.

Clawson also said Houston and Harris County have taken steps to decrease bacteria in sewer lines, including building water detention basins that allow bacteria to settle out before runoff and renovating 950,000 feet of sewer pipes in the past year.

A storm-water permit process reaching smaller communities is also expected to improve water, he said.

Beach water pollution can expose swimmers to various ailments from stomach flu to hepatitis. The U.S. **Environmental Protection Agency** is outlining new rules aimed at preventing storm-water runoff.

Metzger said the Texas General Land Office has improved the way it informs the public of polluted waters, including a website and a real-time notification system for people in Nueces County, one of the regions with the dirtiest beaches.

The water of the Texas Gulf is naturally browner than that elsewhere in the region because Mississippi River mud and sediment flow west.

Algae and other sea plants are also common, making the water appear cloudier.

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