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ADMINISTRATOR JACKSON
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Lawmakers Appeal to EPA, DOL for Safety Enforcement During Oil Spill Cleanup (EHS Today)

Jun 7, 2010 1:24 PM, By Laura Walter

On June 3, two members of the House Committee on Transportation and Infrastructure sent a letter to EPA and the Department of Labor (DOL) demanding that all response and recovery workers responding to the Deepwater Horizon BP Oil Spill are provided proper protective equipment, including respirators, and that all federal laws governing worker safety and respiratory protection are enforced.

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3. Preventing Workplace Violence
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According to news reports, numerous workers have fallen ill after exposure to the oil, the dispersants, or some combination of the two. In their letter to EPA Administrator Lisa Jackson and Secretary of Labor Hilda Solis, Rep. James L. Oberstar, D-Minn., T&I Committee Chairman, and Rep. Jerry Nadler, D-N.Y., urged the federal government to ensure that BP is properly protecting the workers, and that BP is not allowed to evade liability or shift the cost to the taxpayers for any potential health effects.

shortness of breath and other respiratory ailments,ﹾ said Oberstar. ﹾIt is the federal governmentﹾs responsibility to enforce public health and safety laws.

ﹾUnfortunately, at the World Trade Center following the 9/11 terrorist attack, OSHA rules were not enforced, and thousands of emergency responders, area workers and residents are now sick and receiving treatment. This must not happen to those living and working in the Gulf Coast area.ﹾ

The letter cited a memo from OSHA Administrator David Michaels to Admiral Thad Allen, the National Incident Commander for the oil spill, which raised concerns about BPﹾs ability or willingness to protect its workers.

Michaels wrote, ﹾThe organizational systems that BP currently has in place, particularly those related to worker safety and health training, protective equipment, and site monitoring, are not adequate for the current situation or the projected increase in clean-up operations.ﹾ

ﹾThe toxic soup formed by the combination of oil and chemical dispersants in the Gulf poses a very real and immediate danger to workers exposed during the cleanup process,ﹾ said Nadler. ﹾIf we are to avert a monumental health crisis, the federal government must now uphold its responsibility to ensure that all cleanup workers are outfitted with proper protective equipment, including respirators, and that all contractors comply with federal safety and respiratory protection laws. The federal government failed to protect first responders, workers and community members in the aftermath of the attacks of 9/11 ﹾ and now thousands of people have respiratory illnesses that would have been preventable ﹾ and we absolutely must not allow that to happen again in the Gulf.ﹾ

As cap slows leak, officials battle massive collection of smaller spills (*Sacramento Bee)*

WASHINGTON -- The cap that was installed last week on the leaking oil well in the Gulf of Mexico is recovering 15,000 barrels of oil per day, with that rate expected to increase to 20,000 barrels in the near future, Coast Guard Adm. Thad Allen told reporters at a Monday briefing.

Meanwhile, officials are seeking additional skimmers - the equipment used to soak up oil floating on the surface of the water - to assist in the cleanup of what Allen said was "no longer a single spill, but a massive collection of smaller spills."

"We're adapting to an enemy that changes," Allen said, noting that there are now

"hundreds or thousands of patches of oil" throughout the Gulf.

Allen cautioned that, despite cleanup and containment efforts, "disaggregation of this spill is going to cause oil to come onshore."

Although the newly installed cap on the well has slowed the oil leak, it will continue until relief wells have been drilled - a process that is expected to last into the summer.

"The long-term solution to this is going to be drilling of the relief wells," Allen said.

"We'll be dealing with oil and the effects of oil," he added, "at least four to six weeks after the well is capped."

As drilling of the relief wells is under way - one well was nearly 8,000 feet below the seafloor, and another was 3,000 feet deep by Monday morning - a second production platform is being brought in to increase recovery capacity from the containment device that was lowered onto the well last week. A larger platform with the ability to handle 20,000 barrels of oil per day will arrive in several weeks.

Oil recovered from the surface is being recycled, Allen said.

Asked if BP should be selling the oil after it's been recovered, White House press secretary Robert Gibbs said the cost to BP is "likely to greatly exceed what the oil that is recouped is sold for on the market."

Gibbs said he did not know whether BP will pay royalties on the recovered oil that is sold.

Allen said more than 1 million gallons of dispersants, the chemicals that break up oil, have been used since the spill began. Environmentalists and some officials - Allen noted particular "concern" from EPA Administrator Lisa Jackson - worry that dispersants may cause serious harm to the environment.

Injection of dispersants into the subsea will continue, Allen said, but "we need to have a minimum amount of dispersant we're using."

By Monday, the oil had stretched to affect about 120 miles of the Gulf, but could cover an even greater distance, Allen said, as it reaches deep into the marshlands along the coast.

Crews have laid boom - the equipment that absorbs and contains oil - throughout the region, but Allen cautioned that "boom is not a silver bullet against oil."

Asked to respond to concerns that the cleanup and containment effort has appeared slow and lacking in resources, Allen said officials were doing their best to respond to a "peculiar set of circumstances that were not anticipated."

In the past, the Coast Guard has run drills to prepare for a spill in the Gulf, including one in which Allen was the lead commander. But Allen said that drill focused on a potential spill closer to shore and of a much smaller magnitude.

"I don't think any plan envisioned it would get out that far and disaggregate," Allen said. "If anything is taxing our resources, it's the breadth."

Allen said a team has been assembled to consider newer technologies that could improve cleanup capacity.

EDITORIAL / OP-ED / COMMENTARY / LETTERS

Sestak Calls on EPA to Step Up Oversight of Marcellus Drilling (*Gant Daily*)

June 7, 2010 at 10:59 AM by Gant Team ·
MEDIA – Following a blowout at a Pennsylvania natural gas well, Democratic U.S. Senate nominee Congressman Joe Sestak called on the U.S. Environmental Protection Agency today to increase its oversight of Marcellus Shale development.

The blowout at the natural gas well in Clearfield County last week, apparently caused by a failed blowout preventer, spewed polluted drilling water and natural gas 75 feet in the air and on the ground before being capped 16 hours later. The drilling liquid from the well's hydraulic fracturing activities, whereby the liquids are shot underground at high pressure to break up shale and release its natural gas, flowed off the site and toward tributaries to Little Laurel Run.

While the situation was eventually contained, Pennsylvania Department of Environmental Protection Secretary John Hanger said the accident could have resulted in a "catastrophic incident that endangered life and property."

The circumstances of the accident are similar to those that led to the BP oil rig explosion in April at the Deepwater Horizon Rig in the Gulf of Mexico. Joe wrote a letter to Environmental Protection Agency (EPA) Administrator Lisa Jackson to ask that the Marcellus Shale development be monitored by the EPA to ensure that drilling does not harm Pennsylvania's water resources.

"This accident highlights the significant dangers of these drilling operations, which are expanding in Pennsylvania at an unprecedented rate and scale," wrote Sestak, noting that American Rivers has declared the Upper Delaware River the most endangered in the country due to Marcellus Shale development. "Proper regulations are not in place to manage them and protect the public."

Sestak asked Jackson to increase EPA's authority "to the maximum extent possible" to oversee the development of the Marcellus Shale as he and Sen. Bob Casey work on efforts to protect Pennsylvania's natural resources. For example, Pennsylvania must have proper investigation and testing of groundwater and air contamination and the EPA has the technical expertise to help put the safest possible procedures in place.

Sestak has co-sponsored the FRAC Act, a companion to a Casey-sponsored Senate bill, that would repeal the "Halliburton Loophole," a Bush-era special-interest deal that allows drillers to skirt the Safe Drinking Water Act.

"It is critical that the EPA play a role in assessing and minimizing industrial risk so that our citizens do not sacrifice their health, safety, livelihoods, and environment to irresponsible development of our nation's vast natural wealth," Sestak said. "Development of natural gas in the Marcellus Shale can be a boon for ailing local economies, but we must be vigilant in taking all necessary steps to protect our commonwealth's precious natural resources."

Here is the full text of the letter:

The Honorable Lisa Jackson
Administrator
Environmental Protection Agency (EPA)
Ariel RiosBuilding
1200 Pennsylvania Ave NW
Washington, DC20460-0001

Dear Administrator Jackson,

Last week, Pennsylvania experienced a serious accident in a natural gas drilling operation in the Marcellus Shale. A ruptured mine spewed explosive gas and contaminated wastewater into the environment for 16 hours before being brought under control. The accident appears to have been caused by a failed blowout preventer — an alarming similarity to the tragedy of the Deepwater Horizon rig. According to Secretary John Hanger of the Pennsylvania Department of Environmental Protection, this accident could have been even worse, and could have resulted in a "catastrophic incident that endangered life and property."

This accident highlights the significant dangers of these drilling operations, which are expanding in Pennsylvania at an unprecedented rate and scale. Proper regulations are not in place to manage them and protect the public. American Rivers has declared the Upper Delaware River the most endangered in the country due to natural gas extraction activities in the Marcellus Shale, and the state DEP has recently had its budget cut by more than 25 percent.

In April, my colleague Senator Bob Casey wrote to you requesting greater EPA involvement in Pennsylvania to protect its citizens from the detrimental effects of

hydraulic fracturing. This accident underscores the need, and urgency, for the EPA to take action.

Recent events, from the tragic oil spill in the Gulf of Mexico to the fraudulent activity that contributed to the collapse on Wall Street, have reminded us all that we cannot depend on industry to police itself when our quality of life, present and future, is at stake. It is critical that the EPA play a role in assessing and minimizing industrial risk so that our citizens do not sacrifice their health, safety, livelihoods, and environment to irresponsible development of our nation's vast natural wealth.

I will continue to work with Senator Casey to provide even greater authority to the EPA in oversight of hydraulic fracturing operations through passage of the FRAC Act. As that legislation moves through the legislative process, I request that the EPA use its current authority to the maximum extent possible to protect the health, safety, and environment of Pennsylvania and our neighboring states.

Sincerely,
Joe Sestak
Member of Congress

Smoke, mirrors and climate doubt (*Los Angeles Times*)

June 8, 2010 Tuesday
Home Edition
MAIN NEWS; bad desk code; Editorial Desk; Part A; Pg. 13
By Naomi Oreskes, Erik M. Conway, Naomi Oreskes is a professor of history and science studies at UC San Diego. Erik M. Conway is a historian of science living in Pasadena. They are the authors of "Merchants of Doubt: How a Handful of Scientists Obscured the Truth on Issues from Tobacco Smoke to Global Warming."

If some of the ongoing attacks on the credibility of climate science feel familiar, there's a reason. With their unattributed claims downplaying the severity of the problem and their vague allegations of scientific impropriety, the assaults are the latest in a long tradition of organized efforts by industry and free-market enthusiasts to undermine the credibility of science they don't like.

One early campaign was launched by tobacco companies. Seeking to prevent government regulation of its product, the American cigarette industry created the Council for Tobacco Research to generate research disputing the work of mainstream scientists. "Doubt is our product," said a 1969 industry memo, "since it is the best means of competing with the 'body of fact' that exists in the minds of the general public." Fighting regulation meant creating doubt about the health effects of smoking. The strategy proved enormously successful, helping prevent most regulation of tobacco products until 2009, nearly six decades after the carcinogenic properties of tobacco

were established.

The strategy was expanded beyond the cigarette industry in part because of the efforts of physicist Frederick Seitz, a former president of the National Academy of Sciences who went on to direct R.J. Reynolds' biomedical research program. In 1984, he joined forces with astrophysicist Robert Jastrow and nuclear physicist William Nierenberg to establish the George C. Marshall Institute. Their goal was to defend Ronald Reagan's Strategic Defense Initiative -- better known as "Star Wars." For the rest of the decade, the institute defended SDI by exaggerating the Soviet threat and by attacking the credibility of SDI's opponents. One 1987 article by Jastrow was headlined "America has Five Years Left!" It warned that without action, Soviet superiority would soon lead to crushing defeat for the West.

After the collapse of the Soviet Union, the institute found a new enemy: environmentalists, who were viewed as "watermelons" -- green on the outside, red on the inside. Nierenberg had paved the way for this target shift, working behind the scenes to weaken the conclusions of important government reports on acid rain and **climate change** in 1983 and 1984.

In the 1990s, Nierenberg, Jastrow and Seitz tried to blame the sun for **global warming** and volcanoes for the Antarctic ozone hole. They also launched personal attacks on scientists who had done important work on climate issues. In one egregious example, in 1995 they teamed with an industry group, the Global Climate Coalition, to accuse a young scientist, Benjamin Santer, of "scientific cleansing," removing uncertainty from the Intergovernmen- tal Panel on **Climate Change's** Second Assessment Report. Santer had played a key role in demonstrating the role of human activity in **global warming**; by attacking him via the Wall Street Journal, they hoped to foster doubt about the IPCC and one of its key conclusions: that humans have caused **global warming**.

Meanwhile, the tobacco industry had begun to broaden its own pushback against tobacco regulation into a broad campaign against all science. Philip Morris worked with a public relations firm to create the Advancement of Sound Science Coalition. Headed by lobbyist Steven Milloy, it tried to discredit as "junk science" research industry didn't like. One product was "Bad Science: A Resource Book," whose sound-bite sized "messages" included (apparently without irony): "Too often science is manipulated to fulfill a political agenda." Milloy's "junk science" website contained attacks on climate science, ozone depletion, acid rain and **pesticide** regulation.

Today the network of institutions attempting to undermine science (with funding from industry) is vast. The top tier of the network is a set of political think tanks dedicated to promoting free markets and advocating for limited government. They include the Cato Institute, the Heritage Foundation, the American Enterprise Institute, the Heartland Institute and the Competitive Enterprise Institute. In turn, they are linked to myriad smaller groups. The Competitive Enterprise Institute, for example, organized the Cooler Heads Coalition, which describes itself as "focused on dispelling the myths of **global warming** by exposing flawed economic, scientific and risk analysis."

Cold Warriors all, Jastrow, Nierenberg and Seitz saw their campaigns as part of a larger effort to defend freedom. In defense of tobacco, fellow physicist Fred Singer, who also worked to discredit the science of ozone depletion and acid rain, wrote, "If we do not carefully delineate the government's role in regulating [danger], there is essentially no limit to how much government can ultimately control our lives." The Cold War was a conflict between economic ideologies -- what George Soros calls market fundamentalism versus communist state control. Market fundamentalists saw the growth of environmental regulation as a form of creeping government control.

As science found more and more evidence of the environmental and health effects of industrial activity, which suggested the need for regulation, market fundamentalists increasingly turned against that science. In the name of "freedom," the public has been deliberately misinformed about important issues of human health and environmental protection. But it remains difficult to imagine how lies can set us free.

Ninja bureaucrats on the loose (*Washington Times*)

June 8, 2010 Tuesday
COMMENTARY; Pg. 4
Ninja bureaucrats on the loose;
Unfair laws are being enforced at gunpoint

By Quin Hillyer THE WASHINGTON TIMES
"The government," wrote 50-year-old Denise Simon, "is too big to fight." With those words, in a note to her 17-year-old son, Adam, she explained why she was committing suicide (via carbon monoxide) three days after 10 visibly armed IRS agents in bulletproof vests had stormed her home on Nov. 6, 2007, in search of evidence of tax evasion. Her 10-year-old daughter, Rachel, was there with Simon when the agents stormed in.

"I cannot live in terror of being accused of things I did not do," she wrote to Adam. To the rest of the world, in a separate suicide note, she wrote: "I am currently a danger to my children. I am bringing armed officers into their home. I am compelled to distance myself from them for their safety."

Granted, suicide is neither a common nor a proportionate response to an armed search warrant. But neither is an armed raid on the home of a family that (according to husband Jim Simon) had never before even been warned that anything was wrong with their tax returns. Obviously, trauma of the armed-raid variety can cause its victims to react in sadly illogical ways.

Denise Simon's tragic fate is one of a growing number of horror stories of bureaucrats, enforcing regulations of nonviolent conduct the perpetrator may not have even

suspected was illegal, brandishing weapons they arguably don't need. These two problems - overcriminalization of essentially harmless conduct and overarming of agents in nondangerous circumstances - combine to create a federal government that can be terribly frightening.

Most Americans understand why agents of the FBI, the Secret Service and some other federal agencies need weapons. Yet most would be puzzled by the proliferation of arms in departments where employees usually are seen as paper pushers. At least all of the following departments, quite bizarrely, feature armed agents: the National Park Service; the IRS; the Postal Inspection Service; the Departments of Health and Human Services, Agriculture, Labor, and Veterans Affairs; the Bureaus of Land Management and Indian Affairs, the **Environmental Protection Agency,** the Fish and Wildlife Service; and even the Small Business Administration and the Railroad Retirement Board.

Agents in some of these entities seem prone to ostentatious shows of force or to sending in armed FBI personnel on unnecessary occasions. There was the November 1997 raid on the Massachusetts pollution-control-technology company owned by James M. Knott Sr., in which 21 **EPA** agents, many armed, swooped in to collect "discharge" readings - and then falsified the results. Similarly, an April 29, 1998, New York Times story reported that "three businessmen told the Senate Finance Committee today of Internal Revenue Service agents who, with guns drawn, broke down doors, terrified workers and forced teenage girls to change clothes in front of male agents in raids at the men's homes and businesses."

Consider also the case, now infamous, of inventor Krister Evertson. On May 27, 2004, Mr. Evertson was preparing in Wasilla, Alaska, for a private gold-mining expedition to raise more funds for his research into clean-energy fuel cells. Federal agents in two black sport utility vehicles, waving assault rifles, forced his car off the road. Manhandling him as if he were a terrorist, they arrested, interrogated and jailed him. For what? Putting the wrong shipping label - with the correct instructions, mind you, but still the wrong label - on a box of raw sodium that he sold on eBay.

That last example comes from the chapter I contributed to a book published earlier this year by the Heritage Foundation titled "One Nation Under Arrest," which highlights the problem of what former Attorney General Edwin Meese calls "overcriminalization" - the "far too many criminal laws that create traps for the innocent but unwary." Mr. Meese writes that there are more than 4,000 separate criminal offenses in the U.S. Code and that "the federal government could use the criminal process to enforce as many as 300,000 federal regulations."

Edited by current and former Heritage experts Paul Rosenzweig and Brian W. Walsh, "One Nation Under Arrest" contains the tales of lobstermen jailed for eight years for using plastic instead of cardboard to import their catch, a grandmother charged as a criminal for letting her hedges grow too high, a gentle retiree imprisoned for 17 months for having the wrong paperwork for his imported orchids and similar horror stories.

"Overcriminalization is a big problem ... [caused by] weak politicians and legislators," said Joseph diGenova, a former U.S. attorney for the District of Columbia, in a June 3 interview. "This farcical journey of criminalization ... is no less than the micromanagement of American life."

Heritage's Mr. Walsh also joined with Tiffany Joslyn of the National Association of Criminal Defense Lawyers to publish, in May, a booklet called "Without Intent: How Congress Is Eroding the Criminal Intent Requirement in Federal Law."

"No person should be convicted of a crime without the government having proved that he acted with a guilty mind," they wrote. Yet, after an exhaustive study of nonviolent criminal offenses introduced in a recent Congress, they found that "over 57 percent of the offenses considered by the 109th Congress contained inadequate 'mens rea' [guilty mind] requirements, putting the innocent at risk of criminal punishment."

Of those proposals actually enacted into law, 63.9 percent of them lacked appropriate protections.

On its face, this federal government habit of overcriminalization, without regard to the intent of the perpetrator, is a serious threat to civil liberties. When combined with gun-toting bureaucrats on search-and-seizure power trips, it's also a threat to limb and life. These are the threats to life, liberty and reason that are engendering the nationwide backlash against a government out of control. Quite rightly, that backlash is sending incumbent congressmen to bitter defeat across the country. The ballot box makes our government not yet quite "too big to fight." But it's awfully close to being too big even for the innocent to defeat - and it's awfully scary.

Quin Hillyer is a senior editorial writer for The Washington Times. He can be reached at Qhillyer@washingtontimes.com

Petulant children of Time magazine (*Washington Times*)

June 8, 2010 Tuesday
B, COMMENTARY; Pg. 1
Petulant children of Time magazine;
Inventors' lifesaving work not good enough for mag's cub reporters
By Steve Milloy SPECIAL TO THE WASHINGTON TIMES
Time magazine founder Henry Luce must be spinning in his grave. In a recent issue, Time issued its list of "The 50 Worst Inventions" - "zany to dangerous to just plain dumb ... ideas that just didn't work out," according to the magazine.

While the list seems rather lame, dilettantish and yawn-inducing - New Coke, Betamax and Nintendo Virtual Boy, to name a few examples - it is notable for its pointed inclusion

of a variety of environmentalist hot buttons, including Agent Orange, DDT, chlorofluorocarbons (CFCs), asbestos and leaded gasoline.

Do these inventions really rate being slammed as "worst"?

Regardless of how you feel about the Vietnam War, the defoliant Agent Orange undoubtedly helped protect many U.S. and South Vietnamese combat troops and civilians from 1962 to 1971. Despite the fact that Congress has legislated benefits for Vietnam vets based on presumed exposure and pretended links between exposure and cancer, the best scientific research (the so-called Ranch Hand study of military personnel with known Agent Orange exposure) has not linked exposure with disease.

From 1943 through its banning by the EPA in 1972, DDT saved hundreds of millions of lives all over the world from a variety of vector-borne diseases. Even when Environmental Protection Agency Administrator (and closeted environmental activist) William D. Ruckelshaus banned DDT in 1972, he did so despite a finding from an EPA administrative law judge who, after seven months and 9,000 pages of testimony, ruled that DDT presented no threat of harm to humans or wildlife. Today, a million children die every year from malaria. DDT could safely make a tremendous dent in that toll.

CFCs, of which Freon is the best known, provided an inexpensive and comparatively safe means of refrigeration and fire protection. While it's true that CFCs react chemically with ozone in the upper atmosphere, it's not true that there was a "hole" in the ozone layer that was caused by CFCs or that threatened humans or wildlife with increased levels of ultraviolet radiation. Changes in the thickness of the protective ozone layer that occurred over Antarctica remain unexplained and unpredictable despite the fact that CFCs were phased out starting in 1986. If you want to know why it costs so much to recharge your air conditioner nowadays, look no further than the CFC substitutes that, by the way, are more hazardous to boot.

Yes, it's true that high, long-term occupational exposure to asbestos, particularly among smokers, increased the risk of mesothelioma and asbestosis, but those risks must be laid against the fire-resistance and protection benefits of asbestos. Uncountable civilian and military lives have been protected and/or saved by asbestos, still the best fire-resistant material around. Although asbestos can be used quite safely, overreaction to improper handling of asbestos will result in less safe buildings and ships for the foreseeable future.

As to leaded gasoline, we can safely say that leaded gasoline helped provide America and the world with unprecedented freedom and fueled tremendous prosperity. We don't use leaded gasoline in the United States anymore, but more because people simply don't like the idea of leaded gasoline as opposed to any body of science showing that it caused anybody any harm. It's the dose that makes the poison, and there never was enough lead in the ambient environment to threaten health.

Who's behind Time's revisionist history? The list of the 50 worst inventions was put together by two 2009 graduates of the journalism program at Northwestern University, Dan Fletcher and Chris Gentilviso. If these two "journalists" did more than skim through some extreme green websites or the politically correct Wikipedia in putting together their blurbs for slamming the above-mentioned technologies in the same list as Crocs and Snuggie for Dogs, I'll eat my hat.

Even assuming for the sake of argument that these technologies had downsides, Mr. Fletcher and Mr. Gentilviso seem to argue that unless a technology is entirely without potential for harm, it shouldn't exist. This would, of course, prevent all technology from developing.

There's no way "worst" applies to Agent Orange, DDT, CFCs, asbestos and leaded gasoline. It is quite an apt description, however, for a certain pair of wet-behind-the-ears, wanna-be reporters way out on a limb about the great lifesaving and life-enhancing technologies of the 20th century.

Steve Milloy publishes JunkScience.com and is the author of "Green Hell: How Environmentalists Plan to Control Your Life and What You Can Do to Stop Them" (Regnery 2009).

Use caution on gas drilling (Buffalo News)

Legislature should pass measure that waits for EPA report on ‘fracking’
Updated: June 08, 2010, 7:03 am /
Published: June 08, 2010, 12:30 am
The New York Legislature needs to hurry up and pass a law that would tell natural gas drillers to slow down.

Two versions of one very simple bill—one before the Assembly and another introduced in the Senate—would impose a moratorium on the issuance of any state permits for a certain kind of gas-drilling technique with the suitably frightening moniker “hydro-fracking.”

It may not be as scary as it sounds. Or it may be worse. That’s why the Legislature would be wise to tell the state’s Department of Environmental Conservation to put a hold on any permits for such an operation until 120 days after the federal Environmental Protection Agency has finished its report on the subject.

Drillers now have their eyes on a method to get to more underground deposits of natural gas, via fewer surface-level wellheads, by drilling sideways and pushing large volumes of water and other chemicals under high pressure through their pipes to break up the rock and release the gas.

It is a process that has been used for decades, but mostly in other states with different types of geologic properties. The reasonable fear of environmental activists in New York is that applying the process to the Marcellus and Utica shale formations could not only cause serious pollution to the area's sources of drinking water but also release dangerous amounts (like there's such a thing as a safe amount) of naturally occurring radioactive material.

Last week's 16-hour blowout of a natural gas well northeast of Pittsburgh, which spewed gas and polluted water 75 feet into the air before crews could bring it under control Friday, only emphasizes those concerns. Pennsylvania, which has rushed to tap into trapped Marcellus shale gases, will launch a full investigation of that incident.

Unearthing all the natural gas that we believe is hiding down there is an attractive proposition. The stuff burns cleaner than oil or, certainly, coal. It doesn't have to be imported from countries that don't like us. It would provide cash income for landowners who lease their property and jobs for those who dig the wells.

But there is clearly no hurry. And, even more clearly, reason for caution.

Another kind of digging, the kind done by the journalists who work for such operations as the nonprofit Web-based ProPublica, suggests that hydro-fracking has caused a lot of serious contamination of soil and water. The concerns have been enough to move EPA to take a fresh look at the matter and prompted some members of Congress to want to reconsider the Bush-era laws that exempted hydro-fracking from federal oversight.

As wonderful as it could be to have a homegrown source of natural gas, the gas will be burned up. The pollution will stay behind.

Buffalo voters have some extra say in the matter, as our Sen. Antoine Thompson is the chairman of the Senate's Environmental Conservation Committee. As such, we should use our influence on him, and he should use his influence on the committee, to move this legislation along.

For those who are tempted to leave the matter to the experts who drill for gas, or to the government agencies that oversee them, we have two letters for you.

AIR

Stormy Weather (*Washington Times*)

Clouds are gathering. The Senate votes on Resolution 26 on Thursday, a disallowance resolution proposed by Sen. Lisa Murkowski, Alaska Republican, meant to strip the

Environmental Protection Agency (EPA) of its power to regulate greenhouse gas emissions without legislative accountability.

"The EPA regulations are based on pure junk science and will destroy our economy," says meteorologist Brian Sussman, author of "Climategate: A Veteran Meteorologist Exposes the Global Warming Scam."

"All it will require is a simple majority in the Congress to strip this draconian power away from the EPA. Passage of Murkowski's resolution will be a huge victory for Americans and a giant loss for the White House. The only way the EPA would be able to regain their power to regulate greenhouse gases would be if the Senate cap-and-trade bill were to pass and that will require 60 votes," Mr. Sussman adds.

For White and Perry, EPA an Issue in Texas Election (*The State Column*)

Tuesday, June 8, 2010
Texas is living up to its motto when it comes to the Environmental Protection Agency.

And it is just in time for election season.

Last month the EPA warned that Washington would begin administering Texas air permitting unless the state began complying with the Clean Air Act.

The announcement set off a political firestorm in a year that has been especially unkind to Washington policies.

Texas Governor Rick Perry, a Republican running for re-election against former Houston Mayor Bill White, decried the EPA's "Draconian policies and zealous actions."

Mr. Perry said the federal government "flexed its muscles yet again and sent a very clear message that it will just not tolerate any divergence from its own policies -- period."

"Under this program," Perry said, "Texas has been among the nation's leaders in cleaning the air." Mr. Perry is backed by Texas officials and industry attorneys who say EPA is overreaching.

Predictably, this has served a divider on the campaign trail.

Politicos have noted that the current dispute has added fuel to the fire that is the Perry-White gubernatorial race.

Mr. Perry has used the move by the Obama administration to paint Mr. White as past of Washington. On the other side, Mr. White has seized on the issue in an opportunity to cut into the Texas governor’s lead.

"Bill White, an oil and gas businessman, will bring back permitting authority to Texas where it belongs," said White campaign spokeswoman Katy Bacon in a statement in response to Perry.

The governor, she said, was trying "to cover up for his own incompetence."

"If Rick Perry really wanted to keep the federal government off our backs," Bacon added, "he would have done something besides hold a press conference."

Murkowski seeks to rein in EPA regulation (*Associated Press*)

Story also appeared: *Los Angeles Times, Orlando Sentinel, Palm Beach Post, Seattle Post Intelligencer*

(AP)
FAIRBANKS, Alaska — U.S. Sen. Lisa Murkowski is the leading sponsor of a resolution that would prevent the Environmental Protection Agency from regulating greenhouse gases under the Clean Air Act.

The Alaska Republican said the EPA regulation of carbon dioxide would have a negative economic impact on her constituents by threatening projects such as the construction of a natural gas pipeline.

"There has been a great deal of misinformation spread about my effort by groups — almost all of which are based outside of Alaska — who want to cut the emissions blamed for climate change no matter what the cost," Murkowski said in a statement.

The resolution, which has 40 co-sponsors, is scheduled for 10 hours of debate Thursday on the Senate floor. Murkowski spokesman Robert Dillon said the resolution is not about debating the science behind climate change; rather, it's about stopping an "out of control" government agency.

Even if the resolution gets through the Senate, it is expected to have a much harder time in the House.

Three Democrats has signed on a co-sponsors of the resolution. Sen. Mark Begich, D-Alaska, is not one of them.

Begich spokesman Max Croes said the senator received assurances that the agency will not begin regulating large greenhouse gas emitters until late 2011, and those that put less than 75,000 tons of carbon dioxide into the air will not be regulated until 2016 at the earliest.

"In the long run, EPA regulation will not be the most cost-effective way of addressing the problem," Croes said. "The timeline presented by the administrator allows Congress to

make considered decisions to balance climate change remedies with their effect on our economy. (Begich) supports congressional legislation which can more effectively balance these two concerns."

Dillon contends even delayed regulation would hurt the economy. And, he added, the U.S. acting alone can do little to stop global warming.

"The key is that it has to be global," he said. "Unless every country agrees to cut emissions, it doesn't matter we do as a country."

June 7, 2010

Texas-EPA Feud Over Air Pollution Permits Gets Loud and Political (*New York Times*)

Story also appeared: *Greenwire*

By ROBIN BRAVENDER of Greenwire
A long-simmering dispute between the Obama administration and Texas over the state's air-pollution permitting program is boiling over, just in time for the gubernatorial race.

Al Armendariz, the administrator of U.S. EPA's Region 6 office in Dallas, warned last month that Washington would take over Texas air permitting unless the state starts complying with the Clean Air Act. This came on the heels of EPA revoking a state permit for a Corpus Christi power plant and threatening 39 other permits (Greenwire, May 27).

"We have to get good air quality permits issued in Texas, and either the state of Texas does it, or I'll have to," Armendariz told The Houston Chronicle. "I'm hopeful that the state will correct the deficiencies and stay as the permitting authority in the state of Texas."

Armendariz's blast was answered by Gov. Rick Perry, a Republican running for re-election against former Houston Mayor Bill White (D). Decrying EPA's "Draconian policies and zealous actions," Perry said the federal government "flexed its muscles yet again and sent a very clear message that it will just not tolerate any divergence from its own policies -- period."

At the heart of the dispute is an air permitting program that Texas has run since 1995 without the EPA approval required by the federal Clean Air Act for letting states oversee pollution regulations. The Obama EPA has been warning Texas since last year that it needed to make changes in that program or face a federal takeover.

A major sore point: Texas' use of "flexible permits," which set umbrella emission caps at groups of facilities instead of smokestack-specific limits. EPA maintains the Clean Air Act prohibits those flexible permits, which it contends allows facilities to pollute the air at levels that would be unacceptable in any other state. But Texas officials insist their sitewide caps have helped slash emissions, dropping ozone levels 22 percent and nitrogen oxide emissions 46 percent since 2000.

"Under this program," Perry said, "Texas has been among the nation's leaders in cleaning the air."

Perry is backed by Texas officials and industry attorneys who say EPA is overreaching.

"Unfortunately, the federal government -- after failing to act on our rules for some 15 years -- has decided that instead of working with us, they would just tell us how to run our state-delegated program, or else," said Buddy Garcia, a Perry appointee to the Texas Commission on Environmental Quality, a sprawling agency with 2,980 employees, 16 regional offices, and a $539.1 million operating budget.

Texas runs the largest air permitting program in the country, according to TCEQ, with about 52,000 active New Source Review permits at 28,000 sites and about 1,600 operating permits at 1,400 sites. The air permitting program has a budget for the next two years of about $10 million, said a TCEQ spokeswoman.

Eric Groten, an industry attorney at Vinson Elkins in Austin, said the struggle is "entirely about form over substance." EPA, he said, is looking at one set of concerns but is "losing sight of the fact that, overall, Texas' programs are very restrictive."

On the other side are Democrats like Rep. Eddie Bernice Johnson, who while conceding that there had been improvements, asserted that the state's air is still filthy. "Texas," she said in a statement, "has one of the worst air quality and ozone problems in the country."

Added Neil Carman, air program director for the Sierra Club's Texas chapter, "We've been waiting for 15 years for the EPA to get Texas to clean up its act."

Perry-White race

Observers say the Perry-White gubernatorial race has fueled an escalation of the Texas-EPA dispute.

Groten said the race "tends to change the nature of the dialogue from one between well-intentioned federal and state bureaucrats" to one "that's in the megaphone of the newspapers and among elected officials dueling with each other."

Meanwhile, Perry has used the conflict to blast the Obama administration. "Their reaction is part of a continuing and troubling pattern in which Washington isn't happy unless they are in total control of everything, from health care to unemployment benefits to the education of our children," Perry said at the news conference Wednesday. "This administration seems to think that it's their way or the highway."

On the other side, Democrat White is looking to gain some political advantage in the conflict.

"Bill White, an oil and gas businessman, will bring back permitting authority to Texas where it belongs," said White campaign spokeswoman Katy Bacon in a statement in response to Perry.

The governor, she said, was trying "to cover up for his own incompetence."

"If Rick Perry really wanted to keep the federal government off our backs," Bacon added, "he would have done something besides hold a press conference."

A May University of Texas/Texas Tribune poll showed Perry leading White by 9 percentage points -- 44 percent to 35 percent. A Rasmussen poll conducted last month showed Perry with a 13-point lead, with 51 percent supporting Perry and 38 percent backing White.

That the confrontation is coming now explains the rhetoric but does not do justice to a long-running disagreement, said Ilan Levin, a senior attorney for the nonprofit Environmental Integrity Project.

"The political rhetoric has to do with the fact that it's an election year so this issue has become a political football," Levin said. "But this has been brewing for years. This is not something new and EPA's actions recently are no surprise."

'The last thing EPA wants to do'

Despite the political uproar, most expect EPA and Texas to settle their differences before the federal government seizes the program.

Bill Becker, executive director of the National Association of Clean Air Agencies, whose members are state and local regulators, said it is unusual for EPA to take over a state air program.

"Some states return programs or threaten to return programs because those programs are too difficult or too costly to implement," Becker said. "That is a rare occasion, but it has happened."

Becker said Idaho briefly handed over its air program to EPA voluntarily in the 1980s, in part because of concerns about high costs. However, he added, the switch ended up

being even more expensive because EPA was forced to pay contractors more than state employees would have earned.

In such situations, EPA could likely use federal grant money slated for state permitting programs, Becker said, but would probably end up having to pay additional costs.

Industries with air permits also prefer dealing with the state, he said, partly because states have a better understanding of day-to-day implementation issues.

"I think the last thing that EPA wants to do is take over a state's permitting program," Becker said.

But he added, "There needs to be a credible threat by the federal government when a level of government is unable or unwilling to administer its program, and it sounds as though EPA is reaching that point."

Still, Texas officials say they are working on an expedited schedule to adopt new rules aimed at addressing EPA concerns, TCEQ Executive Director Mark Vickery said at Perry's press conference last week.

Despite the conflict, Vickery said, "I'm eager to get back to the drawing board and have constructive law- and science-based discussions with EPA -- these discussions that should have been finished 16 years ago."

Monday, June 7, 2010, 2:40pm PDT

California, AG Brown favor tougher EPA standards (*Sacramento Business Journal*)

California Attorney General Brown Jerry Brown is in favor of much-stricter federal vehicle emission standards that would save almost 2 billion barrels of oil and curb greenhouse gas emissions by about 1 billion tons, filing a motion to support the effort.

Brown, who is a Democratic gubernatorial candidate, filed a motion in the U.S. Court of Appeals in support of the U.S. Environmental Protection Agency, which is facing a legal fight with energy companies and other industries challenging much-tougher emission standards starting in 2012.

“The thousands of barrels of oil spilling in the Gulf of Mexico each day are a graphic reminder that we need to cut oil consumption in California,” Brown said in a news release Monday. “These regulations would do that, as well as vastly reducing pollution from tailpipe emissions.”

If approved by the court and enacted, the new EPA standards would also save consumers between $130 and $180 a year in fuel costs — and $240 billion nationwide for vehicles built from 2012 through 2016.

But numerous companies — including Massey Energy Co. Rosebud Mining Co., National Cattlemen's Beef Association and the Industrial Minerals Association of North America — have challenged the EPA requirements.

California has been a longtime environmental leader, with numerous laws aimed to cut greenhouse missions. Brown filed the motion Monday on behalf of himself, Gov. Arnold Schwarzenegger, the state Air Resources Board and 12 other states — Delaware, Illinois, Iowa, Maine, Maryland, Massachusetts, New Mexico, New York, Oregon, Rhode Island, Vermont and Washington.

Texas-EPA permit feud gets loud and political (*Greenwire*)

(06/07/2010)
Robin Bravender, E&E reporter
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Al Armendariz, the administrator of U.S. EPA's Region 6 office in Dallas, warned last month that Washington would take over Texas air permitting unless the state starts complying with the Clean Air Act. This came on the heels of EPA revoking a state permit for a Corpus Christi power plant and threatening 39 other permits (Greenwire, May 27).

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State Bid For Stricter NOx Cap In Senate Emissions Bill Could Spark Fight (*Inside EPA)*

Posted: June 7, 2010
BALTIMORE -- Northeast and Mid-Atlantic state air officials are urging Sen. Thomas Carper (D-DE) to tighten the nitrogen oxide (NOx) caps in his bill to create a multipollutant cap-and-trade emissions program, but the push could spark a fight with Midwestern senators opposed to more stringent pollution limits, sources say.

Carper's office appears receptive to the push and has already asked EPA for an additional analysis of the costs and benefits of a stricter NOx cap that could help make the case for altering the bill, S. 2995, according to state sources. An agency spokesman told Inside EPA in a June 4 statement, “EPA has received a request from Senator Carper to analyze S. 2995. We are in the process of conducting that analysis.”

At the Ozone Transport Commission's (OTC) annual meeting here June 3, state officials said they want Carper to ratchet down the NOx limit in the bill that currently would set a cap of 1.39 million tons of NOx from 2012-2014. They want a lower limit of 900,000 tons during that period, in order to further cut NOx -- a precursor to ozone formation -- and help them reduce ozone levels in order to comply with EPA's proposed stricter ozone standard.

OTC, which represents Northeast and Mid-Atlantic air officials, further wants Carper to accelerate the implementation schedule for his legislation, which would also set a cap on sulfur dioxide (SO2) emissions and a strict limit on mercury emissions. OTC also wants to amend the bill to give EPA authority to accelerate the target years for achieving specific pollution reduction goals, if the agency believes that such a change is warranted.

Broadly, the OTC region states are trying to amend the bill to toughen the NOx limits and accelerate the schedule for those emission cuts, which could give the states a major boost in reducing ozone and meeting EPA air standards.

Cap-and-trade programs allow companies to either install controls to cut emissions or buy emission credits to comply with the cap. Carper's bill as introduced with Sen. Lamar Alexander (R-TN) sets a 3.5 million ton cap on SO2 emissions beginning in 2012, dropping to two million tons in 2015 and 1.5 million tons in 2018.

For NOx emissions the bill would set different caps for Eastern and Western states. Western states would face a cap of 510,000 tons in 2012, dropping to 320,000 tons by 2020. Eastern states would be subject to a 1.39 million ton cap in 2012, tightening to 1.3 million tons by 2020. Combined, the two emission trading markets would reduce NOx levels by 53 percent -- from 3 million tons in 2008 to 1.6 million tons in 2015, Carper's website says.

The bill is designed as a replacement for the Bush EPA's Clean Air Interstate Rule (CAIR), a cap-and-trade program for NOx and SO2 emissions that the U.S. Court of Appeals for the District of Columbia Circuit remanded back to the agency due to what it said were flaws in the rule's trading program. The Obama EPA is poised to soon propose its Clean Air Transport Rule to replace CAIR, which is also expected to be a cap-and-trade program.

At the OTC meeting, the group's Executive Director Anna Garcia said that the NOx cap in Carper's bill “seems to match what is in CAIR and we have said repeatedly that is not adequate.”

One informed source says that Carper's office has told OTC states they are receptive to lowering the NOx cap, saying the senator's staff have asked EPA for a cost-benefit analysis of a tighter NOx limit, and the analysis should be available within two months. EPA did not respond to a request for comment by press time.

However, any effort by Carper to tighten the NOx cap beyond the levels in the introduced version of the bill would likely face strong resistance from Midwestern senators, according to the source.

Midwestern states have historically been less receptive to mandates for sharp cuts in NOx and other emissions from coal-fired power plants, given the high number of plants

in the region. Additionally, air pollution tends to drift from the West to the East, giving Eastern states a potentially higher pollution problem than in the West.

Sen. James Inhofe (R-OK), ranking member on the Environment & Public Works Committee (EPW), has said he is open to supporting a multipollutant bill. Given a lull in negotiations over a climate bill, Inhofe and other Republicans are trying to put fresh momentum behind Carper's bill while trying to soften key provisions.

A Republican EPW aide has said that the GOP is not necessarily concerned about the stringency of the mercury provisions in the Senate legislation -- which require a 90 percent reduction -- but it believes that utilities need more flexibility in meeting the requirements than the legislation currently offers.

Republicans also believe the bill should acknowledge the co-benefits that the stringent NOx, SO2 and mercury caps in the bill will have in cutting other toxic emissions, due to concerns that after the bill's enactment EPA could pursue new Clean Air Act rules to cut non-mercury toxic emissions from utilities, the aide says.

GOP Support On Tighter Cap Unclear

It is unclear whether Inhofe could support a tightening of the NOx cap beyond that which was proposed in the introduced version of the legislation, and Inhofe's spokesman did not respond to a request for comment.

Still, Inhofe said in a June 3 statement on EPA's just-finalized stricter SO2 national ambient air quality standard (NAAQS) that Carper's bill would be better than a slew of additional agency air rules.

While saying the SO2 standard would stifle economic growth, Inhofe added, “I have supported [three-pollutant (3P)] legislation to reduce real pollutants, legislation that guarantees emissions reductions, provides health benefits and brings certainty for industry. Congress must address the overlapping and confusing suite of EPA air regulations that will spawn a wave of litigation instead of advancing environmental progress.”

Carper meanwhile issued a June 3 statement saying he supports EPA's SO2 standard but, “Unfortunately, states don't have every tool at their disposal to make that happen. I believe we need new clean air legislation to help states meet this new standard -- federal legislation like my three-pollutant bill that tightens the national emissions cap on the largest national sulfur dioxide emitter, fossil-fuel power plants.” Carper said that his legislation would mandate specific power plant pollution cuts that “will help states meet these new standards more successfully.”

Meanwhile, Garcia said at the group's meeting that states in the region are satisfied with the bill's SO2 limits. But OTC wants to see the legislation's schedule for implementation accelerated, Garcia said, though she declined to elaborate further on proposed new

timelines or whether it should be for all three regulated pollutants -- NOx, SO2 and mercury.

Garcia said OTC would also like EPA to have authority to accelerate compliance dates after the bill takes effect, though she did not elaborate or say whether this would be for NOx, SO2 and mercury.

EPA Readies CAIR Replacement

Garcia also said that OTC intends to closely scrutinize EPA's proposed CAIR replacement, due for imminent release, to assess how the SO2 and NOx limits marry up with or differ from Carper's bill.

Joseph Goffman, senior EPA counsel, said at the meeting that the agency will “soon” release the proposal. The White House Office of Management & Budget received EPA's proposed Clean Air Transport Rule April 26, and EPA's website says the agency intends to publish the proposal in the Federal Register this month.

Goffman said that EPA is anxious with the CAIR replacement to avoid the legal troubles that led to the D.C. Circuit remanding CAIR to the agency. The court found that under the Bush-era rule it was not possible to quantify emissions from one state impacting others -- which is required under the air act's section 110(a)(2)(D) to determine when a “significant contribution” to one state's failure to attain EPA's NAAQS is made by another state.

The upcoming proposal “will very much reflect our careful reading of the D.C. Circuit's opinion,” Goffman said. The preamble to the new rule will include “a pretty lengthy discussion” of the court's opinion and the steps EPA has taken to address what the court found were legal flaws in the Bush-era CAIR trading program.

Some state officials at the meeting expressed concern over fresh burdens in having to implement EPA's Clean Air Transport Rule, saying they are already having to invest resources in preparing state implementation plans (SIPs) for existing agency air standards. SIPs are air quality blueprints that detail how states intend to attain NAAQS. Goffman said EPA will work with states to try and resolve these implementation concerns. -- Stuart Parker

BP SPILL

BP had a history of problems (*Washington Post*)

June 8, 2010 Tuesday
Suburban Edition

A-SECTION; Pg. A01
Maryland
BP had a history of problems;
Internal inquiries show firm continued to ignore safety, environmental rules
By Abrahm Lustgarten and Ryan Knutson
ProPublica

A series of internal investigations over the past decade warned senior BP managers that the oil company repeatedly disregarded safety and environmental rules and risked a serious accident if it did not change its ways.

The confidential inquiries, which have not previously been made public, focused on a rash of problems at BP's Alaska oil-drilling operations. They described instances in which management flouted safety by neglecting aging equipment, pressured employees not to report problems and cut short or delayed inspections to reduce production costs.

Similar themes about BP operations elsewhere were sounded in interviews with former employees, in lawsuits and little-noticed state inquiries, and in e-mails obtained by ProPublica. Taken together, these documents portray a company that systemically ignored its own safety policies across its North American operations -- from Alaska to the Gulf of Mexico to California and Texas. Executives were not held accountable for the failures, and some were promoted despite them.

Tony Hayward has committed himself to reform since becoming BP's chief executive in 2007. Under him, the company has worked to implement an operating safety system to create "responsible operations at every BP operation," said Toby Odone, a company spokesman. BP has used the system at 80 percent of its operations and expects to bring it to the rest by the end of the year, he said.

Odone said the notion that BP has ongoing problems addressing worker concerns is "essentially groundless."

Because of its string of accidents before the April 20 blowout in the Gulf of Mexico, BP faced a possible ban on its federal contracting and on new U.S. drilling leases, several senior former **Environmental Protection Agency** department officials told ProPublica. That inquiry has taken on new significance in light of the oil spill in the gulf. One key question the **EPA** will consider is whether the company's leadership can be trusted and whether BP's culture can change.

The reports detailing the firm's Alaska investigations -- conducted by outside lawyers and an internal BP committee in 2001, 2004 and 2007 -- were provided to ProPublica by a person close to the company who thinks it has not done enough to fix its shortcomings.

A 2001 report noted that BP had neglected key equipment needed for an emergency shutdown, including safety shutoff valves and gas and fire detectors similar to those that

could have helped prevent the fire and explosion on the Deepwater Horizon rig in the gulf.

A 2004 inquiry found a pattern of the company intimidating workers who raised safety or environmental concerns. It said managers shaved maintenance costs by using aging equipment for as long as possible. Accidents resulted, including the 200,000-gallon Prudhoe Bay pipeline spill in 2006 -- the largest spill on Alaska's North Slope -- which was blamed on a corroded pipeline.

Similar problems surfaced at BP facilities in California and Texas.

California officials alleged in 2002 that the company had falsified inspections of fuel tanks at a Los Angeles area refinery and that more than 80 percent of the facilities didn't meet requirements to maintain storage tanks without leaks or damage. Inspectors had to get a warrant before BP allowed them to check the tanks. The company eventually settled a lawsuit brought by the South Coast Air Quality Management District for more than $100 million.

Three years later, a Texas City refinery exploded, killing 15 people. An investigation found that a warning system failed, and independent experts found that "significant process safety issues exist at all five U.S. refineries, not just Texas City."

BP spokesman Odone said that after the accident, the company adopted a plan to update its safety systems worldwide. But last year, the Occupational Safety and Health Administration fined the firm $87 million for not improving safety at that same Texas plant.

'Environmental criminal'

BP has had more high-profile accidents than any other company in recent years. And now, with the disaster in the gulf, independent experts say the pervasiveness of the company's problems, in multiple locales and different types of facilities, is striking.

"They are a recurring environmental criminal and they do not follow U.S. health safety and environmental policy," said Jeanne Pascal, a former **EPA** lawyer who led its BP investigations. Since the late 1960s, the company has pulled oil from under Alaska, usually without problems. But when it pleaded guilty in 1999 to illegal dumping at an offshore drilling field there, it drew fresh scrutiny and set off a cycle of attempted -- and seemingly failed -- reforms that continued over the next decade.

To avoid having its Alaska division debarred -- the official term for a contract cancellation with the federal government -- the firm agreed to a five-year probationary plan with the **EPA.** BP would reorganize its environmental management, establish protections for employees who speak out about safety issues, and change its approach to risk and regulatory compliance.

Less than a year later, employees complained to an independent arbitrator that the company was letting equipment and critical safety systems languish at its Greater Prudhoe Bay drilling field. BP hired independent experts to investigate.

The panel identified systemic problems in maintenance and inspections -- the operations that keep the drilling in Prudhoe Bay running safely -- and warned BP that it faced a "fundamental culture of mistrust" by its workers.

"There is a disconnect between GPB management's stated commitment to safety and the perception of that commitment," the experts said in their 2001 report.

The report said that "unacceptable" maintenance backlogs ballooned as BP tried to sustain North Slope profits despite declining production. The consultants concluded that the company had neglected to clean and check valves, shutdown mechanisms and detection devices essential to preventing explosions.

In May 2002 -- less than seven months later -- Alaska state regulators warned BP that it had failed to maintain its pipelines. Alaska struggled for two years to make the firm comply with state laws and clear the pipeline of sedimentation that could interfere with leak detection.

Soon after, BP hired another team of outside investigators to look into worker complaints on the North Slope. The resulting 2004 study by the law firm Vinson & Elkins warned that pipeline corrosion endangered operations.

It also offered a harsh assessment of BP's management of employee concerns. According to the report, workers accused the company of allowing "pencil whipping," or falsifying inspection data. The report quoted an employee who said employees felt forced to skip key diagnostics, including pressure testing, pipeline cleaning and corrosion checks.

The report said that Richard Woollam, the manager in charge of corrosion safety in Alaska at the time, had "an aggressive management style" and subverted inspectors' tendency to report problems. "Pressure on contractor management to hit performance metrics (e.g. fewer OSHA recordables) creates an environment where fear of retaliation and intimidation did occur," it said. Woollam was soon transferred.

More accidents

Two years later, in March 2006, disaster struck. More than 200,000 gallons of oil spilled from a corroded hole in the Prudhoe Bay pipeline. Inspectors found that several miles of the steel pipe had corroded to dangerously thin levels.

When Congress held hearings later that year, Woollam pleaded the Fifth Amendment. He now works in BP's Houston headquarters. Reached at his Texas home last week, he referred questions to the BP media office, which declined to comment.

In August 2006, just five months after the Prudhoe Bay spill, a pipeline safety technician for a BP contractor in Alaska discovered a two-inch snaggletoothed crack in the steel skin of an oil transit line. Nearby, contractors ground down metal welds, sending sparks across the work site. Technician Stuart Sneed feared that the sparks could ignite stray gases, or that the work could worsen the crack, so he ordered the contractors to stop working.

"Any inspector knows a crack in a service pipe is to be considered dangerous and treated with serious attention," he told ProPublica.

Sneed said he thought the Prudhoe Bay disaster had made BP management more amenable to listening to worker concerns about safety. The company had replaced its chief executive for North America with Robert Malone, who focused on reforming BP's culture in Alaska.

But instead of receiving compliments for his prudence, Sneed -- who had also complained that week that pipeline inspectors were faking their reports -- was scolded by his supervisor, who hadn't inspected the crack but believed it was superficial, according to a report from BP's internal employer arbitrators.

The next day, the report said, that supervisor criticized Sneed at a staff briefing, then solicited complaints from colleagues that could be used to justify Sneed's firing. Two weeks later, Sneed was gone.

During the investigation, BP inspectors substantiated Sneed's concerns about the cracked pipe. The arbiter also confirmed his account of what happened when he reported the problem. His dispute with the company is unresolved.

The following year saw another BP shakeup. The company had replaced its chief executive of Alaskan operations with Doug Suttles -- who is now in charge of offshore operations and cleanup of the gulf disaster. In May 2007, it also named Hayward its new global chief executive.

But worker harassment claims continued in Alaska and elsewhere, and more problems with the Alaska pipeline systems emerged.

In September 2008, a section of a gas line on the slope blew apart. A 28-foot-long section of steel -- the length of three pickup trucks -- flew nearly 1,000 feet through the air before landing on the Alaskan tundra. Sneed had raised concerns about the integrity of segments of the gas line system.

Three more accidents rocked the same system of pipelines and gas compressor stations in 2009, including a near-catastrophic explosion. According to a letter that members of Congress sent to BP executives, obtained by ProPublica, the near-miss resulted from malfunctioning safety and backup equipment.

Odone said that BP is continuing to roll out a company-wide operating management system to help track and implement maintenance. He said the company reduced corrosion and erosion-related leaks in Alaska by 42 percent between 2006 and 2009.

Noncompliance

As BP battled through the decade to avoid accidents in Alaska, another facility operating under a different business unit, BP West Coast Products, had similar problems.

For years, the subsidiary that refined and stored crude oil was allowed to inspect its own facilities for compliance with emission laws under the South Coast Air Quality Management District, the agency that regulates air quality in Los Angeles.

In 2002, inspectors with the management district thought BP's inspection results looked too good to be true. Between 1999 and 2002, BP's Carson Refinery had nearly perfect compliance, reporting no tank problems and making virtually no repairs. The district suspected that BP was falsifying its inspection reports and fabricating its compliance.

According to Joseph Panasiti, a lawyer for the management district, the agency had to get a search warrant to conduct inspections required by state law. When the regulators finally got in, they found equipment in a disturbing state of disrepair. According to a lawsuit the management district later filed against BP, inspectors discovered that some tanker seals had extensive tears, tank roofs had pervasive leaks and there were enough major defects to lead to thousands of violations.

"They had been sending us reports that showed 99 percent compliance, and we found about 80 percent noncompliance," Panasiti said.

The district sued BP for $319 million. After lengthy litigation, the firm agreed to pay more than $100 million without admitting guilt. Colin Reid, the plant's operations manager, was later promoted to a vice president position in the United Kingdom. He recently left BP and did not respond to requests for comment.

Allegations that BP or its contractors falsified safety and inspection reports are a recurring theme. Similar allegations were attributed to workers in 2001 and 2004 internal reports on Alaska, but the internal auditors did not confirm that fraud had occurred.

Among the safety equipment that BP was criticized for not having in place in its Alaska facilities, according to its own 2001 operational integrity report, were gas and fire detection sensors and emergency shutoff valves.

Now investigators are learning that similar sensors and their shutoff systems were not operating in the engine room of the Deepwater Horizon rig that exploded in the gulf.

In testimony before a Deepwater Horizon joint investigation panel in New Orleans last month, Deepwater mechanic Douglas Brown said that the backstop mechanism that should have prevented the engines from running wild apparently failed -- and so did the air-intake valves that were supposed to close if gas entered the engine room.

He said the engine room wasn't equipped with a gas alarm system that could have shut off the power.

Minutes later, the rig exploded in a ball of fire, killing 11 workers before sinking to the seafloor, where it left a gaping well pipe that continues to gush oil and gas.

ProPublica director of research Lisa Schwartz and researcher Sheelagh McNeill contributed to this report. For additional information and documents, see www.propublica.org/bpdocs.

Calls Grow For Stronger TSCA Oversight For Dispersant Chemicals (*Inside EPA*)

Posted: June 7, 2010
Controversy surrounding EPA approval of dispersant chemicals to break up the Gulf of Mexico oil spill is prompting calls for stricter oversight of the practice under the Toxic Substances Control Act (TSCA), with a key Democratic senator urging EPA to exercise its existing authority to release more data on the chemicals and environmentalists pushing for TSCA reform legislation to expand the agency's powers.

EPA already requires toxicology and effectiveness tests for all dispersants approved under the National Oil and Hazardous Substances Pollution Contingency Plan, which provides a blueprint for federal government responses to oil and hazardous substance spills. But environmentalists and others have raised concerns after EPA approved use of dispersants to address the BP spill in the Gulf, charging that the agency approved the dispersants despite major uncertainties about the chemicals' long-term impacts on aquatic life and deepwater ecosystems.

Despite the criticisms, a scientific panel of federal officials, industry and academics is recommending continued use of chemical dispersants in the Gulf. The panel released a report on the use of dispersants following a May 26-27 meeting at the University of New Hampshire's Coastal Response Research Center.

The research panel is trying to more accurately calculate the risk tradeoffs that EPA has acknowledged from the outset are inherent in using dispersants to prevent oil slicks from forming on the Gulf's surface, and to provide tools for continuous evaluation of that tradeoff as the spill continues. The report acknowledges that dispersants should not be the top choice for responders, recommending an emphasis on skimming or in situ

burning to contain surface oil slicks. EPA has taken a similar approach by ordering BP to dramatically cut its dispersant use in favor of those techniques.

“Use of the dispersants and the effects of dispersing oil into the water column has generally been less environmentally harmful than allowing the oil to migrate on the surface into sensitive wetlands and near shore coastal habitats,” the group’s report said.

In a June 4 statement, Corexit manufacturer Nalco said the federally funded panel “has found dispersants environmentally helpful” in minimizing the amount of the spill reaching shorelines.

And EPA Administrator Lisa Jackson is arguing that the dispersants -- which act like dish soap to break up oil slicks and distribute oil particles throughout the water to help prevent the oil from reaching coastlines and sensitive ecosystems -- are less harmful than the oil.

But environmentalists are calling for the dispersants to go through stricter testing prior to their approval and use. A source with the environmentalist group Gulf Restoration Network told Inside EPA recently that revised EPA rules should require dispersants to go through more rigorous testing before they are approved.

Require Tests

EPA should require tests that mimic real world situations and test a wider range of applications, including surface spraying, application by plane and application at the leak site. EPA should also require dispersant tests on a wider range of organisms, including coral, shrimp and oysters, as well as deepwater and benthic organisms, the source says.

Some environmentalists are already threatening litigation over the use of dispersants. For example, the Center for Biological Diversity in a June 2 notice of intent said it would sue EPA and the Coast Guard within 60 days if the agencies do not take action to address the risks of dispersants on endangered species.

The Safer Chemicals, Healthy Families coalition of environmental and public health groups is also planning to hold a June 10 teleconference arguing that limitations of the “outdated” TSCA mean that EPA had only limited authority to test the toxicity of dispersants being used on the spill, even though that limited testing shows that dispersants being used are neither the least toxic nor most effective option, according to a June 7 press notice from the coalition.

“In addition, under current law the dispersant ingredients are allowed to remain secret despite their use in unprecedented quantities, and in ways never anticipated by regulators,” the group adds.

They intend to use their teleconference to argue that the TSCA reform bill introduced by Sen. Frank Lautenberg (D-NJ) and a similar draft House bill floated by Reps. Henry Waxman (D-CA) and Bobby Rush (D-IL) could “help us avoid having to rely in future emergencies on mystery dispersants that have not been proven safe,” according to the statement.Meanwhile, Sen. Kirsten Gillibrand (D-NY) believes EPA already has some authority under TSCA to mandate greater disclosure on the potential health and ecological risks of dispersants. Gillibrand sent a June 4 letter to EPA Administrator Lisa Jackson asking the agency to use its TSCA authority to release more data on dispersants to better protect exposed spill workers, particularly under section 14 of the law. Gillibrand argues that section 14(a)(3) of TSCA gives the agency power to disclose data on dispersants’ risk if it determines it to be “‘necessary to protect health or the environment against an unreasonable risk of injury to health or the environment.’ Given the very serious health and environmental concerns associated with exposure to these chemicals, I believe it is essential that this information be made public without delay.”

Gillibrand’s letter draws parallels between exposure to dispersants in the Gulf and exposure by first responders to hazardous substances immediately after the Sept. 11, 2001 terrorist attacks, warning of possible links between long-term exposure to dispersants and damage to the central nervous system, blood, lungs and kidney.

“In order to understand the impacts of their application, and protect the coast from more devastating damage, EPA must make public this essential information concerning toxicity, efficacy, and human health and ecological risks,” the letter says.

EPA in a statement responds that it has “challenged” BP and several dispersant makers to provide more information about the chemicals to the public, a move that EPA says has resulted in the release of new data on the use and components of the chemicals -- including the Corexit brand of dispersant manufactured by Nalco that BP is using for the Gulf of Mexico oil spill, which some critics have said is more toxic than alternatives.

“In response to our strong urging, Nalco has released the constituents of their product, Corexit, and we encourage other companies to do the same so Americans can get a full picture of the potential environmental and health impacts of these dispersants,” EPA says in the statement.

EPA also ordered BP May 24 to cut its use of Corexit dispersants by as much as 75 percent after the company rejected an earlier directive to identify and use a less toxic brand. EPA asked BP to scale back surface application of dispersants because initial tests show subsurface use is effective at lower quantities than surface use. The agency is also conducting air and water monitoring to assess risks from the dispersants. -- Aaron Lovell

Environmental Trustees Fault Vitter Plan To Require NAS Study Of Oil Spill (*Inside EPA*)

Posted: June 7, 2010
Plans by Sen. David Vitter (R-LA) to require a one-year National Academy of Sciences (NAS) study on the long-term "environmental services" impacts of the ongoing oil spill in the Gulf of Mexico is drawing concerns from resource trustees who charge it would interfere with their more in-depth natural resource damage (NRD) assessment, which will form the basis of key state and federal environmental liability claims against BP and other responsible parties.

Vitter introduced an amendment to a supplemental defense appropriations bill May 27 that would have instructed NAS to conduct a one-year study "of the long-term ecosystem service impacts" of the Deepwater Horizon oil spill in the Gulf of Mexico, which has surpassed the 1989 Exxon Valdez oil spill as the largest in American history.

The amendment, along with dozens of other amendments addressing the spill offered as riders for the bill, was tabled before being addressed on the floor, but it could return to the floor when lawmakers take up energy and climate legislation in the coming weeks. Senate Majority Leader Harry Reid (D-NV) last week asked Senate committee chairs to submit legislative language they hope to see in the climate-energy package to address oil spill issues.

But one trustee source says the move to have NAS conduct its own study signals what may be the beginning of an effort by lawmakers sympathetic to the oil and gas industry to undermine the integrity of the ongoing NRD assessment being conducted by trustees, which include federal agencies like the Fish & Wildlife Service and the National Oceanic & Atmospheric Administration (NOAA), as well as states and Indian tribes.

"It lacks credibility, it muddies the waters -- it's highly unlikely that it would help," the source says.

Vitter's office did not return calls seeking comment but the senator has in the past fought vigorously to require NAS reviews of controversial agency studies. Last year, Vitter blocked confirmation of Paul Anastas as EPA's science chief until the agency agreed to allow NAS to review its assessment of the risks posed by formaldehyde. Administrator Lisa Jackson initially refused to allow an NAS study but the agency and the senator eventually agreed to a speedy review, and the senator then lifted his hold.

Under several environmental statutes -- including the Clean Water Act, Comprehensive Environmental Response, Compensation & Liability Act and Oil Pollution Act (OPA) -- natural resource trustees are authorized to conduct a NRDA to determine the extent of damages from harmful releases, interim losses until the damage is addressed as well as assessment costs.

Under OPA, for example, trustees have authority to seek compensation for “the cost of restoring, rehabilitating, replacing or acquiring the equivalent of, the damaged natural resources.” If trustees follow relevant rules for how to assess the damages, they are granted litigation benefits in the form of a presumption that puts the onus on industry to rebut any data in the assessment record.

But quantifying damages is difficult and can often result in multi-billion dollar claims that industry officials balk at even discussing. The result has been an adversarial process that regulators and industry have long sought to avoid, arguing that it leaves the resource damaged for longer.

To address this, resource trustees have been moving to craft assessment rules that favor restoration of the resources’ “lost environmental services,” such as the loss of fish breeding habitat from wetlands, rather than quantifying the damages in monetary terms. NOAA issued a rule adopting this approach for OPA claims during the Clinton administration and the Department of Interior issued a rule adopting this approach for Superfund claims during the Bush administration. Industry has long favored this kind of approach because it broadens the range of options it can propose when negotiating a settlement and can allow them flexibility when implementing the restoration approaches.

Impact Of NAS Study

While the NAS study would not have any official weight -- NAS would not be a trustee, and so their assessment would not be a part of the trustees’ NRDA -- it could have the effect of casting the trustees’ NRDA into doubt or confuse the question of what resources were impacted, how much, and for how long. Part of the problem with an NAS study, the trustee source says, is that NAS typically does not conduct its research at a level of detail and thoroughness that is equal to NRDA research, which often stretches on for years.

“They’re asking these guys to do an NRDA in year, with hours of [research] rather than thousands of hours,” the source added. “It’s highly unlikely that we will know [the scope of NRD damages] within a year.”

A NOAA source agreed, noting that the one-year time frame allowed for NAS in the amendment would be far shorter than a typical NRDA. “A NRDA would probably take much longer than that,” the source said. “Some of these go on for years.”
The issue is further confused because NRD settlements have hardly ever been conducted on an environmental disaster of the size, scope and with as high a profile as the Deepwater Horizon oil spill. Experts have said previously that trustees are in “uncharted territory” when it comes to determining the scope of NRD liability. -- John Heltman

June 8, 2010 Tuesday

HEALTH; Pg. HE06
District-Maryland

Oil spill draws scientists to gulf (*Washington Post*)

Experts share data on environmental impact on flora and fauna
By Bonnie Berkowitz and Rob Stein
DATELINE: REDFISH BAY, LA.
In a strangely silent corner of this usually thriving bay, charter captain Kevin Beach of Metairie says he should be seeing "shrimp, trout jumping, sea gulls . . . and knuckleheads like myself high-fiving over a catch."

Instead, he is seeing serious-minded researchers. Lots and lots of them, quietly collecting samples. They come with glass jars, fiberglass mesh and cameras, ready to gather, label and test samples of the oil and the flora and fauna it threatens -- independent scientists whose work is truth-squadding the crisis as it unfolds, making it impossible for any single source, whether BP or the government, to dominate the flow of information about the giant oil spill in the Gulf of Mexico.

"There are people everywhere doing amazing work to try to understand what's happening," Ian MacDonald, an oceanography professor at Florida State University, said as he drove back to his lab in Tallahassee after spending several days collecting oil samples.

MacDonald, who was among the first to challenge reports about the spill's flow rate, plans to use the samples to help interpret data being collected from satellites, planes and other remote-sensing systems that are tracking the oil. Elsewhere on the gulf, university researchers are striving to identify and draw attention to what they say are vast plumes of oil hovering below the surface.

"If you think of information as a wave, the wave of truth in this calamity is not being driven by the government and government information sources. It's being driven by independent academics who are working under pressure and creatively to get information out," MacDonald said. "It's truly astonishing to see what's happening. The data cloud is so large and so complex, it's beyond the scope of one person to figure it out."

At least for now, the flood of scientists, graduate students and environmental researchers who have descended on the coastal marinas and beaches to get an up-close look at the spill and take the measure of this unprecedented event is an odd silver lining to the dark cloud of oil that threatens the livelihoods of Beach and other charter captains who are within reach of the heaviest slick. Beach typically makes 80 percent of his yearly income from the tourists who come to fish the gulf waters in May, June and July.

"When this thing happened," Beach said of the oil spill, "I had every single day booked through July. Ouch."

Beach said ferrying the scientific crowd is preferable to some of the other makeshift jobs available, and he estimates that he is recouping 60 percent of what he would have made if his boat were booked with tourists.

On a recent trip out of the Venice Marina, Beach took a National Wildlife Federation charter group to observe an oiled marsh, where they met up with MacDonald and other researchers from Florida State taking water samples where oil had managed to get past absorbent booms. The scientists hope the samples will provide clues to what the oil might do when it washes up on the coast of Florida.

Beach said he is making the most of the temporary flood of business from the researchers. But he is not counting on it for long, nor is he savoring it.

MacDonald is part of the Oil Spill Academic Task Force, a consortium of more than 200 scientists at 15 universities in Florida studying the disaster. The task force also has begun working informally with scientists in several other states, including Mississippi, Alabama and Louisiana, and might expand.

"This is so complicated and has so many dimensions. It will take a lot of science to figure out what is happening from a biological point of view, from an oceanographic point of view and from an economic point of view," said W. Ross Ellington, associate vice president for research at Florida State, where the task force is based.

The National Science Foundation has already awarded more than $1.15 million in special grants to scientists from California, Texas, Mississippi, Louisiana, Michigan, Massachusetts and Florida to study a variety of issues related to the environmental effects of the spill and cleanup.

Miriam Rotkin-Ellman, a staff scientist at the Natural Resources Defense Council, an environmental advocacy group, said local environmental groups and scientists were planning to do independent air sample tests because they were concerned that the federal government's monitoring was inadequate.

"There are a number of groups that are really frustrated with the lack of information that is available. There's a big interest from communities and outside scientists to try to get that information and make it available," said Rotkin-Ellman, who has been meeting with residents and advocacy groups in Louisiana. "They plan to go where people are reporting odors and have the level of sensitivity to monitor for substances the EPA is not monitoring for."

MacDonald also expressed frustration about the dearth of information from BP. For example, researchers would like detailed analyses of the oil as it travels from the broken well on the ocean bottom to the surface.

"The place where we know the least is where we want to know the most," he said. "We've never seen anything like this."

Stein reported from Washington.

Declare World War III on oil spill in Gulf of Mexico (*Tampa Tribune*)

By RUSSEL L. HONORE
Special To The Tampa Tribune

We must fight the BP oil spill more like World War III and less like a PR, brand-protection campaign.

Initially, there was too much finger pointing about who was to blame, then who was in charge and then who really is in charge.

The bottom line: BP approves all payments. How much money is paid to fishermen who can't fish? How much is paid to fishing boat crewmen? How much is paid to hotels, restaurants and fishing guides with no customers?

You tell me, who really is in charge? It's like being mugged and allowing the mugger to decide your level of compensation.

Again, we must fight this BP oil spill like WW III. We can start by declaring this a national disaster. The governors need to request this, and the president must approve it. The Stafford Act pays for compensation to people, and the Small Business Administration provides grants.

FEMA provides the governors the things they need to protect the shorelines. The U.S. Coast Guard, the National Guard, along with Department of Defense troops, should be used to help command and control the shoreline and work with each parish, county and major city along the Gulf Coast. All of this needs to be done before the first hurricane.

Remember, Katrina put a 30-foot wall of water on Biloxi, Miss., and created a 17-foot surge in New Orleans. Note the elevation in Tampa is 8 feet, and Miami is 9 feet at its highest point. Any land mass hit with this black tide will be a nightmare scenario.

The USCG and BP have maximum boots on the ground and have a hard time dealing with the Louisiana coast. It will be the same in Mississippi, Alabama and the two sides of Florida. How can we build defenses for hurricane surge along the coast?

We must explore new science to deal with oil in water. Now, BP has the final say on what is used to disperse the oil and mitigate the effects of it. The U.S. Environmental

Protection Agency needs to start testing good ideas based on good science and allow the new products to be tested. I get several e-mails a day from folks with possible solutions; some are EPA-approved. The concepts are sent to the Stephenson Disaster Management Institute at Louisiana State University, then sent to BP. EPA could use the Gulf Coast land grant colleges to do this testing and pick the best of the lot for use.

We must make sure Congress passes laws that say, "If you have a drilling spill, you can be punished in criminal court if you fail to follow the rules." We must make sure oil drilling off our coasts is safe. Our regulatory agency should consist of commissioned officers with direct authority to give fines and close a well on the spot - without BP or any other oil company having the right to appeal.

That said, we must still use every available source for oil until some young genius develops new technology that replaces our dependency on oil for transportation and power, etc. In Louisiana alone, we would lose nearly 20 percent of the state's income if we stop oil exploration.

States that allow offshore drilling need a share of federal oil revenue right now. The federal government gets the majority of the funds. I heard from a friend that Exxon was preparing to add 200,000 jobs in Texas and Louisiana over the next two years until the moratorium took place. So, we need to reduce the risk and have good regulations.

We must treat this like a war, not to scare our people but to ensure them that this government can protect them from potential manmade hazards, combined with the ever-present natural disasters that can make matters worse. Governors must mobilize their states to get ready. The BP oil spill has the potential not only to change our lives in Louisiana but to change our culture. Needless to say, thousands of nature's creatures are dying as a result of neglect, arrogance and loose government regulators.

God Bless, America. If we lost the war in Iraq and Afghanistan, it will not measure up to losing this war to protect our people and environment.

With 1 million gallons of dispersants in Gulf, worries mount (*Fresno Bee*)

Story also appeared: *Lexington Herald-Leader*, *Anchorage Daily News*, *Idaho Statesman, Miami Herald*

Posted at 06:22 PM on Monday, Jun. 07, 2010

WASHINGTON -- Concerns are mounting over the chemical dispersants BP's using to fight the oil spill in the Gulf of Mexico now that over 1 million gallons of the chemicals have been pumped in Gulf waters.

Nonetheless, a federal study says using the dispersants are less harmful to the environment than if the oil reaches shorelines.

"Up to this point, (the) use of dispersants and the effects of dispersing oil into the water column has generally been less environmentally harmful than allowing the oil to migrate on the surface into the sensitive wetlands and near shore coastal habitats," said the report done for the National Oceanic and Atmospheric Administration.

But retired Coast Guard Adm. Thad Allen said Monday that officials are now worried about the toxicity of the chemicals - Corexit 9500 and Corexit EC9527A - and will begin cutting back on their use.

"I believe they're worthwhile. But I think there's enough concern as we approach the million-gallon mark ... regarding the unknown implications of that amount of dispersants," Allen said.

According to the Environmental Protection Agency about 1.08 million gallons of dispersants have been deployed in the Gulf, with 779,000 gallons used on the surface and 303,000 gallons used under the water.

Jerald Ault, a professor at the University of Miami, said Corexit could have "significant" effects on the food chain and on environmental and human heath.

"It's uncharted waters and the magnitudes are so large," Ault said of the potential consequences and of the reports that dolphins and other animals are dying from the chemicals. "Eventually the correlation starts to say, (the animals) weren't dying before and they are dying now. Geez, I wonder what the correlation is."

In a letter to BP's CEO Tony Hayward, officials from Louisiana asked about the unknown effects of dispersants.

"As heads of Louisiana's agencies that oversee public health, environmental quality and wildlife and fisheries ... we have serious concerns about the lack of information related to the use of dispersants in fighting the oil spill at and below the surface of the Gulf of Mexico, and what, if any, impact the dispersants could have on our people, water and air quality," the letter read.

BP replied and sent documents from Nalco - the manufacturer of Corexit - that classified the health and environmental risks as "low," despite the fact that one of the ingredients causes damage to red blood cells and kidneys in laboratory animals

"However, human studies suggest that humans are relatively resistant to any such effects or once the dispersant is applied, it is diluted and broken down in the environment," BP said.

Carys Mitchelmore, a professor with the University of Maryland, noted there has not been adequate research to say if Corexit, or any dispersant, is more harmful than oil. Without the chemicals as a "trade-off," Mitchelmore said, the shorelines would be flooded with oil.

"What you're doing is ... making an environmental trade-off. You're not getting oil coming to those shorelines. What you're doing though, is dispersing that oil down ... down into the ocean where you're going to be killing and impacting the environment there," she said. And the long-term effects are unknown, she added.

The EPA originally approved the use of dispersants on May 10, and BP has defended the use of the chemicals even after the agency began questioning the toxicity levels. Ault said dispersants allow the oil to break down under the water, avoiding a large, and visual sign, of BP's accountablility.

"It's trying to reduce the surface impact," he said. "The reason they are using it is to reduce the obvious visual effect."

Sullivan says GOP will benefit from a backlash in November (*Tulsa World*)

by: RANDY KREHBIEL World Staff Writer
Tuesday, June 08, 2010
First District Congressman John Sullivan said Monday that he is upset about the "socialization" of America and eager to "kick some tail" in Washington, D.C.

"The people in this district are concerned about the federal government taking over our banks, the automobile industry and now our health-care system," the Tulsa Republican told a Tulsa Metro Chamber gathering at the Doubletree Hotel Warren Place.

Sullivan predicts solid gains for the GOP in November but stopped short of saying it would achieve majorities in Congress.

"If the election were held today, Republicans in the House would gain about 65 seats," he said. "We only need 41 (for a majority). If the election were held today, we would take over the United States Senate. The bad thing is, the election ain't today. It's actually going to be a heavy lift to take over that many seats in Congress."

Sullivan himself has no Democratic opponent yet, but he could have as many as three primary challengers. Craig Allen and Nathan Dahm filed their candidacies Monday, as did Sullivan. Kenneth Rice has announced his intention to run.

Sullivan unloaded on the usual villains of Oklahoma politics — federal agencies, the Obama administration and environmentalists.

He said the administration is using the Environmental Protection Agency to "get at" the

oil and gas industry and has acted foolishly in imposing a temporary moratorium on new drilling in the Gulf of Mexico because of the BP Deepwater Horizon blowout.

Sullivan said the blowout is "an ecological disaster of epic proportions. BP or anybody that's responsible should have to clean it up and pay for the damage they've caused."

"Although this is a horrible disaster, we can't stop altogether drilling offshore. It can be done in an environmentally sound way. We have in the past, and we can in the future."

Sullivan said the Obama administration is attacking the oil and gas and coal industries through the Environmental Protection Agency.

"The administration is trying to get at the industry by doing things through the EPA like declaring CO2 a pollutant (and) doing away with hydraulic fracking," he said.

"Fracking" is the process of hydraulically fracturing underground geological formations to release oil and natural gas. The EPA has looked into claims that fracturing fluids threaten groundwater, but the agency has taken no action.

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ENERGY

Jun 07, 2010

Want to beat the summer heat? EPA offers cooling tips (*USA TODAY*)

10:19 AM
By Al Goldis, AP
As summer approaches, the U.S. Environmental Protection Agency is offering low- to no-cost energy-efficient cooling tips to beat the heat.

The EPA says the typical U.S. household spends almost 20% of its utility bills on cooling, but it can significantly lower that amount.

"You can save energy, save money, and help fight climate change," it says in an announcement slated for tomorrow. Its Energy Star program, which it co-runs with the Department of Energy, offers more than a dozen tips such as using a programmable thermost.

EPA's tips include:

No-Cost steps:

· Program your thermostat to work around your family's summer schedule—set it a few degrees higher (such as 78 degrees) when no one is home, so your cooling system isn't cooling an empty house. With proper use, programmable thermostats can save you about $180 a year in energy costs.

· Check your HVAC system's air filter every month. If the filter looks dirty, change it, but change the filter at least every three months. A dirty filter will slow air flow and make the system work harder to keep you cool—wasting energy.

· Run your ceiling fan to create a cool breeze. If you raise your thermostat by only two degrees and use your ceiling fan, you can lower cooling costs by up to 14 percent. Remember that ceiling fans cool you, not the room, so when you leave the room make sure to turn off the fan.

· Pull the curtains and shades closed before you leave your home to keep the sun's rays from overheating the interior of your home. If you can, move container trees and plants in front of sun-exposed windows to serve as shade.

Low-cost efforts:

· Remember to have your HVAC system serviced annually to ensure it's running at optimum efficiency for money and energy savings.

· Swap out incandescent bulbs with more energy-efficient lighting choices—ENERGY STAR qualified lighting not only uses less energy, it also produces about 75 percent less heat than incandescent lighting, so cooling bills will be reduced, too.

· Seal your ducts. As much as 20 percent of the air moving through your home's duct system is lost due to leaks and poor connections. Seal duct work using mastic sealant or metal tape and insulate all the ducts that you can access (such as those in attics, crawlspaces, unfinished basements, and garages).

· Make sure that connections at vents and registers are well-sealed where they meet floors, walls, and ceilings. These are common locations to find leaks and disconnected ductwork.

Other Tips

· When buying a room AC unit, look for one that has earned EPA's ENERGY STAR. If every room air conditioner in the U.S. were ENERGY STAR qualified, they would prevent 900 million pounds of greenhouse gas emissions annually—equivalent to the emissions from 80,000 cars.

· Add insulation to your attic to keep cool air in—if every American household did so, we'd collectively save more than $1.8 billion in yearly energy costs.

· Hire a contractor to seal and insulate the interior ductwork in your home (the ducts you can't reach yourself). For help on choosing the right contractor, go to www.energystar.gov/homeimprovement .

· If your central AC unit is more than 12 years old, replacing it with a model that has earned EPA's ENERGY STAR could cut your cooling costs by 30 percent.

EPA Launches Energy Star for Data Centers (*PC World)*

The EPA has launched its Energy Star program for data centers, so companies can start applying to see if their facility qualifies for an Energy Star logo.
James Niccolai
Monday, June 07, 2010 12:20 PM PDT

The U.S. Environmental Protection Agency has launched its Energy Star program for data centers, meaning companies can start applying today to see if their facility qualifies for an Energy Star logo.

The government is concerned about the level of energy consumption by data centers. In 2006 they were already estimated to account for 1.5 percent of the nation's total electricity use -- equivalent to about 5.8 million homes, or 5 percent of the U.S. housing stock, according to an EPA report (PDF) to Congress.

he Energy Star program aims to give companies a greater incentive to make their data centers more efficient, because they will be able to use the Energy Star logo in marketing materials as a sign of their "greenness," for example.

It should also give companies a way to compare their energy efficiency against that of peers in the same industry, said Mark Harris, vice president of product marketing with Modius, which makes tools for real-time monitoring of data center energy use.

To earn the logo, data centers must be in the top 25 percent of their peers in energy efficiency according to the EPA's energy performance scale, the EPA said in a statement. "By improving efficiency, centers can save energy and money and help fight climate change," the agency said.

Efficiency levels will be calculated mainly using the PUE (power usage effectiveness) metric, which measures the total power supplied to a data center, divided by the amount that actually reaches IT equipment, as opposed to being lost to cooling systems and inefficient power supplies.

Customers that want to apply for the logo must use the EPA's online tool, Portfolio Manager, which will assign them an efficiency score between 1 and 100.

"Before being awarded the Energy Star, a licensed professional must independently verify the energy performance of these buildings and sign and seal the application document that is sent to EPA for review and approval," the EPA said.

While it was developed in the U.S., other governments have expressed an interest in adopting the Energy Star for data centers program, much as they use the Energy Star logo for other types of products.

The system has come in for some criticism but is seen as a necessary first step. Harris expects the program to eventually be revised with a metric that goes beyond PUE to more accurately reflect the efficiency of a particular data center.

"It may not be perfect but at least it allows you to compare your imperfect number with peers in your group," he said. "PUE is an easy enough number to come by, we do it for customers every day. So it's a good place to start."

The EPA has been trying to come up with a better metric for calculating efficiency based on the amount of computing work a data center actually performs. But there is much discussion in the industry about how to achieve that.

Those who hesitate to take part in the program will often be those companies that are afraid to reveal how they rank alongside their peers, Harris said. That in itself may give them added incentive to improve their efficiency.

The Energy Star program applies to standalone data centers and to large data center facilities housed in other buildings. More information is here at the EPA's Web site.

EPA launches Energy Star for data centers (*InfoWorld*)

By James Niccolai
Created 2010-06-08 04:07AM
The U.S. Environmental Protection Agency has launched its Energy Star [1] program for data centers [2], meaning companies can start applying today to see if their facility qualifies for an Energy Star logo.

The government is concerned about the level of energy consumption [3] by data centers. In 2006 they were already estimated to account for 1.5 percent of the nation's total electricity use -- equivalent to about 5.8 million homes, or 5 percent of the U.S. housing stock, according to an EPA report [4] (PDF) to Congress.

[Also on InfoWorld: "Despite green diet, data centers still gobble power [5]." | Keep up on green IT trends with InfoWorld's Sustainable IT blog [6] and Green Tech newsletter [7].]

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FUEL

ADM asks EPA for 12 percent ethanol mandate (*BusinessWeek*)

DECATUR, Ill.
Archer Daniels Midland Company said Monday it will ask the Environmental Protection Agency to approve ethanol-gasoline blends containing up to 12 percent ethanol for all cars.

The agribusiness company said it still supports a long-term effort to require a 15 percent ethanol blend, but it's unclear if older cars can run efficiently on the stronger 15-percent formula.

ADM said introducing a 12-percent blend in the short-run would make ethanol more widely available.

ADM produces corn-based ethanol, and has been ramping up its ethanol business as profit margins improve with falling corn prices.

Do more electric cars mean R.I.P. for mpg? (*Washington Post*)

June 8, 2010 Tuesday
Suburban Edition
A-SECTION; Pg. A15
Maryland
Do more electric cars mean R.I.P. for mpg?;
EPA, researchers seek new standards to measure fuel efficiency

By Peter Whoriskey
It used to be easy to know whether a car was a glutton for fuel. Federal standards defined miles per gallon and laid out precisely how the statistic should be measured.

But with the dawning of what enthusiasts hope is an era of electric cars, federal regulators are struggling to come up with a definition of auto efficiency for the next

generation of technology. This year, two major auto manufacturers, General Motors and Nissan, will bring to market cars that plug in.

"There's no clear answer for how we should be informing the public about the efficiency of these new cars," said Mike Duoba, a research engineer at Argonne National Laboratory, outside Chicago. "The language we have been speaking -- mpg -- isn't sophisticated enough."

To fill the gap, researchers and **Environmental Protection Agency** officials have been conducting vehicle tests, researching driver habits and even running focus groups toward informing consumers about which cars are energy hogs.

Whatever metric they come up with is considered key to shaping consumer choices that in aggregate could profoundly affect smog and carbon emissions. The **EPA** is responsible for developing the fuel-economy labels posted on window stickers of all new cars and light trucks. A proposed rule is scheduled to be issued by August.

The onset of plug-in vehicles "will require new metrics to effectively convey information to consumers," according to an **EPA** statement. The new metrics are expected to change the way fuel-economy estimates are calculated and displayed.

But ask some of the people involved what exactly should be included in the new information for consumers, and you're likely to get sometimes bewildering answers.

Electric cars' efficiency might be measured, as some have suggested, in kilowatt-hours per 100 miles. But then how might a consumer compare that car's efficiency to a gasoline-powered car?

Maybe even more complicated: What if a car is powered by both electricity and gas? The forthcoming Chevrolet Volt, for example, will run on electric power -- it plugs in at home -- for the first 40 miles. Then it turns over to gas operation. How might its efficiency be measured?

With news releases, advertising and other fanfare last year, General Motors announced that under tentative federal standards the Volt achieved 230 miles per gallon.

Nissan, which is developing the all-electric Leaf for sales this year, shot back that its car achieved the equivalent of 367 mpg, citing an Energy Department conversion of electricity to gasoline.

But those numbers depended on complicated calculations that some have called into question. At the very least, they depend on making assumptions that may or may not predict a person's driving habits.

A person driving the Volt, for example, might in essence get astronomically high miles per gallon by never going farther than the car's 40-mile range. (Under 40 miles, no

gasoline is used.)

So developing a standard for the Volt will probably mean assuming how much the car will be driven beyond the 40-mile battery range. Under calculations that Duoba and others have developed, regulators would probably assume that roughly 60 percent of miles traveled in a Volt will be on the battery, not gas.

But he remains skeptical that there can be any single way of describing the new cars that run on both energy sources. If he's right, the days of one simple statistic are gone.

"Everyone is saying we can boil this down to a single number," he said. "But with these new cars, we've added a dimension. Gasoline and electricity are in no way the same. You need a background in thermodynamics to appreciate what's going on."

GRANTS

Federal grants would help clean up Portage Creek, remove Otsego dams (*Kalamazoo Gazette - MLive.com*)

By Chris Killian | Special to the Kalamazoo...
June 08, 2010, 6:30AM
KALAMAZOO — An infusion of federal money could potentially give two long-sought-after environmental projects located on the Kalamazoo River Superfund site a much-needed boost.

The U.S. Environmental Protection Agency announced recently that 270 projects in 13 states are finalists for grants totaling $161.45 million through the U.S. government's Great Lakes Restoration Initiative, a first-of-its-kind program aimed at restoring and remediating rundown and contaminated sites across the Great Lakes region.

The EPA received more than 1,000 applications last year from public and private agencies seeking funding for myriad projects ranging from protecting beaches and beachgoers to keeping out invasive species to reducing polluted land-based runoff.

The agencies that submitted projects named as finalists now have until the end of this month to submit final work plans and other data to the EPA, with money being sent out within 60 days of the receipt of that information. Work on several projects — including those in Southwest Michigan — could begin this summer, EPA and state officials said.

"It's an unprecedented funding initiative," said Phillippa Cannon, spokesperson for the EPA's Region 5 office in Chicago, of the GLRI. "It goes beyond just cleanup. Now it's up to the agencies to get the work going."

Special to the Gazette / Chris KillianOld concrete walls and piping would be removed as part of a $3.3 million project to restore 1,500 feet of Portage Creek, seen here from Alcott Avenue, through the Great Lakes Restoration Initiative.

Portage Creek renewal

For decades, a stretch of Portage Creek on Kalamazoo's south side was diverted from its natural banks and into a concrete channel to keep the water away from operations at the former Performance Paper Inc. plant in the city's Edison neighborhood.

Now, that 1,500-foot stretch of creek, from Alcott Avenue to Reed Street, could be given a second chance.

About $3.3 million in federal dollars through the GLRI could be sent to the Michigan Department of Natural Resources and Environment to go toward breaking up the dilapidated concrete embankments and other infrastructure, establishing the stretch back to a more natural meander and planting native vegetation to encourage the return of habitat for fish and other wildlife.

The state of Michigan has spent more than $7 million since 2004 to demolish decaying mill buildings, a former plant and to remediate other contaminated material at the 27-acre mill site, which was abandoned in 1997.

"This would be the final piece to restore the stretch back to a sustainable natural community," said Mark DuCharme, senior environmental quality analyst at the MDNRE, which applied for the grant. "It's a considerable impediment to successful redevelopment there."

DuCharme said that the project, estimated to take about 18 months to complete, is "ready to begin immediately" after the money is awarded.

Crews would remove from the creek's floodplain the remaining foundations and basements from torn-down buildings as well as any contaminated material there. The concrete channel the creek currently runs through would also be removed, with the creek diverted to an alternate flow-path before being allowed to return to its natural channel once the demolition is complete.

"We're very excited about this project," said DuCharme, a 21-year veteran with state environmental regulatory agencies. "This is the first time in my career I've seen this kind of targeted funding out there."

Marc Hatton, redevelopment project manager for the city of Kalamazoo, said he was "ecstatic" about the potential project, but maintained that it will take years to get the site — currently listed as a brownfield — back on the tax rolls.

“This provides potential development acreage but how it’s developed we don’t know,” Hatton said. “It’s hard to forecast. That site didn’t get to be like that overnight and it won’t come back overnight.”

Gazette fileIf awarded, preliminary designs for removing the Otsego city dam along the Kalamazoo River would be funded through the Great Lakes Restoration Initiative. The dam in Otsego Township near Bittersweet Ski Resort would be studied for removal, too.

Otsego Dams removal studies

A project to study how to remove two dams on the Kalamazoo River in Otsego was also named as a finalist by the EPA.

If awarded, the $362,000 grant would provide for a preliminary design for the removal of the Otsego Township and Otsego city dams, as well as a schedule and cost estimate for the work.

The dams, long sought to be removed by environmental and river advocates and state environmental agencies, allow for sediment and silt laden with harmful polychlorinated biphenyls, or PCBs, to accumulate behind them and also hinder fish habitat formation and recreational activities.

The Otsego dams are two of five dams that remain along the river, all of which have reached the highest classification in terms of their likelihood to fail, according to the state. A dam failure would allow the contaminated sediment behind it to burst downstream, complicating cleanup efforts.

“Both of the (Otsego) dams are in extremely poor health and beyond repair,” said Sharon Hanshue, of the MDNRE’s fisheries division. “This study will help us determine how best to take them out.”

If given the funds, the one- to two-year project would begin “as soon as possible,” Hanshue said.

Jeff Spoelstra, coordinator of the Kalamazoo River Watershed Council, a river advocacy group, said that the project was a “good first step.”

“We’ve been talking about taking these dams out for years and the state finally heard us,” he said. “We now need to keep the momentum up. It’s time to start the river renaissance.”

HAZARDOUS WASTE

Watchdog criticizes TVA's 'sneak peek' at coal-ash rules (*Greenwire*)

(06/07/2010)
The Tennessee Valley Authority was allowed to comment on U.S. EPA's draft proposal for coal-ash management before the general public, even as the federally owned utility continued to clean up a massive coal ash spill that prompted the agency to review its regulations, according to an internal federal document accidentally released to the public.

Though EPA originally proposed classifying coal ash as a "special" waste, which would cause the substance to fall under federal hazardous waste rules, the agency ultimately decided to let each state craft its own coal ash regulations. The rules would largely be enforced by litigation rather than regulators.

Washington, D.C.-based watchdog group OMB Watch has contended that TVA's early influence could have led the federal government to produce less onerous rules for coal ash, a byproduct of coal combustion that is typically laced with toxic heavy metals.

"You have this federal corporation that is at least in part responsible for EPA even writing the regulation in the first place now getting a sneak peek at it," said Matt Madia, a regulatory policy analyst at OMB Watch. "TVA has the same right to comment as everybody else, but this was happening before the public ever saw it. They were given privilege in this case."

TVA, which produces about 7 million tons of coal ash per year, continues to clean up from a December 2008 accident in which 5.4 million cubic yards of coal ash spilled at a coal plant in Kingston, Tenn. Much of the toxic ash reached the Emory River.

Barbara Martocci, a TVA spokeswoman, said federal agencies typically get first crack at comments, and it would have been irresponsible for the utility not to use that privilege.

"It is standard practice for federal agencies to do that," Martocci said. "We do have expertise and knowledge on managing coal ash" (Anne Paine, Nashville *Tennessean*, June 6). **-- GN**

PESTICIDES

Bugged? Know the do's and don'ts of DEET (*Washington Post*)

June 8, 2010 Tuesday

Every Edition
HEALTH; Pg. HE02
District-Maryland
Bugged? Know the do's and don'ts of DEET.
'Tis the season of barbecues, hiking, camping . . . and biting bugs. A good repellent can help you enjoy the outdoors without the company of mosquitoes and ticks.

At an outside lab, brave testers bared their arms in mosquito-filled cages and let ticks crawl on them. Consumer Reports recorded how long it took for mosquitoes to start biting and for ticks to crawl over treated areas. These bugs were free of disease, but wild mosquitoes in the United States can carry West Nile virus and Saint Louis encephalitis. Travelers outside the United States might encounter mosquitoes carrying malaria, yellow fever and dengue fever. Ticks can spread Lyme disease, human babesiosis and Rocky Mountain spotted fever.

Ten insect repellents were tested. The six top choices, all earning a "Recommended" rating from Consumer Reports, worked for at least seven hours: Off! Deep Woods Sportsmen II, Cutter Backwoods Unscented, Off! FamilyCare Smooth & Dry; 3M Ultrathon Insect Repellent 8, Repel Plant Based Lemon Eucalyptus and Natrapel 8-Hour with picaridin.

The first four contain DEET in varying levels. The Environmental Protection Agency judges DEET safe when used as directed, but it has caused rare toxic reactions when misused. It shouldn't be applied to infants less than 2 months old. The American Academy of Pediatrics advises against using repellents with DEET concentrations higher than 30 percent on any children. Consumer Reports Health thinks that no one needs a repellent with more than 30 percent DEET.

The active ingredient in Repel is oil of lemon eucalyptus. (It's not recommended for children younger than 3.) Almost as effective was Natrapel, which protects with picaridin, a chemical newer than DEET.

Bottom line: Most of the tested products will do the job if you're going to be outside for only a couple of hours, but look for a highly rated product to protect you on longer excursions.

The six top choices feel and smell somewhat different. Cutter Backwoods leaves little scent or sensation; Off! Deep Woods has a citrusy odor and filmy residue that panelists wanted to wash off; Off! FamilyCare has a fruity odor and dries quickly; 3M Ultrathon has a strong odor and leaves an oily feeling on the skin at first; Repel has a plastic beach-ball and citrusy odor and left little residue; Natrapel has a floral odor and is a little greasy.

When applying any repellent, follow directions. Use your hands to apply it to your face, avoiding your eyes and mouth, and don't apply it to cuts. Use just enough to cover exposed skin. Some directions suggest using it on clothes, but most tested repellents

damaged leather and vinyl, and some of them stained synthetic fabrics. Wash repellent off your skin and launder treated clothes.

For extra protection:

-- Wear light-colored, loose clothes and avoid using scented products when outdoors, especially at peak feeding hours (dusk to dawn for most mosquitoes).

-- Remove standing water near your house. It can be a mosquito breeding ground.

-- To avoid ticks, tuck pants into socks and wear closed shoes and a hat.

-- Inspect yourself for ticks after venturing into wooded or grassy areas.

Judge cites safety fears in Dole pesticide lawsuit (*Los Angeles Times*)

June 8, 2010 Tuesday
Home Edition
LATEXTRA; Metro Desk; Part AA; Pg. 3
CALIFORNIA;
By Victoria Kim
A Los Angeles judge overseeing a lawsuit by Nicaraguan banana workers against food giant Dole said Monday that she was concerned for her safety and the safety of witnesses because of escalating unrest in the Central American country.

"Statements made in radio broadcasts and a press conference were pretty direct against me, or this court," Superior Court Judge Victoria G. Chaney said after hearing evidence presented to her by Dole attorneys in a closed hearing. She did not elaborate on what the statements were. Chaney said she would relate the information to the county's judicial protection unit.

Chaney made the comments during a hearing in the case of six Nicaraguan banana workers who won a $2.3-million jury verdict against Dole for the use of pesticides that they say left them sterile.

Dole, which has alleged that the workers' claims were manufactured and evidence was fabricated by plaintiffs' lawyers, is seeking to have the verdict thrown out.

Scott Edelman, an attorney for Dole, said the statements made in Nicaragua accused Chaney of being "totally amoral," "unethical" and "corrupt" and of ruling in Dole's favor to garner a promotion to the Court of Appeal. Dole's fraud allegations were largely based on the testimony of 27 witnesses whose identities have been kept secret.

Chaney said Dole's attorneys presented evidence that led her to believe the secret witnesses were being threatened, amounting to "serious witness tampering."

Plaintiffs' attorney Steve Condie said Dole was throwing up roadblocks to his efforts to collect evidence and disputed allegations that the statements were direct threats.

"Every time I'm on the verge of getting new evidence, they bring up witness safety," he said. "I don't think there was any threatening statement about anybody."

SUPERFUND

As cleanup nears, neighbors of Price's Pit superfund site still worry about long-term health effects (*Press of Atlantic City*)

By DEREK HARPER Staff Writer | Posted: Tuesday, June 8, 2010
With list of chemicals detected at landfill
EGG HARBOR TOWNSHIP - Some of the people who live down the hill from Price's Landfill said they were glad to hear the federal government is taking steps to clean up the Superfund site, but after so many years have passed, they wonder how many health problems originated at the contaminated pit.

"My mother died of cancer. My father died of cancer. I have a brother and two sisters who had cancer. My baby sister and myself, we had cancer," said Luebirta Ames, 72. "You see, I don't have anything good to say, because when I look at the pit, and I told them the kids were screaming out there on the pit, and all that money they got, they weren't decent enough to put a fence on it until later."

Ames moved to the area in the 1950s with her family. She now lives a short distance away on Elm Street in Absecon.

"We're blessed that anybody's living in the area," she said.

She was angry that for years she and other people in her family were unaware of the chemicals that lay underground.

"My daughter, I made her soak because she had a skin problem. Didn't know I made her soak in contaminated water," Ames said. "Her skin would swell up and break open."

Ames wanted public officials to explain what would happen and where. "When they go on in there, they have space suits, masks. But what do we got on? Nothing."

Price's Landfill, commonly known as Price's Pit, is a 26-acre landfill off Saw Mill Road, mostly in Egg Harbor Township near the border with Pleasantville and Absecon.

It was a private landfill that accepted about 9 million gallons of industrial waste over 18 months in 1971 and 1972. This year, the federal Environmental Protection Agency has proposed spending $16.4 million to build a wastewater-treatment plant that would treat the water, then transport it to the Atlantic County Utilities Authority for further treatment.

Construction should begin by late August, with the project up and running in two years, EPA officials said.

The groundwater is now polluted with heavy metals, including lead and cadmium, along with volatile organic compounds, according to the EPA. All have been found to be detrimental to human health.

The EPA labeled the site "the most serious environmental problem in the United States" in 1981.

Residents drank polluted well water until the state closed the wells and extended water supply lines to homes in the area that year, and the Atlantic City Municipal Utilities Authority relocated several nearby wells.

There are now 102 monitoring wells that track the pollutants, New Jersey Department of Environmental Protection spokesman Larry Hanja said.

Over the years, Hanja said, groundwater has flowed northeast. Today, he said, it has reached the wetlands surrounding Absecon Creek.

The contaminants reach 150 feet below ground, EPA spokeswoman Elizabeth Totman said.

The site was later fenced off, and a small, temporary pilot plant was finished in 2001. The plant treats about 75,000 gallons of contaminated groundwater daily, Totman said.

In 1988, more than 50 defendants agreed to settle litigation for $17.5 million, with much of the money going toward remediation and treatment of the site. The settlement allocated $250,000 to the Atlantic City Municipal Utilities Authority for relocating five wells.

Another $524,000 was paid into a 21-year trust fund for 101 children who could develop health problems from drinking the water, with $393,000 remaining after legal fees. However, in 2002, the Atlantic County Prosecutor's Office said fund attorney Carl Valore made $484,423 in loans from the fund, while at the same time refusing the beneficiaries' request for loans. At the time, Atlantic County Prosecutor Jeffrey Blitz said no money had ever been paid out for cancer claims.

Valore was disbarred and pleaded guilty to misusing funds invested by former clients and misappropriating trust-fund money, and was sentenced to prison in 2004. The New Jersey Lawyers Fund for Client Protection, which pays debts to the clients of crooked

lawyers, susbequently paid out almost $1.7 million for this and other claims, the most ever by the fund.

"They stole the money, as everybody knows," Ames said.

Ames' sister Olivia Dorsey, 70, now lives on Plum Street, a short distance from the dump. She suffers from headaches and other problems, she said.

"It's just one thing after another," she said. "I've had so many problems."

She lives close enough to still smell the toxins, she says. And she's skeptical that anything will be done.

"We've already been stepped on," she said. "Not just me, the whole neighborhood."

But for the people who live "under the pit," life has not been easy.

Rich Ford, 44, grew up about a block from the dump. When he grew up, he said, the ground would sometimes crack and orange and green liquids would ooze out.

He moved away from the area in his early 20s, but returned in 2005 to build a home on Plum Street where he grew up. Intending to stay a couple of years before moving South, his loss of work and the collapse of real estate prices have kept him in place.

Ford has never had cancer, but wondered what the future holds. One man he grew up with had testicular cancer, while another woman had to have her liver removed.

"We drank that water for years," he said. "It wasn't too good, but it was water."

Chemical present at Price's Landfill

The federal Environmental Protection Agency has identified 10 chemicals in the groundwater near Price's Landfill, a private dump where more than 9 million gallons of industrial effluent were dumped in 1971 and 1972.

1,1-Dichloroethylene and 1,2-Trans-dichloroethylene: Chemicals made in the manufacture of perfumes, lacquers and thermoplastics. Short-term exposure may cause central nervous system depression. Long-term exposure may cause liver, circulatory and nervous system damage. There is not enough evidence to say they cause cancer.

Acetone: A flammable chemical used in manufacturing processes. Skin contact can result in irritation and damage, while swallowing large amounts can lead to unconsciousness. The EPA removed it from its listing of most toxic chemicals in 1995.

Benzene: A solvent for resins, oils and paint as well as part of motor fuel. Short-term exposure can cause drowsiness, dizziness, headaches and eye, skin and respiratory

tract irritation, and, at high levels, unconsciousness. Long-term exposure can cause blood disorders; reproductive effects have been observed in women. Classified as a carcinogen.

Cadmium: Byproduct of smelting zinc, lead or copper. Breathing high doses can irritate and damage the lungs and cause death. Long-term exposure can lead to kidney stones and affect the skeleton. A suspected carcinogen.

Chloroform: Formerly used as a dry cleaning spot remover and to remove greases, in fire extinguishers and anesthetic. Longterm effects include hepatitis, jaundice, depression and irritability and other effects on the blood, liver and kidneys. Some studies suggest a link between this and cancer of the large intestine, rectum and bladder.

Lead: Can damage children's central nervous system, leading to behavior and learning problems, slowed growth, hearing problems and headache. Adults can suffer from reproductive problems, high blood pressure, nerve disorder, concentration problems and muscle and joint pain.

Tetrachloroethylene: Widely used in dry cleaning and metal degreasing. Long-term effects include neurological, liver and kidney problems. Reproductive problems, like spontaneous abortions, also have been observed in people who work closely with the chemicals. It was classified between a probable and possible human carcinogen.

Trichloroethylene: Used as a degreaser, as well as spot-remover, rug cleaner and typewriter correction fluid. Exposure can affect the central nervous system, causing dizziness, headaches, confusion, euphoria, facial numbness and weakness. Other kidney, immunological, endocrine and developmental effects have also been seen. It is associated with several kinds of cancer, especially of the kidney, liver, cervix and lymphatic system.

Vinyl chloride: Created through the production of plastics. Long-term effects include central nervous system damage, along with the potential to cause cancer and liver damage after higher, longer-term exposure.

Source: Environmental Protection Agency

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Industry Seeks New Toxicity Study Before EPA Issues New PAH Risk Method (*Inside EPA*)

Posted: June 7, 2010
An industry coalition is calling on EPA to complete a long-delayed update to its risk assessment of benzo(a)pyrene (BaP) -- a key polycyclic aromatic hydrocarbon (PAH) that is a by-product of fuel and other industrial combustion -- before it completes a formula for assessing the risks of other PAHs that are released from asphalt and other sources.

Many of the industry comments also raise concerns with EPA's plan to use the so-called relative potency factor (RPF) approach to calculate the human health risks of mixtures of PAHs, which uses BaP as an index or reference chemical by which regulators can determine cancer risk estimates for mixtures of PAHs. Other PAHs are assigned a potency relative to BaP, and these factors are then used to calculate the toxicity of a mixture.

Industry's concern with EPA's use of an RPF approach echoes their concern over EPA's use of a similar approach to calculate the toxicity of various dioxins relative to the most toxic form of the compound using so-called toxic equivalency factors.

EPA's National Center for Environmental Assessment (NCEA) proposed its method for calculating the toxicity of PAHs Feb. 26 in a draft document, Development of a Relative Potency Factor (RPF) Approach for PAH Mixtures. The agency's effort is crucial to regulators who will use the new formula to calculate regulatory limits for a range of media exposures, including water contamination from runoff from roads, railroads and other sources of the chemicals.

In Austin, TX, for example, city officials have banned the use of some coal-tar sealants that contain PAHs due to concern that it is harming local waters. City officials continue to monitor the issue closely and plan to issue a report in 2011 reporting on the effects of the citywide ban, according to the city's website.

But industry is criticizing EPA's approach, charging that the agency's 15-year-old BAP assessment -- which finds the chemical is a "probable" human carcinogen -- is outdated. EPA started to update its Integrated Risk Information System (IRIS) assessment of BAP in 1998, according to the IRIS track website, but NCEA has yet to issue a draft of the updated assessment.

Industry groups including the American Petroleum Institute, the Asphalt Institute, the Association of American Railroads and the National Petrochemical & Refiners Association have filed comments calling on EPA to complete an updated assessment of BaP's carcinogenicity before finalizing the RPF approach.

"At a minimum it should be consistent with current EPA 2005 Cancer Guidelines before being used as a point of reference for the proposed RPF approach. The proposed RPF approach appears to rely on the 1994 IRIS toxicological assessment for benzo(a)pyrene," API, speaking on behalf of the other stakeholders, writes in its April 28 comments.

Weight Of Evidence

Though EPA's proposal summarized a large number of studies on PAHs, the document failed to perform a weight of evidence assessment in accordance with EPA 2005 requirements, API further argued.

An industry source says EPA failed to provide clear justification for their use of BAP as the index chemical for the formula, which attempts to quantify the risks of multiple PAHs, an ubiquitous class of suspected carcinogenic chemicals found in oil, coal, tar, and other carbon-based fuels.

"It just seems to be a bit of a disconnect," the industry source said, suggesting that EPA wait until more current data concerning the toxicity of the index chemical was available.

The California-based Electric Power Research Institute raises similar concerns, arguing that EPA's proposal uses an outdated and scientifically unjustifiable cancer slope factor (CSF) for estimating cancer risks that was in the 1994 IRIS assessment of BAP. The power industry group cites "discussion in the report regarding the need to update the CSF for BaP despite the fact that a guideline-compliant two-year feeding study in mice (performed at the National Center for Toxicological Research) has been available for such purpose for more than ten years."

Chevron Environmental Management Company also echoed the concerns, saying that though BAP is the "most studied" of the PAHs, "adequate justification" for its use as the index chemical was not provided in the draft report.

Chevron's April 27 comments also include long-standing industry concerns about the scientific validity of the RPF approach to assessing risks of classes of chemicals. Chevron's comments, prepared by the consulting firm Environ International Corporation, cite a 2002 EPA peer consultation workshop with the goal of assessing the human health risks of PAHs. The 2002 review report concluded that "of all the available approaches for assessing risk to human health from exposures to PAH mixture, application of a [RPF] Approach was deemed the least scientifically defensible approach for assessing the potency of PAH mixtures," according to Chevron's comments.

The draft document renews many almost identical industry criticisms voiced over the similar approach EPA proposed for comment last year for calculating the risks of dioxins and dioxin-like compounds. Mirroring and adopting comments filed by Integral Consulting Inc., on behalf of Beazer East Inc., General Electric's April 30 comments

argue that the deficiencies of EPA's use of toxicity equivalency factors to assess the risks of dioxin mixtures are repeated in the PAH draft.

GE further argues that the review draft "does not demonstrate that the fundamental toxicological assumptions that underlie the RPF approach are valid for PAH's. It does not reflect an objective consideration of all the relevant evidence. It is not consistent with OMB's or EPA's Information Quality Guidelines."

In the draft document, EPA acknowledges that risk assessment based on quantifying the toxicity of whole mixtures is preferred because it does not require assumptions about the toxicity of individual components, but adds that little data for whole PAH mixtures is available.

"In addition, PAH-containing mixtures tend to be very complex; the composition of these mixtures appears to vary across sources releasing these mixtures to the environment and in various environmental media in which they occur," according to EPA's draft document.

EPA's proposed RPF approach is scheduled to undergo peer review June 21-23. A Science Advisory Board panel will meet in Washington, DC to review the document. -- Bridget DiCosmo

WATER

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Bentonville mayor says change in EPA phosphorus discharge standards could cost city millions (*Associated Press)*

Story also appeared: *Channel 5 News KFSM*

8:29 AM CDT, June 7, 2010
BENTONVILLE, Ark. (AP) — Bentonville's mayor is concerned that a change in Environmental Protection Agency standards for phosphorus discharge could cost the city millions.

The Bentonville wastewater treatment plant is now allowed to discharge 1.0 milligram of phosphorus per liter into Town Branch stream. But in an April 15 letter to city officials, the EPA proposes reducing that standard to 0.1 milligram per liter.

Mayor Bob McCaslin says the proposed changes would force the city to spend between $4 million and $7 million on upgrades to the wastewater treatment plant. He says that would lead to increased water rates for customers.

The EPA already has implemented the new 0.1 milligram standard elsewhere in northwestern Arkansas. That standard will be required starting in 2012 for a new Northwest Arkansas Conservation Authority treatment plant now being built in south Benton County.

Information from: Benton County Daily Record, http://www.nwanews.com//dailyrecord/

EPA Rejects Oregon's Water Quality Standards (*OPB News*)

BY DAVID NOGUERAS
Bend, OR June 7, 2010 9:16 p.m.
The Environmental Protection Agency has rejected Oregon's Water Quality Standards for protection of human health. The agency ruled the standards did not reflect how much fish Oregon's native tribes eat.

The Clean Water Act requires that any time a state revises its water quality standards, the federal government has to either approve or disapprove within 3 months.

But it took more than 6 years and a lawsuit by the environmental group, Northwest Environmental Advocates for the EPA to finally make their decision last week.

Mary Lou Soscia is EPA's Columbia River coordinator.

She says the agency expects Oregon to come out with a new draft rule early next year that better reflects native fish consumption. After that, she says the EPA could then act to approve the new standards.

Mary Lou Soscia: "And we fully expect that what Oregon is presenting is going to meet the litigation that forced us to do this disapproval".

Nina Bell is the executive director with the group that filed the lawsuit. She says the Clean Water Act requires the EPA to dictate to the state of Oregon what those levels should be. And that, says Bell, is something the EPA did not do.

Sen. Cardin Launches Bid To Require U.S. Agencies Pay Stormwater 'Fees' (*Inside EPA*)

Posted: June 7, 2010
Sen. Benjamin Cardin (D-MD) is poised to introduce legislation clarifying when federal agencies are required to pay local stormwater management "fees," as opposed to constitutionally barred "tax" payments, in light of several ongoing disputes -- including

one that sources say threatens the Obama administration's plans to clean up the Chesapeake Bay.

Cardin, the chairman of the Senate Environment & Public Works water and wildlife subcommittee, wrote to White House Council on Environmental Quality (CEQ) Director Nancy Sutley last month asking the administration to clarify whether it supports the use of "appropriate fees to treat, manage and prevent" stormwater pollution. The senator asked if legislative changes are necessary, whether the administration will support his effort to clarify the federal government's responsibility.

CEQ has promised to provide a formal response by June 10, and the senator is prepared to introduce legislation by then, depending on the response, according to a source in Cardin's office. The bill language, which has already been drafted, "will make clear that claims of sovereign immunity are not acceptable" when it comes to local stormwater management fees, the source says.

In addition to Cardin's push, the National Association of Clean Water Agencies (NACWA), which represents municipal wastewater and stormwater agencies, is urging the Department of Justice (DOJ) to find that federal agencies must pay a stormwater charge issued by the District of Columbia Water and Sewer Authority (DCWASA) and to more broadly declare that all federal facilities nationwide are required to pay appropriate stormwater fees charged by local utilities.

The Government Accountability Office (GAO), however, recently found that the structure of DCWASA's charge amounted to a tax, not a fee. DOJ is reviewing GAO's determination, sources say.

At issue is whether constitutional prohibitions on the federal government paying taxes to local governments applies to charges local utilities assess to pay for stormwater management services. The city of Cincinnati reached a settlement in 2007 with the Department of Health & Human Services (HHS) and Department of Veterans Affairs in which the federal government agreed to pay $17,000 in back stormwater fees. The city had originally sought $100,000 from HHS.

But other municipalities have been less successful. The GAO in 2006 determined that the Forest Service did not have to pay surface water management fees assessed by King County, WA, because the charges were a tax. And in April, GAO informed DCWASA that it had preliminarily determined that an impervious surface area charge was similar to the King County charges and therefore also a tax.

Cardin and NACWA argue that the federal government's refusal to pay DCWASA and other municipalities' stormwater fees directly conflicts with two Obama executive orders that aim to protect and restore the Chesapeake Bay and implement stringent stormwater controls at federal facilities contained in the 2007 energy law.

'Unfunded Mandate'

"It is hypocritical for the federal government to impose such an unfunded mandate on the District of Columbia and then at the same time, as the largest land owner in the District, refuse to pay its fair share of the cost necessary to address this critical environmental issue within the Chesapeake Bay watershed," NACWA says in its April 30 letter to DOJ. This is particularly true given the stringent new stormwater permit EPA has proposed for the District of Columbia, NACWA says (Water Policy Report, April 26).

In his May 18 letter to CEQ, Cardin writes, "I continue to have grave concerns about the failure of the federal government to pay localities for reasonable costs associated with the control and abatement of pollution that is originating on its properties. At stake is a fundamental issue of equity: polluters should be financially responsible for the pollution that they cause. That includes the federal government."

Last year DCWASA changed its billing structure to include an impervious surface area (ISA) charge. The charge "is a fair way to distribute the cost of maintaining storm sewers and protecting area waterways because it is based on a property's contribution of rainwater to the District's sewer system," according to DCWASA's website. The charge is necessary to recover the costs of a $2.2 billion federally mandated combined sewer overflow long-term control plan, the utility says.

But GAO, in an April 13 letter to DCWASA, says the ISA charge appears to be a tax on property owners because it based on the amount of impervious surface on a property and not a particular service provided to that property. Additionally, the charge is imposed to fund the costs of complying with Clean Water Act permit requirements as well as offset the costs of a core government service, GAO says, adding that it has already made a contribution to help fund the long-term control plan.

NACWA, however, counters that the ISA charge clearly qualifies as a fee and not a tax "because it does not unfairly discriminate against the federal government (all owners of impervious surface in the District serviced by DCWASA must pay), is based on fair approximation of use of the system (charge is based on amount of impervious surface contributing stormwater to DCWASA's system), and is structured to produce revenue that will not exceed the cost of the service (charge is designed to cover DCWASA's cost of reducing water pollution from stormwater)."

Therefore, NACWA urges DOJ to find that the ISA charge is a fee and direct all federal facilities in the District of Columbia to pay the fee. "Furthermore, we encourage DOJ to extend its directive nationwide, instructing all federal facilities across the nation to pay appropriate stormwater fees charged by local stormwater utilities," NACWA says, noting that this current dispute "presents a valuable opportunity for the federal government to make clear on a nationwide basis, once and for all, that it is legally obligated to pay local stormwater fees."

Feds to investigate farm runoff (*Columbus Dispatch*)

Outlet Full Name: Columbus Dispatch
News OCR Text: As many as 136 large Ohio livestock farms might have to answer tough questions that the feds are asking about manure.

Farms that house millions of chickens or thousands of cows or pigs are praised by agriculture officials for their efficiency and production of low-cost foods.

But for years, the millions of tons of manure these farms produce have been an issue with environmentalists concerned about lake and stream pollution.

Under a recent lawsuit settlement with environmental groups, the U.S. Environmental Protection Agency will, for the first time, gather information from thousands of farms nationwide that lack water-pollution-control permits.

The farms will have to answer questions about their operations, animals and how their manure is handled.

"This information collection, if it's a robust one, will help smoke out the facilities that ought to be getting pollution permits," said Jon Devine, an attorney with the Natural Resources Defense Council.

Agriculture industry officials say the questions are an unnecessary government intrusion on farming.

"What does this settlement do that provides any additional protections against water pollution?" asked Jim Chakeres, vice president for the Ohio Poultry Association. "Our farms are built by design so that these things don't happen."

Ohio's 173 large livestock farms are home to about 48 million chickens, 194,000 pigs and 113,000 cows, according to the Ohio Department of Agriculture.

One farm creates thousands of tons of manure annually. A proposed 6 million-chicken egg farm in Union County, for example, would produce at least 74,157 tons of chicken manure.

The manure typically is spread on nearby fields as fertilizer. Environmental groups argue that there's too much manure and that it often runs off fields during storms and pollutes nearby streams and, eventually, lakes.

Environmental advocates, including the Ohio Environmental Council, argue that farms should be regulated like other industries and apply for water-pollution-control permits from the state.

Current federal rules require permits only for those farms that plan to discharge

pollutants to streams, said Joe Logan, director of the Ohio Environmental Council's agriculture program. As a result, he said, farm owners get to decide whether they need permits.

"I think there is an enormous leap in logic there that probably isn't justified," Logan said.

Of the 173 large Ohio farms, 37 have water-pollution permits, said Cathy Alexander, an Ohio EPA supervisor who handles large livestock farms.

"Most of (the others) try to bill themselves as zero-discharge facilities," Alexander said.

U.S. EPA officials would not say what they will do with the information or how soon they will collect it.

The settlement, reached last week at the 9th U.S. Circuit Court of Appeals in San Francisco, gives the agency 12 months to propose a rule that would require farms owners to submit the information.

Michael Formica, chief environmental counsel for the National Pork Producers Council, said most large livestock farms handle manure safely.

"If you design your farm appropriately and operate it appropriately, you should not have a problem," Formica said.

Devine said the information the farms would submit should help end the argument.

"What we ultimately care about, at the end of the day, is if these facilities are polluting water bodies," he said.

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