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Table of Contents
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Tuesday, April 7, 2009

AIR 3
Rising Iowa carbon emissions buck down trend (*Gazette Online*) 3
Updated April 06. 2009 6:53PM 3
Land swap could be boon for TUSD (*Arizona Daily Star*) 4
Antioch cement company fined for emissions violations (*San Jose Mercury News*) 6
States Pay For Record Proportion Of Air Programs Amid Federal Cuts (*Inside EPA*) 6
CLIMATE CHANGE/GLOBAL WARMING 8
Bad Economy, Good Environment: Slump Helps U.S. Cut Emissions (*Wall Street Journal*) 8
EDITORIAL/COMMENTARY/OP ED/LETTERS 9
Voices of reason on mountaintop mining (*Daily Mail*) 9
ENERGY 10
Empire State Building Plans Environmental Retrofit (*New York Times*) 10
Nationwide Gets Energy Star Award (*Dealerscope*) 13
Verizon Wireless Communications Stores Achieve ENERGY STAR Certification (*TMCnet*) 13
ENFORCEMENT 14
Environmental fugitives on EPA's 'wanted' list (*Scientific American*) 14
Despite Recession's Impacts, Agency Vows Aggressive Enforcement (*Inside EPA*) 16
Agency tracks most-wanted enviro-fugitives *(Greenwire)* 19
FUEL 19
Expectations for Ethanol (*KAALtv.com*) 19
GRANTS 21
EPA awards grants to universities to research particulate (*Waste News*) 21
HAZARDOUS WASTES 22
U.S. EPA monitoring cleanup of former Piqua Hospital (*Dayton Daily News*) 22

Group concerned about Ithaca Gun dust (*Ithaca Journal*) 23
Weirton Facing Water Woes (*Wheeling News Register*) 24
Asarco's $6B award may help finance cleanups *(Greenwire)* 26
POLITICAL 26
Veteran Calif. engineer nominated for top water post *(Greenwire)* 27
RECYCLING 28
EPA Dedicates Week to Cell Phone Recycling (*Earth911.com*) 28
Disposable cameras can have nine lives (*Rochester Democrat and Chronicle*) 29
SUPERFUND 31
Former Griffiss Air Base is delisted from Superfund (*Associated Press*) This story also appeared: *WTEN* 31
State sues Iron King landfill owners (*Prescott Daily Courier*) 31
TOXICS 34
Florida Chinese Drywall Complaints Lead to Call for Federal Help (*AboutLawsuits.com*) 34
Industry Unable To Reproduce Studies Showing Low-Dose BPA Risks (*Inside EPA*)..... 35
N.J. waste program under fire *(Greenwire)* 37
WATER 37
Native oysters win nod for Bay (*The Free Lance-Star*) 37
Sewage smell spoils Cahokia neighborhood (*Belleville News Democrat*) 39
Chemicals threaten College's water (*The Flat Hat*) 42
US Supreme Court defeat for environmentalists (*Legalbrief*) 43
Workshop for dry cleaners tells how to protect groundwater (*UNR NevadaNews*) 44
Residents flout Wash. county's phosphate law *(Greenwire)* 45

AIR

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Rising Iowa carbon emissions buck down trend (*Gazette Online*)

By Cindy Hadish

The Gazette
cindy.hadish@gazettecommunications.com

Updated April 06. 2009 6:53PM

Carbon dioxide emissions from Iowa power plants jumped more than any state except one last year, despite an overall decrease in the United States, a new report shows.

Carbon dioxide emissions from U.S. power plants dropped 3.1 percent in 2008, due in part to the economic slowdown and mild weather, according to the Environmental Integrity Project's report.

In Iowa, however, emissions increased by 1.8 million tons, the report shows, second only to Oklahoma, which jumped by 3.1 million tons.

Other states recording increases of more than 1 million tons were Texas, with 1.7 million, Nebraska with 1.3 million and Illinois and Washington, each with 1.1 million tons.

The Iowa Department of Natural Resources Air Quality Bureau just received its 2008 inventory March 31. That data will be tabulated and sent to the governor by Sept. 1, said the DNR's Marnie Stein.

Stein noted the Environmental Integrity Project report only used data subject to federal acid rain reporting, which includes about 25 of the largest plants in the state, but excludes some of the smaller ones that report to the DNR.

Carrie La Seur, president of Cedar Rapids-based Plains Justice, a non-profit environmental law firm, noted that the fourth unit of MidAmerican Energy's Council Bluffs plant went online in 2007.

The largest greenhouse gas source from fossil fuel combustion in Iowa is that plant, La Seur said, adding that MidAmerican's registered lobbyists opposed an energy efficiency savings standard in the 2009 legislative session.

Cathy Woollums, MidAmerican's senior vice president for environmental services, said megawatt hours of electricity usage have steadily increased in Iowa since 2000.

"You only get a piece of the picture if you look (just) at the carbon dioxide increases," she said.

MidAmerican spokeswoman Ann Thelan noted that nearly 20 percent of MidAmerican's generating capacity in Iowa is from wind sources.

The Environmental Integrity Project's report showed that the one-year nationwide dip in emissions is a departure from recent trends.

Power plant carbon dioxide emissions have risen almost 1 percent since 2003 and 4.5 percent since 1998, according to data from the U.S. Environmental Protection Agency.

The drop in carbon dioxide emissions in 2008 was primarily attributable to a drop in electric generation; gross electric output was down about 3.3 percent in 2008, compared to 2007, according to the EPA.

The Department of Energy predicts that carbon dioxide emissions from power generation will increase 15 percent between 2009 and 2030, due to new or expanded coal plants.

"If the United States is serious about curbing greenhouse gas pollution and meeting the goals that the scientific community says are needed, then many of the nation's dirtiest power plants will either need to be cleaned up or retired," Environmental Integrity Project Senior Attorney Ilan Levin said in a statement. "We have no time to lose."

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Land swap could be boon for TUSD (*Arizona Daily Star*)

Property with radon gas on it would go; site for new SW Side school would come

By Rhonda Bodfield
ARIZONA DAILY STAR

Published: 04.07.2009

The Tucson Unified School District may have a chance to unload a problem property and get a new school in the process if a proposed land swap is successful.

Under the proposal, which the district Governing Board will discuss at its meeting tonight, the district would trade 45 of 60 district-owned acres at Valencia Road and Cardinal Avenue for 15 acres within a proposed 3,000-home development south of Valencia and east of Ajo Way known as Pomegranate Farms.

The sites are about seven miles apart, but the TUSD parcel has one significant drawback. The southernmost 15 acres have high levels of the radioactive radon gas, which can get into buildings through cracks in foundations and can lead to increased cancer risks if indoor concentrations are too high.

The Environmental Protection Agency warns that radon is the second-leading cause of lung cancer, responsible for about 21,000 deaths every year. About 2,900 of the deaths occur among people who have never smoked.

Precautions taken during construction can put in place vapor barriers and ventilation to mitigate the effects.

Still, companies contacted by appraisers for the district generally said they would be unwilling to develop the site because of liability issues. And appraisers found it difficult to get comparable sales given that the area is the only one in Pima County with an identified radon problem. The appraisal came in at roughly $1 million for the property.

"The truth is that radon can be mitigated pretty easily," said district planner Bryant Nodine, adding those precautions would tack on only about 1 percent to a project's cost. "But the other side of that, is there's a certain perception, which did affect the property's marketability."

The district plans to use 10 acres of the radon-affected land for a satellite transportation facility to serve the western part of the district, with the Pomegranate Farms developers getting the rest of the property. Company officials couldn't be reached Monday, but Nodine said it was his understanding that the developers are looking to use the property for a solar facility.

The developers, whose property came in at $300,000, also have agreed to pay $3 million toward a K-8 school, which would ultimately alleviate overcrowding at Hohokam Middle and Vesey Elementary schools. The plan calls for the school to be ready by February 2012.

The district and developers agreed to order another round of appraisals, because the first round didn't consider current zoning and planned improvements.

Nodine said the developers want the deal to work because a school will enhance the value of their development.

The trade works for the district, he said, because in addition to the assistance with construction costs, TUSD will be in on the design of the school from the front end. "We can integrate the school into the community, instead of building a school after the fact," he said.

This is the second land swap the cash-strapped district has negotiated in an attempt to alleviate overcrowding in the Southwest corridor. An earlier swap was approved in December, in which the district agreed to give prime land in the lower Foothills to a developer in exchange for a Southwest Side site that the district's appraisal showed was worth three times less.

The Governing Board, after its briefing tonight, is expected to vote on the new swap at a meeting on April 28.

Want to hear more?

Representatives from TUSD and the Pomegranate Farms development will be at Miller Elementary School, 6951 S. Camino de la Tierra, on Monday at 6:30 p.m.
They'll be there to provide more detail about how the transportation facility and solar facility will affect the neighborhood.
Contact reporter Rhonda Bodfield at 806-7754 or rbodfield@azstarnet.com.

Antioch cement company fined for emissions violations (*San Jose Mercury News*)

By Hilary Costa
East County Times
Posted: 04/06/2009 02:35:16 PM PDT

An Antioch cement company has been fined $10,875 by the California Air Resources Board for emissions violations.

The Wayne E. Swisher Cement company reportedly failed to conduct diesel truck smoke tests in 2007, as required by state law, according to a news release from the ARB, which is a department of the state Environmental Protection Agency.

Under the penalty, the cement company must also take measures to comply with state regulations.

Reach Hilary Costa at 925-779-7166 or hcosta@bayareanewsgroup.com.

States Pay For Record Proportion Of Air Programs Amid Federal Cuts (*Inside EPA*)

Monday, April 06, 2009

States are paying for a record proportion of clean air programs as the federal government has trimmed its contribution to state efforts in recent years, drawing concern that during the economic downturn the government could try to shift an even greater portion of the funding burden to the states.

The Clean Air Act authorizes the federal government to pay up to 60 percent of states' clean air costs, but a recent survey of state and local clean air agencies shows that states are paying 77 percent of the budget, according to March 26 testimony by the National Association of Clean Air Agencies (NACAA) for a hearing of the House Appropriations Committee's interior panel that was postponed indefinitely.

One source with NACAA says the gap between the amount the federal government is authorized to spend and the amount that it is actually sending to states is as wide as it has ever been, and the states are urging the government to increase their funding. “We are expecting the federal government to pay their fair share, especially because a lot of this is to implement federal programs,” the source says.

Excluding the fees that states collect for issuing comprehensive air quality permits, the states need a 47 percent increase in funding to carry out current and anticipated air programs, which would amount to an increase of $550 million to $575 million over current funding levels, NACAA says. States report they will need the biggest funding boost for climate change and predict they will need a 1,000 percent increase over current funding for climate change programs, accounting for a quarter of the total additional needed funding, the testimony says.

However, the NACAA source says states will need big increases to carry out the “meat and potatoes” programs that are core to meeting national air quality goals. For example, states predict they will need a 100 percent increase in funding for air toxic programs, a 38 percent increase in air quality monitoring, a 34 percent increase for state air quality implementation planning, a 27 percent increase for compliance and enforcement and a 15 percent increase for visibility work, the testimony says.

But even in the face of large funding shortfalls, NACAA is only requesting a $46 million increase for fiscal year 2010 compared to FY09 funding levels. This increase is the minimum needed to prevent funding cuts as EPA modifies its formula for dispersing money under air act section 105, which funds air program implementation, and air act section 103, which funds air research and monitoring.

According to a document obtained by *Inside EPA*, the agency is currently revising its formula for awarding grants based on a host of measures including population, number of areas out of attainment with EPA air standards, diesel emissions, number of regulated minor sources and population-weighted cancer risk.

The document estimates that the new formula would result in EPA Regions I and X receiving major grant cuts. Region I faces a 34.42 percent cut compared to other regions, while Region X faces a 42.11 percent cut. Regions V, VI and VIII all face cuts of between 0.39 and 8.79 percent. In contrast, Region IV would get a 31.91 percent boost compared to other regions and Region VII would get a 24.30 percent grants boost.

The NACAA source says that although the states need major funding increases, the group only asked for enough funds to cover the formula modification due to concerns about the economic crisis. “We felt kind of embarrassed to ask for more in this economy,” the source says.

But the source is concerned that the poor economy -- and the toll it is taking on the federal budget -- could lead the government to shift even more air quality costs on to states, which are facing budget crises of their own. The group is concerned that Congress may resort to an unsuccessful Bush administration effort to shift air quality monitoring funding from section 103 grants, which are funded 100 percent by the federal government, to section 105 grants, which require a 40 percent state funding match, the source says.

Although Congress “beat back” the Bush administration’s efforts to shift the funding, NACAA is concerned lawmakers could return to the tactic in an effort to cut the budget, the source says. States lack the funds to match federal dollars, so shifting funding would result in significant monitoring program cuts, the testimony says. As a result, the group is urging lawmakers to retain the funding, especially for fine particulate matter and lead monitoring, the testimony says.

CLIMATE CHANGE/GLOBAL WARMING

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Bad Economy, Good Environment: Slump Helps U.S. Cut Emissions (*Wall Street Journal*)

Stephen Power reports:

April 6, 2009, 11:25 AM ET

The economic downturn may be complicating President Obama's hopes of passing climate change legislation, but it appears to be doing wonders for efforts to cut U.S. greenhouse-gas emissions.

A report issued Monday by the Washington-based Environmental Integrity Project says that because of the recent economic slowdown and milder-than-usual weather, carbon dioxide emissions from U.S. power plants dropped 3.1 percent in 2008, a departure from the recent trends in power plant carbon dioxide emissions, which have risen 0.9 percent since 2003, and 4.5 percent since 1998, according to data from the Environmental Protection Agency.

This obviously isn't the kind of news that the Obama administration probably wants to tout. It also echoes arguments that emissions-reductions and economic lethargy are synonymous. That's been the case in Europe, for instance, and in individual industries such as commercial aviation.

But it does raise a substantive question: Should the U.S. should seek even more aggressive reductions in greenhouse gas emissions than previously called for?

After all, some environmental groups say, the economic downturn and the recently passed economic stimulus package–which includes provisions to boost low-carbon technologies–should make it easier to meet emission-reduction targets.

Mr. Obama's emission-reduction targets call for reducing U.S. emissions about 14% below 2005 levels by 2020. The draft energy and climate bill in the House goes further, mandating a 20% reduction by 2020.

For now, those arguments don't appear to be swaying many minds within the administration, although Mr. Obama's Special Envoy for Climate Change, Todd Stern, told The Wall Street Journal in an interview last week that "it's a very good question."

"One would assume that with economic activity lower in the world, that has probably had a temporary downward effect on emissions, but I'd underscore the word 'temporary,'" Mr. Stern said. "The economy is going to get going again. We don't know exactly when, but it's not going to be years and years of a slowdown."

EDITORIAL/COMMENTARY/OP ED/LETTERS

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Voices of reason on mountaintop mining (*Daily Mail*)

Tuesday April 7, 2009

Finally, some sense. Finally, some responsible parties who know the West Virginia economy and all the services that depend on mountaintop removal mining.

The West Virginia Coalition on Mountaintop Mining brings a needed voice of reason to the policy debate.

West Virginia finds itself in danger from environmental zealots. Barack Obama was elected president in part because of support from those who would end the use of coal, including mountaintop removal mining.

Some of those supporters now have the power to pursue their goals.

The jury is still out on what the Obama administration's Environmental Protection Agency means by its announcement that it will "review" as many as 200 long-pending applications for mining permits.

Endless delay?

That would have endless consequences for West Virginians - for coal jobs, coal counties, coal-related businesses, and for the state.

People who fly over mountaintop removal mine sites have no responsibilities to local people - indeed, seem to rank them lower than vegetation. They don't care about the consequences their policies would have.

West Virginia leaders are better informed and more responsible, and sensible public policy will not be found without their input.

The coalition includes coal companies, equipment companies and county commissioners. They know what's at stake.

Roger Lilly of Walker Machinery, which sells and services heavy construction equipment, said his company employs about 800 people and has an annual payroll of $50 million.

"If this attack on coal and mountaintop mining continues, it will destroy our company," he said. "We will literally be gone. . . . The uncertainty is rampant."

Said state Senate President Earl Ray Tomblin, D-Logan: "Coal is the backbone of the economy."

As Logan County Commissioner Art Kirkendoll put it: "I couldn't run this courthouse - I couldn't run this county - without the tax money we get from coal."

Since about seven other jobs depend on each coal mining job in Logan County, he said, a hiatus on mining could affect about 80 percent of the county's 36,000 people. About 12 million tons of the 20 million tons Logan County produces comes from surface mines.

The state Senate recently passed a resolution "recognizing the importance of the coal mining industry in West Virginia and requesting West Virginia's congressional delegation to support the coal industry."

Indeed. Local officials have great knowledge and great responsibilities. Policymakers who ignore what they say will not make defensible policy.

ENERGY

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Empire State Building Plans Environmental Retrofit (*New York Times*)

By MIREYA NAVARRO
April 7, 2009

Once the world's tallest building, the Empire State Building is striving for another milestone: It is going green.

Owners of the New York City landmark announced on Monday that they will be beginning a renovation this summer expected to reduce the skyscraper's energy use by 38 percent a year, at an annual savings of $4.4 million. The retrofit project is part of a $500 million building makeover already under way that aims to attract larger corporate occupants at higher rents.
Although the retrofit was specifically designed for the iconic Art Deco office building at 34th Street and Fifth Avenue and its massive features — 102 stories, 2.6 million square feet, 6,500 windows and 73 elevators — the energy-efficiency improvements are meant to serve as a model for other office buildings around the world, said Anthony E. Malkin, president of Wien & Malkin, the building's owners.
He said upfront costs are often a deterrent for retrofitting older buildings, but the energy savings for the building , built in 1931, are expected to pay back those costs in only about three years.
"People associate greening with expense and compromise," Mr. Malkin said. "We're trying to prove: no compromise and payback."
Mr. Malkin announced the details of the project at a news conference attended by Mayor Michael R. Bloomberg, who has made sustainability a theme of his administration, and former President Bill Clinton, whose Clinton Climate Initiative program, which works with cities to develop large scale energy efficiency programs, helped facilitate the project.
People involved with the retrofit said the Empire State Building can offer an example of how older buildings can retrofit to the highest energy standards and effectively cut down their greenhouse gas emissions, a contributor to global warming. The largest share of New York City's greenhouse gas emissions, 78 percent, comes from the city's buildings, with commercial buildings contributing 25 percent, mostly from the use of electricity and natural gas.
"They're showing the rest of the city that existing buildings, no matter how tall they are, no matter how old they are, can take steps to significantly reduce their energy consumption," Mr. Bloomberg said.
The largest energy guzzlers at the Empire State Building are lighting, cooling and heating, said Paul Rode, a project executive with Johnson Controls, the retrofit designer. The building has 302 office tenants but is occupied by about 13,000 people a day, including visitors to the observatories on the 86th and 102nd floors that are open to the public 18 hours a day, seven days a week.

The designers said that about half the reduction in energy use will be achieved in the first two years of the project as they retrofit the double hung operable windows, insulate behind radiators and rebuild chillers in the cooling plant in the basement.

To avoid transportation-related pollution, the windows will be redone on site — - by adding a layer of coated film between two glass panes to increase insulation — at a rate of 50 windows a day.

In all, the retrofit consists of eight projects, including upgrades to the electrical and ventilation systems and installation of sophisticated electronic instrumentation.

The biggest challenge in planning the project, Mr. Rode said, was to figure out what was behind the walls and under the ceilings of the 78-year-old skyscraper — in the absence of original drawings and specifications.

“It took a lot of investigative work,” Mr. Rode said.

The plan also calls for tenants’ involvement in monitoring their own energy use in their offices through an electronic dashboard accessible from their computers, which keeps track of how much energy is being used and where.

Some tenants are already ahead of their landlord. Skanska, a Swedish construction company that took over the 32nd floor last November with 80 employees, renovated its 24,400 square feet of office space to green standards like daylight sensors to conserve energy and dual-flush toilets to avoid wasting water.

The company, which says it has cut its electric bill by one-third with the improvements, is seeking platinum certification, the highest level awarded by the United States Green Building Council, which certifies buildings and commercial interiors for energy, water efficiency and other green features.

The federal Environmental Protection Agency rates buildings for energy efficiency under its Energy Star program, and 6,200 commercial and institutional buildings have earned the label by achieving 30 to 40 percent greater efficiency than their peers. The Empire State Building is expected to fall in the top 10 percent of Energy Star office buildings when its renovation is completed, the project designers said.

While the energy-saving improvements will be substantial, no one visiting the building is very likely to notice them — most involve slight changes or will be hidden in the building’s innards. Mr. Malkin said the building will highlight them as an educational tool, and tenants may also see a mark-up on rents because of the desirability of green features.

But he said it was more important to look at the larger goal.

“If we don’t change our unsustainable practices and the amount of energy we consume, if we don’t make our city more efficient, we’re toast,” he said. “We won’t be able to avoid the sort of changes that would spell a reduced quality of life.”

Nationwide Gets Energy Star Award (*Dealerscope*)

Apr 7, 2009

Nationwide Marketing Group has received an Excellence in Energy Star Promotion Award for the third consecutive year, the group said last week. Nationwide was recognized by both the Environmental Protection Agency and the Department of Energy at an awards ceremony in Washington.

NMG said it received the award based on their education efforts, which are aimed at reducing greenhouse gas emissions through the promotion of energy-efficient products. At last month's PrimeTime event in New Orleans, Nationwide had presented its 2009 initiatives.

Verizon Wireless Communications Stores Achieve ENERGY STAR Certification (*TMCnet*)

April 06, 2009

TMCnet Contributing Editor
By
Raju Shanbhag

Furthering its commitment to “green” initiatives by the U.S. Government, Verizon Wireless has announced that 32 of the company's stores have earned the Environmental Protection Agency's (EPA's) ENERGY STAR.

ENERGY STAR is a joint program of the U.S. Environmental Protection Agency and the U.S. Department of Energy. It helps companies and individuals save money and protect the environment through energy efficient products and practices. According to the institute, with the help of ENERGY STAR, Americans have now saved enough energy in 2008 alone to avoid greenhouse gas emissions equivalent to those from 29 million cars.

A retail location must have one year of utility data available for the EPA to review to be eligible for the ENERGY STAR. The retail location must be 5,000 square feet or greater and it should earn an energy performance rating of 75 or higher.

To monitor heating, ventilating and air-conditioning system use, Verizon Wireless installs temperature sensors and energy management systems. It also tracks usage history for maintenance and service requirements along with temperature set-points as well as internal and external lighting schedules. Also, by activating the ventilating, heating and lighting systems automatically the systems help Verizon Wireless save on energy costs.

“We want every one of our stores to be energy efficient," said Jack Plating, executive vice president and chief operating officer of Verizon Wireless. "Implementing environmentally-friendly practices throughout the company is a priority for us, and we use the EPA ENERGY STAR guidelines as benchmarking tools for our Communications Stores.”

The company has also deployed light-emitting diode (LED) exit signs and microcontrollers on vending machines to further reduce energy usage.

Recently, Cisco named Verizon Wireless as the winner of its inaugural Cisco Joint Operational Excellence Quality Award. The award was presented to Verizon at the company’s headquarters in Basking Ridge, N.J. The Verizon Wireless network incorporates Cisco technologies such as the Cisco CRS-1 Carrier Routing System. This routing system is the only carrier routing system that provides continuous system operation, service flexibility and system longevity in the industry.

Raju Shanbhag is a contributing editor for TMCnet. To read more of Raju’s articles, please visit his columnist page.

Edited by Tim Gray

ENFORCEMENT

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Environmental fugitives on EPA's 'wanted' list (*Scientific American*)

By Jordan Lite in 60-Second Science Blog

Apr 6, 2009 06:05 PM

They've made appearances in the news and now, environmental fugitives are among the government's most sought after alleged criminals.

The Environmental Protection Agency (EPA) has its own "wanted" list, which currently contains the names, vital stats and mug shots of 21 people on the run from justice for allegedly participating in environmental crimes ranging from smuggling pollutants to illegally dumping them.

"We take them seriously, and there are serious consequences," Doug Parker, deputy director of the EPA's criminal investigation division, told the *New York Times* today. The newspaper wrote a feature about the enviro most-wanted list after the agency added its 21st fugitive, Albania Deleon, 39, to it last week.

In November, Deleon – who ran the Methuen, Mass.-based asbestos-removal training company Environmental Compliance Training — was convicted of fraud in federal court in Boston for falsely claiming that workers were certified in asbestos removal. But she failed to show up for her sentencing hearing last month, according to the EPA.

Parker told the *Times* that 180 EPA agents are "fully authorized with arrest powers, carrying firearms." Most of the time, he said, EPA works with law enforcement at the state, local and federal levels, and with the Coast Guard, Department of Homeland Security and Interpol to catch enviro fugitives.

Two fugitives have been captured since the EPA established the list in December. One of them, Larkin Baggett, was shot and arrested last month after EPA officials got a tip on his whereabouts. Baggett, 53, the owner of a Utah chemical company, illegally

dumped sulfuric acids, hydrofluoric and hydrochloric acids (corrosive chemicals that can in some cases contribute to acid rain), the EPA says. A spokesperson for the agency, Dave Ryan, said he didn't know Baggett's status and refused to comment further. A representative for Jackson Memorial Hospital in Miami, where Baggett was taken after the March 10 shooting, said she couldn't comment on his condition.

The other fugitive, Bhavesh Kamdar, 42, surrendered in February. An environmental consultant for New York State, Kamdar has been indicted in federal court in Buffalo for alleged money laundering. He pleaded not guilty at his arraignment Feb. 19 and is free on $1 million bond.

"Putting this information on the EPA's Web site will increase the number of 'eyes' looking for environmental fugitives," Granta Nakayama, former assistant administrator for EPA's Office of Enforcement and Compliance Assurance, said in a statement when the agency announced the "most wanted" program late last year. The *Daily Green* blog has a slideshow of the fugitives and their alleged crimes.

Despite Recession's Impacts, Agency Vows Aggressive Enforcement (*Inside EPA*)

Monday, April 06, 2009

Despite the recession's adverse impacts on companies that some sources say are hampering regulators' leverage in enforcement settlement negotiations, Obama EPA officials are vowing to aggressively pursue civil and criminal cases and rejecting claims their efforts will further the economic downturn.

Catherine McCabe, acting EPA enforcement head, told a March 22 Environmental Council of the States (ECOS) meeting that while the agency acknowledges companies are struggling in the bad economy, enforcement officials would be in danger of creating an uneven playing field if EPA or some states were to grant flexibility with penalties or other enforcement actions, adding, "In the end, it's our job to enforce the law."

Industry is fearful EPA will not adequately consider the current economic situation when levying fines and compliance measures. Meanwhile, environmentalists are afraid that industry will successfully cite economic harm in efforts to obtain lower enforcement penalties or more lenient consent decrees.

The concerns come as the Obama EPA is aggressively pursuing a backlog of air, water, waste and other enforcement settlements and actions that stalled in the final months of the Bush administration. Sources say the enforcement actions are a strong signal that the new administration will dramatically boost EPA enforcement and its use to drive climate, air toxics and other priorities.

EPA union officials and a coalition of environmental groups have also sent separate proposals to Obama urging him to provide hundreds of millions in additional dollars to "reinvigorate" the agency's Office of Enforcement & Compliance Assurance (OECA) compared to the fiscal year 2008 enacted level of $187.9 million.

While Obama recently proposed funding EPA at $10.5 billion in FY10 -- a roughly $3 billion increase over current funding levels -- the president's budget outline did not specify how much he intends to provide OECA. A full budget proposal is expected from the White House in the coming weeks.

But indicating the president's support for increased enforcement, then-candidate Obama in an Oct. 20 letter to EPA union officials backed their calls for boosting the agency's budget and said inadequate Bush administration funding for EPA resulted in the "ineffective allocation of resources, thus weakening enforcement and oversight of many environmental laws and regulations that protect the American people."

Recessions such as the current economic downturn pose a special difficulty to enforcement officials sensitive to the economic circumstances of violators, according to a wide range of sources.

For example, settlements between companies and EPA or states requiring the installation of expensive pollution controls may be harder to strike in the current economy because companies may not have the financial resources to commit to such measures. In such circumstances, it may be more financially viable for companies to lay off workers, move their business to competing jurisdictions or delay the action with litigation.

"The refrain we hear is 'we'll move our business to another state,'" a Michigan official told the ECOS meeting regarding the possibility that enforcement of environmental laws could further the economic downturn by imposing massive fines or other penalties on companies pursued by states or EPA. Several states take the lead on enforcing environmental statutes, though the agency also pursues civil and criminal enforcement cases.

McCabe told ECOS members that she sympathized with states that are facing the political dilemma of wanting to aggressively pursue environmental enforcement amid the economic downturn and emphasized "it is a myth to think we are putting companies out of business with enforcement."

One activist is wary that industry may cite the economy to successfully push for lower penalties, saying, "There's going to be a little bit of gaming the system, and you need to watch out for that." The source adds that to rebut criticism that enforcement is harming businesses, EPA could take the "populist" move of highlighting any large bonuses paid to executives at companies that violate environmental laws.

An industry source says the early signals from the Obama administration on enforcement indicate the weakened economy will be no obstacle to EPA pursuing an aggressive enforcement agenda.

Indeed, one agency source says, “We’re not suckers” and adds that EPA enforcement officials will not be misled by companies claiming dire fiscal conditions as a reason to rebut aggressive civil or criminal enforcement actions. Further, the source says that Cynthia Giles -- Obama’s nominee to head OECA -- is known inside the agency as having a “very strong enforcement record.” Giles is currently vice president and director of the Conservation Law Foundation’s Rhode Island Advocacy Center, and previously worked at EPA including a two-year stint from 1995 to 1997 as EPA Region III’s enforcement director.

The source promises a renewed focus on criminal enforcement, adding that what many consider “paperwork violations” can easily lead to “an all-expenses-paid trip to jail.” And the source vows strict monitoring of stimulus projects, saying EPA can suspend a contractor’s license to compete for federal dollars in the event that the agency believes a stimulus project is violating environmental laws.

Meanwhile, EPA and state enforcement officials are grappling with the decreased leverage sources say they will have in negotiations with violators due to the economic downturn.

At least one company has already come back to EPA from a settlement reached only months ago to tell the agency it can no longer fulfill the requirements of the consent decree. The EPA source says this is unusual, but that the agency is more frequently hearing the economy raised as a key issue in ongoing settlement talks.

One informed source says that the political difficulties of pursuing aggressive environmental enforcement during a recession are particularly acute on the water side for sewage issues, because the violator is typically a municipality or otherwise a quasi-public entity. In that case, the compliance measures or fine “would essentially constitute a tax increase” on the locality in question, which can be particularly unpopular, the source adds.

However, McCabe says that revising existing consent decrees with municipalities to address combined sewage overflows could be “very difficult” because in many cases the agency has already granted increased flexibility since reaching the original agreements, for example granting municipalities more time to comply.

Taking a hard line on the issue could be controversial. At the ECOS meeting, an Iowa official said that for small communities facing costs to meet consent decree requirements to upgrade sewer systems, “it’s not a question of competitive advantage, it’s a question of existence.” The official said one small community of 25,000 in his state is facing sewage upgrade costs of $160 million stemming from a consent decree over sewage overflows that violate Clean Water Act requirements.

McCabe said funding from the economic stimulus law, which included $4 billion for the clean water state revolving fund (SRF) and $2 billion for the drinking water SRF, will “hopefully” ameliorate some of the problem by providing funding boosts to municipalities to upgrade their sewer systems.

However, several state officials said small communities are less likely to receive funding because they are less able to quickly produce plans and applications for the funds. The president has made fast application for -- and spending of -- economic stimulus law funds a top priority. -- *Jonathan Strong*

Agency tracks most-wanted enviro-fugitives *(Greenwire)*

04/06/2009

U.S. EPA just last week added another person to its list of "EPA Fugitives," which tracks people who have been charged with violating environmental laws or regulations.

The list, which was created in December, currently names 21 people, including two men charged with smuggling ozone-destroying coolants, who are believed to have fled to Syria; a man charged in Illinois with building a secret pipeline to funnel pollutants into a tributary of the Mississippi River; and a man indicted on charges of dumping contaminated grain into the ocean.

While it remains to be seen how many fugitives will be captured as a result of tips from people who view the list, the agency's new Web page has received "a tremendous number of hits," said Doug Parker, deputy director of EPA's criminal investigation division.

Parker said the agency had 180 agents "fully authorized with arrest powers, carrying firearms" around the country, but that it usually collaborates with state, local and federal law enforcement agencies, as well as the Coast Guard, the Homeland Security Department and Interpol (Cornelia Dean, *New York Times*, April 6). **-- TL**

FUEL

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Expectations for Ethanol (*KAALtv.com*)

The technology is still developing, but Schwarck believes that when it's ready, it will be in addition to, and not replace, corn-based ethanol.

By: Nicole King
Updated at: 04/06/2009 11:12 PM

(ABC 6 NEWS) - You've seen the sticker on the pump, saying the gas you put into your car contains ethanol.

Those in the industry want to increase the amount that goes into gas, creating demand for biofuel.

The environmental Protection Agency is currently considering lifting a nearly 40-year-old cap that limits how much ethanol can be blended with gasoline.

Corn farmer Gary Pestorious is hoping for a good year.

He and several other farmers in Minnesota and Iowa grow field corn, which carries the main ingredient of corn-based ethanol.

Currently, a maximum of 10% ethanol can be blended into gasoline.

If the environmental Protection Agency waives that cap to allow higher blends, Pestorious and those in the ethanol industry would see the direct benefits.

"Right now, there's a supply and demand imbalance, so it would be a good thing for the industry as a whole," says Rick Schwarck, President and CEO of Absolute Energy.

But you don't have to be a farmer or work in the industry to feel the impact.

When oil prices start to rise, as experts predict, increased amounts of ethanol could help gas prices stay low.

"When gas prices are $2.00 a gallon, the public sort of loses focus of how important a national renewable fuels policy is. But when they're $4.00 a gallon, it was a different situation. The reality is that as the economy recovers, we will again see higher oil prices," says Commissioner Gene Hugoson with the Minnesota Department of Agriculture.

The national trade group Growth Energy says lifting the cap would also jumpstart Minnesota's economy creating more than 3,000 jobs at time when unemployment is high.

Several local leaders support raising the cap including the governors of Iowa and Minnesota and Congressman Tim Walz.

"To get this thing up to 15% is reasonable. I think it saves us from imported oil, it's cleaner burning," he says.

Government leaders say it would boost the economy, but at what cost to the environment?

Multiple studies, including a recent study from MIT challenge the benefits the industry touts.

Researchers concluded that the process of making ethanol, from the fertilizer to land use created 'unintended consequences' that wipe out the benefits.

Jerry Taylor is a senior fellow of the CATO institute, which is a non-profit public policy research foundation.

He says increasing the blend rate would only make it worse.

"Increasing ethanol production by any consequential amount would actually increase green house gas emissions over and above what we already get from conventional gasoline," he says.

Schwarck doesn't agree and says because the technology is always improving, they can be more efficient with fewer acres of crops.

"We're going to be growing or making somewhere in the neighborhood of a billion gallons more this year than we made last year, and yet we're going to be growing 4.6 million fewer row crop acres in the U.S. this year."

"Forty years ago, field corn average yield was 100 bushels and acre, 20 years ago it was 150 an acre and in the last five years it's nearing 200," says Pestorious.

As he prepares to plant his fields this year, Pestorious hopes the EPA and critics of the waiver will realize how this could help everyone survive trying times.

"I think it would be a good thing for the United States and everyone in it," he says.

The EPA is currently testing higher blends on standard vehicles to see if there could be any adverse affect.

There's also something called cellulosic ethanol that uses additional waste products from corn, including the cob and part of the stock.

GRANTS

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EPA awards grants to universities to research particulate (*Waste News*)

April 6 -- The U.S. EPA awarded four grants to universities to research particulate matter and its health effects.

The Georgia Institute of Technology, Atlanta, Ga, received $899,956 ; North Carolina State University, Raleigh, N.C., received $893,439; the University of California, Davis, Calif., received $900,000, and the University of Iowa, Iowa City, Iowa, received $899,401.

Exposure to ambient particulate matter can cause or contribute to premature death and various respiratory and cardiovascular diseases.

More information on the grants is available at http://es.epa.gov/ncer/07innovpm.

Contact Waste & Recycling News senior reporter Bruce Geiselman at 330-865-6172 or bgeiselman@crain.com

HAZARDOUS WASTES

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U.S. EPA monitoring cleanup of former Piqua Hospital (*Dayton Daily News*)

By Steve Bennish
Staff Writer

Tuesday, April 07, 2009

PIQUA — The U.S. Environmental Protection Agency is monitoring an asbestos cleanup at the former Piqua Hospital, 624 Park Ave., Piqua.

The site contains potential asbestos and chemicals, including mercury, acids and unknown substance hazards, according to the U.S. EPA.

On March 18, the U.S. EPA, Ohio EPA, and the Regional Air Pollution Control Agency inspected the site.

On April 2, Zeigler Environmental submitted a Phase 1 Work Plan to U.S. EPA. Phase 1 will include covering outdoor asbestos debris piles.

The work was to begin Monday, April 6.

Group concerned about Ithaca Gun dust (*Ithaca Journal*)

By Krisy Gashler
kgashler@gannett.com

April 7, 2009

As the Ithaca Gun demolition proceeds, three members of the Community Advisory Group are questioning whether the city and state are doing enough to protect neighbors from potentially contaminated dust.

Group member Walter Hang sent an e-mail to Mayor Carolyn Peterson last week arguing that the demolition contractors are not using enough water to suppress dust and that there is insufficient monitoring to know whether potentially contaminated demolition dust is moving off-site. Hang is president of Ithaca-based Toxics Targeting, which maps polluted and hazardous sites in New York state.

Group members Charles Izzo, a child development expert, and Kathy Luz Herrera, a Tompkins County legislator, responded in agreement with Hang. There are nine members of the advisory group, and the e-mail went to all of them, along with a variety of local and state representatives.

City and state Department of Environmental Conservation officials respond that the air monitoring system being overseen by the state Department of Health is ensuring the safety of the neighborhood.

DEC Environmental Engineer Gary Holmes and Nels Bohn, director of community development for the Ithaca Urban Renewal Agency and speaking on behalf of Mayor Peterson, said the contractors are following their approved demolition plan, and air monitors have been effective in showing that dust is not leaving the site or harming neighbors.

"I have observed the Ithaca Gun demolition on numerous occasions in recent months and have grown increasingly concerned about the project's environmental and public health impact," Hang wrote. "During the demolition, there has often been extremely limited use of water to suppress dust or no dust suppression at all. As a result, heavy equipment has generated fugitive dust emissions that I repeatedly observed blowing off-site."

"It appears to me that the efforts to protecting the surrounding community from hazardous debris and dust (have) been less than diligent," Izzo said.

Holmes responded that he is on site at Ithaca Gun two to three times per week and Bianchi demolition contractors are using between 55-60,000 gallons of water per day to suppress dust.

"There's no danger there," Holmes said.

"I would love to have absolutely no dust leave the site at all either, but it's a question of when is clean clean enough?" Bohn said. "Right now I have a lot of confidence that the air monitoring system is working effectively and is providing that level of protection that we're not seeing neighbors being negatively impacted by the process."

Hang, and then Izzo and Luz Herrera, also urged the city to test the soil in neighboring properties, once the demolition is completed, to make sure that contamination hasn't spread from the site.

"After all demolition activities have ceased, I request you to require soil monitoring to be conducted every ten feet along the boundary of properties that adjoin the factory site," Hang said. "If elevated contaminant levels are identified compared to the confirmatory soil clean up data generated by the Environmental Protection Agency, I request the pollution to be remediated."

The EPA undertook a multi-million dollar cleanup at Ithaca Gun several years ago, but it never completed the job.

Bohn responded that if air monitors aren't detecting contamination leaving the site, it's unlikely that it's migrated there.

"There's always an ability to gather more data and give greater assurances, which is not a bad thing at all, and I think a lot of people would prefer that, as long as they don't have to pay for it," Bohn said.

Hang cited the ongoing coal tar cleanup on West Court Street as a contrasting example to Ithaca Gun. The Court Street cleanup, with its completely enclosed structure and air handling equipment, "is far superior to the meager efforts at Ithaca Gun," he said.

New York State Electric and Gas is paying for the remediation at Court Street. The Ithaca Gun cleanup is being financed by two state grants and private development money. Land owner Wally Diehl and developer Frost Travis have proposed to convert the site into high-end condos and a public walkway to the Ithaca Falls overlook.

Weirton Facing Water Woes (*Wheeling News Register*)

By CASEY JUNKINS

POSTED: April 7, 2009

West Virginia

WEIRTON - Butch Mastrantoni believes the city needs to raise water rates to fund $4.7 million in treatment plant upgrades, but City Council members want more information before agreeing to the rate hike.

Mastrantoni, city utilities director, said Weirton is facing a consent order from the U.S. Environmental Protection Agency that requires the city to reduce the amount of cancer-causing materials in its drinking water supply.

According to the ordinance, which has yet to be officially read during a council meeting because members have voted to table it, the current water rate of $3.99 per 1,000 gallons would be increased to $4.23 per 1,000 gallons. Each customer also would see his or her monthly meter charge increased from $3 per month to $6 per month. City Manager Gary DuFour said these two changes would generate about $485,000 in additional cash flow per year that would be devoted to the plant upgrades.

Mastrantoni said the extra revenue is needed to perform the required plant tuneups to remove more cancer-causing chemicals from the water.

"The EPA has set up more stringent standards, and this water plant is not set up to allow us to comply with these new standards," he said, noting the plant has been in operation since 1962.

"We need to perform these upgrades to comply with the federal rules and to provide better water to our customers," Mastrantoni added.

Another ordinance would increase the monthly charge for sanitary sewer service to $6 from its current $3. DuFour said this change would lead to about $338,000 in additional revenue per year.

Weirton's general fund spending will be about $768,000 less in fiscal 2010 than in the current fiscal year - a cost-saving measure that led to layoffs for five city employees - but Mastrantoni said the water rate increases are necessary.

"Our town continues to get smaller, so we have fewer people to pay the bills," he said, noting those still living in the city will have to shoulder more of the burden for updating the plant.

The U.S. Census Bureau estimates Weirton's current population at 18,842. But this number has declined from 20,411 in 2000 and 22,124 in 1990.

Mastrantoni said declining production at ArcelorMittal also contributes to the required rate increase.

"We just are not selling water to industry the way we once did. And our utility and chemical costs are going up, too," he said.

Council is scheduled to discuss the water rate increase further during the regular meeting at 7 p.m. Monday in Council Chambers on the second floor of the City Building, 200 Municipal Plaza.

"I believe council understands the nature and importance of this project. ... They can make an intelligent and informed decision," Mastrantoni said.

But Councilmen George Ash Sr. and Max Fijewski want more information from city administrators such as Mastrantoni and DuFour before voting to approve higher water rates.

"I am going to need more information so that I can consider all of the facts before I make a decision on this," Ash Sr. offered.

Fijewski said administrators are supposed to furnish more information to council members "sometime this week."

"Whenever we get that information and see what else they (administrators) have to say, we will be able to make a decision," he said.

Asarco's $6B award may help finance cleanups *(Greenwire)*

04/06/2009

Dozens of highly contaminated mining and smelting sites in the West could be cleaned up after a Texas federal judge ordered Grupo Mexico SA de CV to pay Asarco an estimated $6 billion in stocks and damages.

The order involved the "fraudulent transfer" of stock in a Peruvian mining company once owned by Asarco. The award could help the company pay for more than $1 billion in environmental claims from Washington and eight other states, along with U.S. EPA.

The bankruptcy is considered the largest environmental-related bankruptcy ever, and the judgment is thought to be the largest ordered by a trial court.

"This is complete victory, and the thing that is most satisfying is that a big part of the money will go to environmental cleanup in the western United States," said Irv Terrell, a Houston lawyer who handled Asarco's arguments against Grupo Mexico.

U.S. District Judge Andrew Hanen said Grupo Mexico had fraudulently transferred Asarco's Peruvian mining interests to Americas Mining Corp. as part of a conspiracy designed to force Asarco into bankruptcy (Les Blumenthal, *Miami Herald*, April 3). **-- PT**

POLITICAL

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Veteran Calif. engineer nominated for top water post *(Greenwire)*

Katherine Boyle, E&E reporter

04/06/2009

President Obama has nominated a top official from Southern California's Metropolitan Water District to be assistant administrator of U.S. EPA's water programs.

Peter Silva, the senior policy adviser for the district, has worked on drinking water and wastewater issues for more than 30 years. He was previously vice chairman of the California Water Resources Control Board and has served as deputy director for San Diego's water utilities.

President Bill Clinton appointed Silva to the Border Environment Cooperation Commission. He spent three years on the commission and another three as the commission's deputy general manager in Ciudad Juárez, Mexico.

Silva also headed the San Diego International Boundary and Water Commission office for four years and spent five years with the California Regional Water Quality Control Board in San Diego. He earned his bachelor's degree in civil environmental engineering from California State Polytechnic University at Pomona. Silva is married and has one son, Diego.

Susie Bruninga, spokeswoman for the National Association of Clean Water Agencies, praised Silva for his experience in the municipal water industry.

Among the challenges that Silva faces are addressing the gaps in wastewater treatment funding, curbing nutrients in runoff and treatment plant discharges, and addressing climate change, Bruninga said. She said her group hopes to work with Silva to develop a comprehensive strategy for dealing with wet weather and flooding issues.

A large portion of EPA's budget is devoted to water pollution. The Clean Water State Revolving Fund, a low-interest wastewater loan program that helps states construct water treatment facilities, received $689 million in the fiscal 2009 budget, and the Drinking Water State Revolving Fund got $829 million.

The economic stimulus package provides $4 billion for the clean water fund and $2 billion for the drinking water fund.

Silva will replace former Assistant Administrator for Water Benjamin Grumbles. Grumbles is slated to take over the Arizona Environmental Quality Department in June.

RECYCLING

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EPA Dedicates Week to Cell Phone Recycling (*Earth911.com*)

by Trey Granger

Published on April 6th, 2009

The U.S. Environmental Protection Agency is promoting the importance of recycling cellular phones with the help of phone manufacturers and retailers that are members of EPA's Plug-In To eCycling program. The event started April 6 and will run through April 10.

The average cell phone is replaced after 18 months, and the circuitry inside can contain mercury or other hazardous materials. The EPA claims that only 10 percent of these unwanted phones were recycled in 2007, with many phones being stored in a garage instead of disposed at all.

Sprint has been specifically pushing phone recycling and has set a goal of collecting 250,000 phones during April. Other partners in the Plug-In to eCycling program are setting up in-store promotions and contests to encourage recycling.

"With Earth Day approaching, people are thinking about what they can do to give back to our planet," says Matt Hale, director of EPA's Office of Resource Conservation and Recovery. "Recycling your old cell phone is a great way to conserve resources and help make a greener world."

In many cases, a donated phone doesn't even need to be recycled. Millions of phones are donated every year to charities, including organizations like Cell Phones for Life, which provides phones for people with disabilities and battered women shelters. The phones are often used for emergencies because cell phones don't need to be connected to a service provider to be able to dial 911.

The EPA has produced a series of podcasts to promote cell phone recycling.

Trey Granger is a staff member at Earth911.com.

Disposable cameras can have nine lives (*Rochester Democrat and Chronicle*)

Matthew Daneman
Staff writer

April 7, 2009

New York

The jumble of cameras comes in daily by the tractor trailer load, packed in cardboard boxes.

Employees of OutSource empty the boxes onto a conveyor belt in a loud rattle of hard plastic, the line carrying the cameras past sorters who toss Kodaks into one box, Fujis into another and so on.

Millions of one-time-use cameras — those $5 plastic cameras you pick up in a checkout line with a single roll of film sealed inside — go through the Rochester vocational rehabilitation facility each month for sorting before they get recycled into new cameras.

Worldwide, the single-use camera reached a milestone around the turn of the year when the number of recycled cameras hit 1.5 billion, according to Eastman Kodak Co. The company's share of that is edging close to 1 billion, said Joseph Weiser, director of worldwide recycling for Kodak's one-time-use camera line.

According to Kodak, about 84 percent of its single-use cameras get recycled. By comparison, the recycling rate for electronics overall in the United States is about 18 percent, according to the U.S. Environmental Protection Agency.

The camera recycling rate is so high because of incentives to photofinishing businesses to send the cameras back to manufacturers and because the declining use of the cameras means fewer new ones have to be made, said Joel Proegler, general manager of Kodak's film capture business.

Kodak's aim is to get to the point where the cameras are made completely from recycled parts and materials, Proegler said.

Single-use cameras, like car batteries, have high recycling rates because they naturally end up in a business's hands at the end of their life cycle, said Valerie Thomas, an associate professor of natural systems at Georgia Institute of Technology.

Kodak launched its single-use cameras in 1987. The product was designed to be used only once, hence its name — the Fling.

By 1990, Kodak revamped the product line to make the cameras reusable. Since then, a constant flow of cameras has come into OutSource's University Avenue facility for sorting.

"It started with a big table and a lot of hands trying to sort a lot of cameras," said Mike Szpak, vice president of operations for the vocational rehabilitation program. OutSource is a division of the Rochester Rehabilitation Center, its employees a mix of people with disabilities and other employment hurdles such as lack of language skills.

An array of North American photo processors with which Kodak has a business arrangement send the used cameras to OutSource. Kodak also has sorting operations in Europe and Japan.

All the cameras then get sent to a Kodak plant in Mexico, where each gets a new battery, a new roll of film and a new plastic casing.

Any broken components also get replaced there.

To get the cameras, Kodak provides numerous retailers with cardboard containers and shipping labels. It also pays photo developers for each camera they send, roughly 75 cents per pound.

By recycling the cameras, Kodak is able to keep the price about half of what it would be if each was manufactured new, Weiser said.

At the peak of one-time-camera use earlier this decade, OutSource had a pair of conveyor lines running simultaneously and was a two-shift operation.

But use is declining, as is the camera film industry overall. In 2004, some 218 million single-use cameras were sold in the United States, according to Photo Marketing Association data.

Last year, Americans bought 85 million of the cameras, and the association estimates that this year, sales will be 52 million.

The United States represents 65 percent to 70 percent of the global one-time-use camera market, with Europe accounting for an additional 20 percent to 25 percent, said Proegler.

Just as Kodak's film manufacturing footprint has shrunk worldwide from numerous sites to now just its operation in Rochester, so, too, has the company cut its one-time-use camera manufacturing sites, closing facilities in China, Europe and North America.

Today, OutSource employs about 40 people in its camera recycling operation, runs a single conveyor line and operates in one shift that can go longer during peak times, Szpak said. Along with sorting, OutSource does warehousing and collects the data Kodak uses to figure out what to pay the film developing operations that send in the cameras.

The stream of cameras going by on the conveyor line is a blur of Kodak yellow, Fuji green and a variety of Polaroids and private-label cameras. When Kodak started recycling the cameras, it

kept track of how many lives a camera had before it was worn out. But as they started lasting in excess of nine or 10 uses, the company quit keeping track.

MDANEMAN@DemocratandChronicle.com

SUPERFUND

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Former Griffiss Air Base is delisted from Superfund (*Associated Press*) This story also appeared: *WTEN*

Associated Press - April 7, 2009 3:15 AM ET

ROME, N.Y. (AP) - The Environmental Protection Agency has finalized its decision to remove nearly 3,000 acres on the former Griffiss Air Force Base from the Superfund list.

That means all appropriate Superfund cleanup work has been completed, and the properties pose no significant threat to public health or the environment. But remediation work will continue on other parts of the base.

The former base covers approximately 3,550 acres. The Air Force has spent more than two decades and $138 million on cleanup work.

A Local Reuse Authority has been working to establish new businesses within the former base property. The land removed from Superfund listing will now become available for development.

State sues Iron King landfill owners (*Prescott Daily Courier*)

By Joanna Dodder Nellans, The Daily Courier

Monday, April 06, 2009

The Arizona Department of Environmental Quality has filed a lawsuit against a company owned by Clayton and Warren Kuhles that alleges 10 violations at their Iron King landfill site in Dewey-Humboldt.

Several of the alleged violations relate to the alleged 2007-08 demolition of structures near the landfill that contain asbestos, without the proper permits and safeguards.

Other allegations relate to the landfill, which operated in 2002-05. The Arizona Department of Environmental Quality (ADEQ) accuses the Kuhles of accepting non-permitted waste such as household waste and tires at the landfill, which was permitted to accept only construction debris.

Then, according to ADEQ, the Kuhles closed the landfill without a required closure plan, failed to monitor the groundwater and methane regularly, and failed to maintain a bond to cover the costs of long-term monitoring.

"For years ADEQ has tried to work with the company to bring it into compliance with the standards that protect human health and the environment in Arizona," ADEQ Acting Director Patrick Cunningham said in a Monday press release. "We are left with no choice but to pursue this action."

The alleged violations date back to 2005.

"The violations alleged in this complaint represent an unnecessary and highly dangerous disregard for the health of the Dewey-Humboldt community," Attorney General Terry Goddard said in the same press release.

ADEQ isn't sure about the extent of the asbestos, which can become airborne, lodge in the lungs and cause cancer when it dries out in the open air, Cunningham told The Daily Courier.

But during several inspections last year and this year, the building debris containing the asbestos was not wet or covered to prevent it from becoming airborne, he said. The Kuhles continue to ignore ADEQ demands to fix the problem, he said.

"That's one of the reasons we brought the lawsuit," he said.

The Kuhles face the potential for massive fines. ADEQ is asking the court to levy fines of $25,000 per day since June 2007 and $10,000 per day since February 2008.

The Kuhles brothers said they have not yet been served with the lawsuit.

Warren Kuhles said his brother was the main operator at the landfill.

"I was always the lead man on getting county permission (for opening the landfill), but then my brother grabbed hold of the reins once it started operating," Warren Kuhles said.

Clayton Kuhles blamed any landfill violations and the bond lapse on Kserv LLC. He said Kserv operated the landfill and the brothers' company was just a landlord. The Kuhles were only 20 percent owners of Kserv, he said.

But the predecessor to the brothers' current company called Kuhles Capital LLC was Kuhles Services LLC, and it was the ADEQ permit holder, Cunningham said. ADEQ has no plans to sue Kserv, he said.

Clayton Kuhles said he originally didn't know about the federal and state laws prohibiting building demolition without a survey for asbestos first.

Clayton Kuhles said he stopped the demolition when he got the ADEQ order, but "sometimes it's hard to keep things wetted 24/7."

He is waiting for a contractor to finish the revised plans.

He noted that he missed only a short time period of landfill monitoring, and he wants to resolve the ADEQ issues.

Both brothers said they didn't know about the non-permitted waste at the landfill.

Items such as tires are hard to miss, Cunningham said.

"We're worried about spontaneous combustion" as well as chemicals in the tires leaching into the groundwater, Cunningham said. Tires aren't supposed to go into any landfills.

The landfill is in the old Iron King Mine "glory hole" and potentially part of a federal Superfund site, although the U.S. Environmental Protection Agency has not yet determined the boundaries of the site.

Warren Kuhles and construction company owner Mike Fann of Prescott own another separate part of the potential Superfund site, encompassing the old smoke stack.

Coincidentally, the Town of Dewey-Humboldt Planning and Zoning Advisory Commission will consider a new ordinance Thursday that will clarify that the town prohibits landfills.

The Kuhles obtained permission for their landfill from the county supervisors before the town existed.

"That's a problem the town has wrestled with a long time," Town Manager William Emerson said.

He said he often sees plumes of dust blowing off the landfill, and is looking forward to the EPA Superfund remediation plan.

TOXICS

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Florida Chinese Drywall Complaints Lead to Call for Federal Help (*AboutLawsuits.com*)

April 6th, 2009

Florida Governor Charlie Crist requested Federal assistance with the Chinese drywall problems that will impact thousands of homeowners in his state, asking for access to the resources of the Environmental Protection Agency (EPA) and Centers for Disease Control and Prevention (CDC) to help assess this growing federal health issue.

With a boom in home construction between 2004 and 2007, drywall manufactured in China was imported into the United States to help keep up with demand and was used in an estimated 30,000 Florida homes and as many as 300,000 homes nationwide.

The Chinese drywall has been found to contain high levels of sulfur compounds, which have started to emit strong smells similar to that of a rotten egg, corroded copper and electrical wiring in homes and caused health concerns for homeowners in locations with high humidity.

According to a letter sent to the EPA and CDC on April 3, 2009, Governor Crist requested assistance from the federal agencies in developing and implementing testing strategies in homes throughout South Florida that have experienced severe copper corrosion.

A preliminary assessment of 12 homes by the Florida Department of Health State Toxicologist and Indoor Air Programs Coordinator confirmed the presence of sulfur compounds in the drywall which could cause the type of corrosion found and pose a health hazard at sufficient concentrations.

“Until mid March 2009, the problems associated with Chinese drywall had only been documented in Florida to any appreciable degree,” wrote Gov. Crist. “Recent reports from Louisiana, Virginia and North Carolina have demonstrated this is a multi-state issue directly connected with the importation of a foreign-made product.”

Governor Crist indicated that a thorough and robust assessment of the Chinese drywall complaints in Florida will allow officials to determine whether a health advisory is warranted. Therefore, he has asked for access to Federal resources to assess the human health exposures in the impacted homes.

Many homeowners have filed Florida drywall lawsuits against the manufacturers, exporters, suppliers and builders who failed to detect the dangerous materials used in the drywall. In

addition to the health problems that may be caused by the drywall, impacted homeowners will be required to have every piece of defective drywall stripped from their home and will suffer devastating financial damages.

Last week, bills were introduced in the U.S. House and Senate seeking to impose a Chinese drywall recall and calling for the U.S. Consumer Product Safety Commission (CPSC), the National Institute for Standards and Technology and the Environmental Protection Agency to jointly study the import of drywall from China for home-construction purposes in the United States.

U.S. Senator Bill Nelson (D-Fla.) plans to visit a home in Cape Coral, Florida today to hold a press conference at the home of Sonny and Joyce Dowdy to raise awareness of the problems. The Dowdys have complained of Chinese drywall that has caused them to go through three air conditioners in one year and they have suffered from various health issues.

Industry Unable To Reproduce Studies Showing Low-Dose BPA Risks (*Inside EPA*)

Monday, April 06, 2009

Scientists at the Procter & Gamble Company (P&G) say they have been unable to reproduce key studies showing harms from low doses of exposure to the controversial plastic ingredient bisphenol-A (BPA), studies that environmentalists say regulators need to consider as they assess the chemical's risks.

The company's difficulty reproducing the test results underscores regulators' troubles resolving the debate over the chemical's risks.

"The nature of the dose-response curve at levels below the no-observed adverse effect level [NOAEL] is a contentious issue in risk assessment," P&G toxicologist George Daston said in a recent abstract. "Resolution of the debate has been difficult because the resolving power of most experimental methods is too limited to support conclusions about responses at very low doses."

Speaking March 17 at the annual Society of Toxicology meeting in Baltimore, MD, Daston said the company had set out to investigate the results of a group of academic studies showing harmful effects on lab animals of low doses of BPA and two other estrogens through genomic testing, but did not see effects at very low doses.

The studies, such as those published in 2007 by M. Durando and T.J. Murray, find precancerous mammary lesions in rats, which are a risk factor for invasive breast cancer in women.

The studies have been a point of controversy in ongoing efforts by the Food & Drug Administration (FDA) to assess the chemical's risks in food containers, which preliminary FDA assessments suggested limited risks.

But the FDA assessment has been controversial because officials relied on industry-funded studies since they adhered to good laboratory practice standards, were of large size, and provided raw data to the FDA for verification.

In review panel meetings, environmentalists and FDA science advisors' questioned the administration's decision to ignore studies showing reproductive toxicity, obesity and pre-diabetic conditions at low doses in studies performed in smaller academic laboratories.

Environmental Working Group (EWG), for example, criticized FDA for rejecting "findings from 12 studies that the National Toxicology Program (NTP) highlights as evidence of 'low dose' toxicity [in its 2008 final assessment, or monograph, on BPA]. As a result the safety assessment is pinned on underpowered and insensitive studies funded by BPA producers with a vested interest in proving their chemical is safe," the group said in September 2008 comments. EWG argues that FDA's test guidelines for developmental and reproductive toxicity are "not as specific as academic studies for subtle effects" on these systems at key stages of development.

Environmentalists have been especially concerned because the NTP's 2008 monograph on BPA -- which concluded there is some concern for effects on the brain, behavior, and prostate gland in fetuses, infants, and children at current human exposures to BPA -- concluded that infants and children are most exposed on a daily basis. Similarly, NTP calculates that a formula-fed infant 6 months old and younger is exposed to as much as 11 micrograms per kilogram per day (ug/kg/day) of BPA daily.

Industry scientists have have been trying to replicate or disprove the results of the studies in question for some time, because their own studies have not shown health effects at the low doses humans are expected to be exposed to through contact with food containers, medical tubing, and other plastic consumer products.

The industry researchers performed a genomic microarray analysis of genes exposed to BPA and two other estrogens, ethynyl estradiol and genistein. Yet they did not see changes in the RNA of the cells they were studying at low doses, leading them again to the conclusion that there are no adverse health effects to BPA at very low doses.

In an interview with *Inside EPA*, Daston called BPA a "great test case", because it has a "really low potency" and a "pretty airtight NOAEL at 5 milligrams per kilogram per day." In comparison, "a handful of studies in other labs see effects at 20 ug/kg/day -- almost three orders of magnitude lower," he says.

The P&G researchers treated pregnant rats with BPA at doses ranging from 0.002 to 400 ug/kg/day, and the other two estrogens at even lower dose ranges. They isolated mRNA from fetal testes and evaluated the genes on microarrays. At higher dose levels, there were gene expression changes, but these were large enough doses to also see morphological or functional changes, Daston says. At the low end of the dose ranges -- at or below human ambient exposures -- there were no changes in gene expression.

"Any effect has to be accompanied by a change in gene expression, that's how estrogens work," Daston says. "The beauty of the microarray is that you can evaluate all the genes. In the fetal rat testes, we just didn't see any changes different from the control. There was nothing in the biological underpinnings to [initiate] a tissue response."

The researchers concluded "there was nothing in the gene expression to support" BPA or the other two estrogens causing health effects at these low doses, Daston said. He adds that the study

“doesn’t completely answer the question” of whether there are health risks at low levels of exposure. But he says the results do “start to answer the question.” Daston adds that it would be “worthwhile to survey more than one developing organ, such as the mouse prostate.” -- *Maria Hegstad*

N.J. waste program under fire *(Greenwire)*

04/06/2009

A New Jersey bill that would allow the parties responsible for polluting the state's 20,000 toxic waste sites site to hire licensed consultants to oversee cleanup is meeting with fierce resistance from environmental advocates and a handful of lawmakers.

Proponents say the legislation will fix the state's broken clean-up program, allowing more sites to be cleaned up faster and, in some cases, to higher standards. The bill, which Gov. Jon Corzine (D) is expected to sign within weeks, would set mandatory time frames for cleanups for the first time and would allow enforcement action against consultants who violated the state's site remediation rules.

But environmental advocates and a handful of lawmakers argue that allowing the polluter to hire the consultants would pose a conflict of interest for the consultants. "I want these people to know legally and psychologically that their clients are really the residents of New Jersey and not anybody else," said New Jersey Sen. Loretta Weinberg (D), who voted against the bill. "I don't think that's clear enough."

Critics also say many measures to protect the environment and public safety were included in earlier drafts of the bill but edited out of the final version. They would like to see the state maintain control over the 2,000 to 4,000 most toxic sites and contend that the majority of the 13-member board that would oversee the consultants -- which would include six licensed consultants and one industry representative -- would be working for the responsible parties (Adrienne Lu, *Philadelphia Inquirer*, April 5). **-- TL**

WATER

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Native oysters win nod for Bay (*The Free Lance-Star*)

Tests of Asian oysters to end; Army Corps of Engineers, Virginia, Maryland agree to focus on restoring native oyster

Date published: ***4/7/2009***

By RUSTY DENNEN

It's too risky to introduce non-native Asian oysters into the Chesapeake Bay, the U.S. Army Corps of Engineers decided yesterday.

While there are no guarantees, native Eastern oysters are the best hope for restoring the estuary's once-vast resource, according to the long-awaited announcement.

And it will be expensive--costing half a billion dollars over a decade.

"Based on the current state of science and extensive public review, use of the non-native oyster on the [Bay] poses unpredictable ecological risks," Col. Dionysios Anninos, head of the Corps' Norfolk District, told reporters yesterday.

He added that the Corps, along with Virginia and Maryland natural resources agencies, the U.S. Fish & Wildlife Service, Environmental Protection Agency, the Potomac Fisheries Commission and National Oceanic and Atmospheric Administration all agreed that native oyster restoration should be the preferred alternative and sole focus of funding and science efforts.

The announcement effectively ends tests of Asian oysters by the seafood industry, though Anninos left the door slightly open for additional testing--under strictly controlled conditions--of the Asian oyster strain known as *Crassostrea ariakensis.*

"The Corps would consider such proposals only when they are part of a scientific or research framework," he said, and must be approved by the cooperating agencies.

The Corps studied the possible introduction of Asian oysters for almost five years, at at cost of about $17 million. That cost was shared by Virginia, Maryland and the federal government.

Oyster growers in the Northern Neck and elsewhere have been growing sterile strains of *C. ariakensis,* which are more disease-resistant and grow much faster than native oysters. They'll be allowed to harvest whatever is in the water now; their permit expires June 1.

A.J. Erskine, an oyster biologist who works for two seafood growers in the Northern Neck, said, "The decision is disappointing in the sense that what we're looking to do is improve the health of the Bay and the economic situation of the oyster industry.

"It comes with a price tag and a risk in itself. I think half a billion dollars is quite a risk to take. [The Asian oyster] doesn't cost the taxpayer a dime," he said, and "is just one prong of a multi-pronged approach" for the industry.

"The silver lining for us? At least we have a decision," Erskine said.

Conservationists have warned that the oysters native to the China Sea pose a great risk because a small percentage could reproduce over time, with unknown consequences for the Bay.

The Chesapeake Bay Foundation and the Nature Conservancy applauded yesterday's announcement.

"This decision supports native oyster restoration and says no to further testing of Asian oysters unless it is conducted with no risk to the Bay," Roy Hoagland, CBF's vice president for environmental protection and restoration, said in a statement.

He said the agencies "correctly recognized the dangers that non-native oysters pose as well as the enormous potential for restoration of the native population."

Restored native oyster reefs on Virginia's Great Wicomico and Lynnhaven rivers are thriving, and native oysters are showing increasing tolerance to diseases, conservationists say.

But officials yesterday made it clear that restoring native stocks will be a long and expensive process--estimated at $50 million a year over the next 10 years.

Several million dollars in state funds and grants are available, along with federal economic stimulus funds, but much more money would be needed to reach the estimated half-a-billion-dollar total.

Anninos said yesterday there's reason for optimism, but no one knows if the effort will ultimately be successful.

"We can expect pockets of successes on various tributaries," he said. "I'm confident we can do that. I'm not confident that we can bring the oyster back baywide."

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Sewage smell spoils Cahokia neighborhood (*Belleville News Democrat*)

Parkfield Terrace residents still waiting for results a year after leak

BY RICKEENA J. RICHARDS
News-Democrat

Posted on Tue, Apr. 07, 2009

Residents of Parkfield Terrace near Cahokia are closing themselves up in their homes, and even moving out of them, to escape the stench of a one-year-old sewage leak.

"Sometimes you just want to leave home," said Roberta Conners, whose backyard is sandwiched between two pools of raw sewage.

The cloudy sewage bubbled up from one 6-foot-deep manhole and was close to overflowing out of a second 25-foot-deep manhole along Laura Lee Drive on Sunday afternoon. It also stands in a 100-yard ditch that runs from the neighborhood toward Wirth Middle School.

Dennis Traiteur, Cahokia Commonfields Water District executive director, could not be reached for comment at his office Monday.

Bryon Touchette, who works for the water district, said a waterline collapse caused the leak about a year ago and, despite "numerous" complaints from residents and water district employees and notification to the Illinois Environmental Protection Agency, the leak remains.

"They (the water district) haven't told us to do anything," he said. "This could've all been done eight to 10 months ago. ... I'm embarrassed to say I work for them."

Touchette and his mother, Carolyn Touchette, who said the sewage issue prompted her to run for a water district trustee position, said most residents' complaints are about the smell and the potential risk of contamination, especially with neighborhood children playing in the area and using walking paths that run near the sewage.

"A lot of the residents I've talked to, they won't even let their children outside because of the smell," Carolyn Touchette said. "This has got to be taken care of."

Conners and her husband, Dennis, said they can no longer open their back door to let fresh air into their home because of the sewage's foul smell.

"Usually, you can't even stand it out here," Dennis Conners said from his front lawn. "That's pitiful. And kids play back there."

Donna Brown said the smell often keeps her family inside.

"When it comes, it comes all over," said Brown, who has had to pump the sewage out of her home's pipes three times because it was coming up into her bathtub and toilets.

Brown and the Conners said they see crews working on the leak regularly, but nothing seems to get fixed and the smell persists.

Carolyn Touchette said a family who lived across Laura Lee Drive from the Conners moved out of their home because of the smell a few weeks ago.

Roberta Conners said moving is something she and her husband also would have to consider if the leak doesn't get fixed, though she doesn't know how interested anyone would be in buying their home with the accompanying smell outdoors.

Her message to the water district was simple: "Families out here would like to have clean air. We would like to open our doors to get a breath of fresh air sometimes without smelling poop."

Brown, who said moving isn't an option for her, made an even simpler plea: "Help."

Contact reporter Rickeena J. Richards at rrichards@bnd.com or 239-2562.

Chemicals threaten College's water (*The Flat Hat*)

By PERRY BEEMAN
pbeeman@dmreg.com

April 7, 2009

The increase in heat-trapping carbon dioxide emissions from Iowa power plants from 2007 to 2008 was the second highest in the country, a report released Monday says.

Only Oklahoma ranked higher in the report based on federal records of emissions from plants that burn coal, natural gas or oil.

The report was released by the Environmental Integrity Project, a nonpartisan organization established by former U.S. Environmental Protection Agency attorneys to advocate for more effective enforcement.

If it proves to be a trend, the growth could build pressure for the state to act to control emissions. The Legislature has taken little action on $4.8 billion in proposals, made in January by a 23-member task force it created, to help cut emissions of greenhouse gases, including carbon dioxide.

"Perhaps we have even more opportunity than we thought we did," said Roya Stanley, director of the Iowa Office of Energy Independence. The Legislature created the office in 2007 to come up with renewable-energy and efficiency projects to create jobs while making the state less reliant on out-of-state power.

Stanley said the state is working on a $50 million program - financed with federal stimulus money - that will offer loans to businesses that improve energy efficiency. Consumers will most likely get rebates on high-efficiency appliances, too.

Carbon dioxide is a chief greenhouse gas, blamed for trapping heat and contributing to higher global average temperatures.

Stanley and Cathy Woollums, senior vice president of MidAmerican Energy, both said Monday that they weren't sure what led to the increase in emissions in Iowa.

Nationwide, carbon dioxide emissions from power plants dropped 3.1 percent from 2007 to 2008. But they rose more than 1 million tons each in six states during the period: Oklahoma, 3.1 million tons; Iowa 1.8 million; Texas 1.7 million; Nebraska 1.3 million; Illinois, 1.1 million; and Washington, 1.1 million.

The Environmental Integrity Project said that the national dip was an anomaly, and that national carbon dioxide emissions have risen 4.5 percent since 1998. The report authors suspect the weak economy and mild weather in some regions contributed to the drop.

The research comes just weeks after two proposals for new coal-fired power plants in Iowa were shelved, for now.

Environmentalists had fought the plants in Marshalltown and Waterloo, fearing they would add emissions. Backers delayed the projects in part because of the weak economy, but continued to claim that the new, more efficient plant designs would help reduce emissions by replacing older plant capacity.

MidAmerican's large Walter Scott power plant near Council Bluffs had its first full year of operation last year. But Woollums said increased power generation statewide, rather than at any one plant, probably is more at play in the higher emissions.

MidAmerican boosted its generation 42 percent from 2000 to 2008 as biofuels plants, data centers and other new customers came on line, Woollums said. However, the utility's carbon emissions per megawatt hour fell 13.5 percent in the same period. That's because of efficiency programs and because 38 percent of MidAmerican's capacity now comes from wind, landfill gases, hydroelectric dams and nuclear power, she added.

Still, the report shows that Iowa ranked sixth over the past five years and 10th over the past decade in increases in carbon dioxide emissions.

US Supreme Court defeat for environmentalists (*Legalbrief*)

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The US Supreme Court says that the Environmental Protection Agency (EPA) may consider whether protecting fish and other aquatic creatures is worth the cost of the most advanced upgrades for older power plants, a defeat for environmentalists who had challenged the government's position.

A report in ***The Washington Post*** notes that the court ruled six to three that such cost-benefit decisions are allowed under the Clean Water Act as the agency moved to require more than 500 older power plants to upgrade the ways they draw water to cool machinery. Water-intake systems kill 3.4bn fish and shellfish each year, the EPA estimated. But the technology that could bring the older plants more in line with new plants would cost about $3.5bn annually, the EPA said. The case is Entergy v. Riverkeeper.
Full report in The Washington Post
Act

Workshop for dry cleaners tells how to protect groundwater (*UNR NevadaNews*)

Monday, April 06, 2009

By Claudene Wharton

Perchloroethylene, commonly referred to as PCE or Perc, is used by about 80 to 90 percent of dry cleaners in Nevada. To minimize any potential for groundwater contamination that could occur from the chemical's use, the Nevada Division of Environmental Protection (NDEP) and the University of Nevada, Reno Business Environmental Program have developed a program to encourage use of best management practices, environmental compliance, and self-inspection by dry cleaners using PCE. A free training seminar for PCE dry cleaners will be held 2 to 4 p.m., April 15 at the NV Energy Auditorium, 6100 Neil Road, Reno.

Working with local environmental agency representatives and dry cleaners, NDEP and the University developed a manual containing all of the environmental compliance requirements and best management practices for Washoe County dry cleaners using PCE. The manual and a self-inspection checklist will be reviewed at the workshop.

The program, funded by an Innovations Grant from the U.S. Environmental Protection Agency, is an Environmental Results Program, which is an innovative program designed to measure and maximize the environmental compliance of small business sectors.

“The Environmental Results Program and use of self-inspection and compliance certification by small businesses have proven effective in achieving high levels of environmental performance in other states that have implemented these programs,” noted Kevin Dick, director of the University’s Business Environmental Program at the College of Business.

Dick explained that the self-inspection and certification are useful compliance tools for owners and managers of dry cleaning businesses. The practices supplement, but do not replace the annual inspections conducted by local agencies that regulate air quality, wastewater and hazardous waste management.

The program is strongly endorsed by Pete Koliastasis of Canyon Cleaners in Reno, who participated with other dry cleaners in a focus group to help develop the manual and checklist.

“Washoe County dry cleaners are committed to meeting or exceeding all environmental requirements,” he said. “I encourage all dry cleaners using Perc to attend this workshop and participate in this important program.”

Han Son, of Society Cleaners of Reno agreed, saying, “Yes, we must all do our part, and part of that is participating in this workshop and this new program.”

The University and NDEP have done some work with dry cleaners in the past to address the PCE issue. However, Dick said the new manual and self-inspection checklist should greatly help dry cleaners in their efforts to comply with regulations and protect the environment.

“We were eager to collaborate with NDEP again to ensure that dry cleaners receive the information and training they need to protect Washoe County’s environment,” he added.

A similar manual and program will be presented in Clark County later this year or early in 2010. Those who plan to attend the April 15 Washoe County workshop in Reno should call 689-6890 to preregister.

Residents flout Wash. county's phosphate law *(Greenwire)*

04/06/2009

Last summer, Spokane County, Wash., adopted the nation's first near-total ban on sales of water-softening phosphates in dishwasher detergent in an effort to slow the pollution that is sucking oxygen out of the endangered Spokane River, smothering its fish.

But many residents have now become detergent outlaws, driving 45 minutes across the Idaho state line to pick up secret stashes of the old dish cleansers, which they say work much better than the low-phosphate detergents.

For those inclined to chuckle at the frustrations of the desperate Washingtonians with dirty dishes, consider this: The detergent industry has pledged to eliminate nearly all phosphates from every automatic dishwashing soap sold in the U.S. and Canada by mid-2010.

With 12 states phasing in low-phosphate laws by the end of next year and four others considering them, industry officials say they are working to produce a new generation of dish-cleaning products that will not harm lakes and streams. The transition echoes the elimination of most phosphates from laundry detergents several years ago (Kim Murphy, *Los Angeles Times*, April 6). **-- TL**

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