

WESTERN STATES WATER

Issue No. 1738

September 7, 2007

THE WEEKLY NEWSLETTER OF THE WESTERN STATES WATER COUNCIL

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CONGRESSIONAL UPDATE/WATER QUALITY

Concentrated Animal Feeding Operations/CWA

Senator Barbara Boxer (D-CA), Chair of the Senate Environment and Public Works Committee, opened a September 6 hearing on the significant environmental and health issues related to CAFOs, which she called "...industrialized animal production facilities, including some that can hold more than 1 million animals..." She further stated, "There is currently a proposal that would exempt CAFOs from important environmental and public health safeguards – in particular from the public reporting or 'right to know' provisions of the Superfund law. The proposal also would eliminate provisions that ensure polluters pay to clean up their mess.... These environmental protection laws also ensure that where there has been damage caused by these facilities – and there have been numerous instances of air and water pollution and contamination of wells and other water supplies – the parties responsible can be held accountable.... The waste can increase phosphorus levels in water, causing algae blooms that can foul drinking water supplies, increase treatment costs, and cause massive fish kills."

Oklahoma Attorney General W.A. Drew Edmondson testified that fields and pasture lands in northwestern Arkansas and eastern Oklahoma "...have been transformed into virtual poultry-waste landfills.... Often, there is no legitimate agricultural purpose or benefit associated with this practice.... This poultry waste can contain a number of substances such as phosphorus, nitrogen, arsenic, and pathogenic bacteria. Running off fields and pastures, this waste travels down through creeks and streams and into some of Oklahoma's most important and scenic waterways...[with] serious effects on Oklahoma's Illinois river Watershed and Lake Tenkiller.... After several unsuccessful years trying to negotiate a resolution to this problem, in 2005, the State was forced to sue the integrated poultry companies to stop them from polluting Oklahoma's waterways. One of the most important tools available to the State is Section 107 of CERCLA [the Superfund law], which allows Oklahoma to recover response costs and damages to its natural resources." He opposed S. 807, which "...proposes to exclude 'manure' from the definition of hazardous substances, even though CERCLA already provides an exemption for the normal application of fertilizers, such as animal manure. [original underlining] (*See* 42 U.S.C. § 9601(22).)"

Senator James Inhofe (R-OK), in his opening statement, declared, "We can have clean water and an active agriculture industry but we cannot have one at the expense of the other. I have been aggressive in assisting water systems comply with federal laws, however, any effort to further regulate farms must consider the critical economic and employment benefits provided by the nation's farms. In a 2000 study, the Department of Agriculture found that of the over 111,000 agriculture jobs in Oklahoma, 71 percent were related to livestock production. According to USDA, total farm and farm-related employment in Oklahoma in 2002 was 343,636 jobs. Any legitimate concerns should be addressed without threatening the economic viability of Oklahoma's agriculture industry.... The prospect of declaring animal manure a hazardous waste and thus regulating under CERCLA deeply concerns me. If animal manure is found to be a hazardous waste, then virtually every farm operation in the country could be exposed to liabilities and penalties under this act.... I do not believe this is what Congress intended. This issue needs a common sense approach where nature and sound science meet...."

He added, "CAFOs are already regulated under the Clean Water Act. In 2003, EPA published a new regulation updating its CAFO program. The Second Circuit Court would later rule in its 'Waterkeepers' decision that...the Clean Water Act only regulates actual discharges, not potential discharges. The EPA will soon finalize a new rule to implement the Court's decision. For those who call for additional regulation, it is important to note that one of the current primary regulatory tools has not yet been fully implemented. We need to see how EPA's soon-to-be published rule, which for the first time regulates land application of nutrients, improves water quality." Speaking of converting manure into energy, he said, "We need to encourage innovation in all fields, including animal waste." He also encouraged a comprehensive look at the numerous federal, state and local initiatives and authorities that already exist to address any pollution concerns related to livestock production and expressed disappointment that USDA was not invited to testify on "...a variety of programs, including the Environmental Quality Incentives Program to which so many farmers turn for compliance assistance."

For a witness list and copies of all the testimony see <http://epw.senate.gov> and click on Hearings.

CONGRESSIONAL UPDATE/WATER RESOURCES

Water Resources Development Act (WRDA)

While the House passed the WRDA conference report 381-40 before the August recess, the Senate has yet to act and a number of obstacles, including a Senate agenda dominated by Iraq, could derail final passage. WRDA is not on the Senate's immediate agenda. Also, a recently passed ethics bill on the President's desk for signature, has created significant confusion. A section of the bill, if signed, may stop the Senate from approving any conference reports that contain earmarks not included in either the House or Senate-

passed versions. The WRDA conference report contains numerous ear-marks, including dozens of environmental restoration projects, which could make WRDA passage vulnerable to a “point of order,” according to Senator Tom Coburn (R-OK). It would take 60 votes to waive a point of order. An aide in the Senate parliamentarian’s office says the new ethics rules in the lobbying bill prohibit only “new directed spending provisions,” and therefore not authorizations, but Coburn’s staff say their contact in the parliamentarian’s office says there is no distinction between authorization and appropriation bills.

WATER RESOURCES/ENVIRONMENT

California/Endangered Species Act

On August 31, Governor Arnold Schwarzenegger issued a statement after a Federal District Court in Sacramento significantly restricted water deliveries (perhaps by as much as one-third) from the Sacramento-San Joaquin Delta to Southern California, the Central Valley and San Francisco Bay Area in order to protect the endangered Delta smelt. “Today’s federal court ruling to drastically cut Delta water exports is further proof that our water system is broken, unreliable and in crisis. Judge Oliver Wanger’s decision is a devastating blow to our water supply system and state economy. We must act now to ensure the safety and reliability of California’s water system while we work to protect the environment. This decision is also going to have a devastating impact on the state’s economy and the 25 million Californians who depend on Delta water.”

He continued, “Earlier this year, I proposed a comprehensive water plan to ensure that California has enough clean, safe water for our people, businesses, farms and for the environment. I’ve also established the Delta Vision Task Force to provide recommendations and help us find solutions to fix the Delta. We need to invest in a better conveyance system so we have reliable water supplies and are able to protect the Delta’s fragile ecosystem. Following today’s ruling, there can be no doubt, we need more water storage and greater conservation efforts to meet the needs of our growing population, respond to the challenge climate change presents and meet the requirements of what the court has imposed.”

PEOPLE

On September 4, U.S. Bureau of Reclamation Commissioner Robert W. Johnson announced the selection of two new Regional Directors. **Lorri Gray**, currently the Lower Colorado River-Multi-Species Conservation Program (LCR MSCP) Manager, and **Larry Walkoviak**, current Deputy Regional Director of the Bureau of Reclamation's Lower Colorado Region. Gray will become the Lower Colorado Regional Director, in Boulder City, Nevada; and Walkoviak will take over as Regional Director for the Upper Colorado Region in Salt Lake City, Utah upon the retirement of **Rick Gold**. “The skills that both Larry and Lorri have demonstrated throughout their careers are central to the management of these two regions in Reclamation. Both regions are dealing with issues of national significance and I am confident that these individuals will continue the work of their predecessors without missing a beat.”

Lorri has 24 years of service in the Lower Colorado Region, as Deputy Regional Director, and as manager of financial and security programs, Salton Sea Restoration, and the Coachella Canal lining program. She is a native of southwestern Colorado. Larry was appointed Deputy Director in the Lower Colorado Region in August 2005. He has over 32 years of service with Reclamation, including spent 17 years in the Upper Colorado Region. He has also served in the Great Plains Region, and managed the Oklahoma-Texas Area Office. Larry was born in Shawnee, Oklahoma, and raised on a dairy farm in east Texas. Johnson said, “I have every confidence that these two executives will help make the Upper and Lower Colorado Regions responsive to their customers and effective in carrying out Reclamation’s mission.”

MEETINGS – REGISTER NOW! REGISTER NOW!

Water Policies and Planning in the West: Ensuring a Sustainable Future, the WGA/WSWC Conference, will be held in Salt Lake City, Utah on October 10-12, at the Sheraton City Centre. The cut-off for room reservations is September 16. Call the hotel directly at 801-401-2000, and ask for the conference rate of \$109 single/double, which will be honored three days before and after the meeting, based on room availability. Reservation requests received after that date will be accepted on a space available basis, at a higher rate. Utah Governor Jon Huntsman will deliver the keynote address, and will be joined by senior federal officials from the Departments of Commerce, Interior and the Environmental Protection Agency. Some 250 stakeholders, federal, state, tribal and local agency representatives, and water experts from across the West are expected to attend. Register now online at: <http://www.regonline.com/Checkin.asp?EventId=139310>. An updated agenda has been posted at the website <http://www.westgov.org>. Again, the cut-off for room reservations is September 16.

The WESTERN STATES WATER COUNCIL is an organization of representatives appointed by the Governors of Alaska, Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.