

EPA's Online Tool Allows Access to Environmental Compliance Records

On Nov. 20, the U.S. Environmental Protection Agency (EPA) announced the release of the Enforcement and Compliance History Online (ECHO) tool, giving the public direct access to the current environmental compliance record of more than 800,000 regulated facilities nationwide. A 60-day public comment period began Nov. 20 to provide users and interested parties, particularly those responsible for facilities included within the database, an opportunity to review and comment on ECHO's content, design, and accuracy.

The Web tool integrates EPA and state compliance information for facilities regulated under the Clean Air Act, Clean Water Act, and Resource Conservation and Recovery Act (RCRA). Data reports are updated monthly and cover a two-year period. The system retrieves information from federal and state data entered into EPA databases: the Air Facility System, which provides information on compliance with air permits for various stationary sources of air pollution; the Permit Compliance System, which provides information on companies issued permits to discharge waste water into rivers; and the RCRA Information System, a national program management and inventory system about hazardous waste handlers. ECHO includes links to additional state enforcement and compliance information.

ECHO also provides an online error reporting process that allows users to alert EPA and the states to possible errors, and to ensure continued public participation in data quality.

Visit ECHO at www.epa.gov/echo

Administration Acts on Wetlands Protection

On Jan. 10, the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) announced a pair of actions that they say

will help Americans comply with the Clean Water Act's requirements for protection of the nation's wetlands. These actions, which reaffirm federal authority over the vast majority of America's wetlands, are in response to the Supreme Court's 2001 decision in *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers (SWANCC)*, which limited federal authority under the Clean Water Act (CWA) to regulate certain isolated wetlands.

The two agencies jointly issued clarifying guidance for the federal government's rules to protect wetlands, which are regulated under the CWA. Simultaneously, the Bush Administration announced its intention to publish an Advance Notice of Proposed Rule Making (ANPRM) to solicit data and information from the public to clarify the extent of Clean Water Act coverage in light of SWANCC. These two steps complement the actions announced Dec. 26, 2002, when the Corps and EPA issued a regulatory guidance letter "to improve wetland protections through compensatory mitigation," and the administration unveiled a National Wetlands Mitigation Action Plan listing 17 action items intended to "improve the effectiveness of wetlands restoration." Through those actions, the agencies assert

their commitment to achieving the goal of no net loss of wetlands, and to increase the overall function and value of the nation's wetlands through public and private, regulatory and non-regulatory initiatives and partnerships.

Congress included protections for wetlands in the 1972 Clean Water Act. However, in the SWANCC, a divided Supreme Court held that the Corps had exceeded its regulatory authority under the law when it tried to block construction of a landfill site that would destroy seasonal ponds that provide habitat for hundreds of migratory birds. The court held that habitat protection for the birds was not enough to warrant government jurisdiction over the ponds and raised the question whether the Clean Water Act protects "non-navigable, isolated, intrastate" waters. According to the NRDC, the SWANCC ruling has created confusion by leaving open to interpretation the question of which wetlands are in fact "isolated." Some have read the decision to mean that isolated wetlands -- possibly comprising as much as 30 percent of America's wetlands -- are, in fact, excluded from protection under the Clean Water Act.

Critics of the recent administration rulings claim the administration is weakening the

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URS Corporation is an internationally recognized environmental engineering firm that now includes the joined forces of Greiner, Woodward-Clyde, Dames & Moore, Radlax, O'Brien Kowitzberg, Walk Haytin, and BHW. URS and its legacy companies have provided water resources services to the public and private sector in Arizona and the southwest since 1958. The Arizona offices of URS include over 250 personnel, including 30 Arizona registered engineers, geologists, and land surveyors.

CWA and threatening existing wetlands. The Natural Resources Defense Council (NRDC) states that the Corps' new "general" permits weaken environmental protection by lifting a 300-foot limit on the destruction of streams, revoking standards that require an acre-for-acre replacement of destroyed wetlands, and loosening restrictions on filling wetlands in floodplains.

The National Wildlife Federation (NWF) and the NRDC say the SWANCC decision and the new administration rulings are inviting the destruction of millions of acres of so-called isolated wetlands, eliminating their important role in providing flood control, natural water purification and essential wildlife habitat. According to Mark van Putten, president of the NWF, the Bush administration would "muddy the waters of the CWA by giving developers unlimited ability to fill, pollute, and destroy many of America's waterways and wetlands. At the same time, the administration is also making it harder for the public and state governments to use the CWA as a tool to protect our country's water resources."

The Federal Register document and additional information are available from EPA's Office of Water: www.epa.gov/owow/wetlands/swanccnav.html

NRDC and NWF statements are available at www.nrdc.org/media/pressReleases/020723.asp, and www.nwf.org/news/wetlands01102003.ht

CA Water Sharing Deal Far From Settled

For years, California has overdrawn its share of water from the Colorado River, which it shares with six other states. In an effort to curb California's consumption, the federal government ordered four Southern California water boards to reach an agreement, called the Quantification Settlement Agreement (QSA), by Dec 31, 2002. This pact would enable California to reduce its annual use of the Colorado River from 5.2 million acre-feet to 4.4 million acre-feet over the next 15 years. A key condition of the QSA is the Imperial Irrigation District's (IID) sale of 200,000 acre-feet per year of Colorado River water to the San Diego County Water Authority (SDCWA). The Coachella Valley Water District (CVWD) and the Metropolitan Water District

(MWD) are also a part of the agreement.

Both Coachella Valle and Metropolitan water districts and SDCWA approved the agreement, but the IID voted against approval, according to a Dec. 31 CVWD press release. IID and SDCWA then reduced the terms of the agreement by 30 years and added monetary requirements regarding management of the Salton Sea. MWD and CVWD did not agree with the revisions and the deal fell through.

On Jan. 7, California senators talked of introducing legislation that would cut IID's water supply by 10 percent, according to the *Sacramento Bee*. IID reacted by filing a lawsuit to stop the water cut.

Despite involvement from lawyers and legislators, the parties neared settling on an agreement. In January, water officials met in Sacramento, approaching an agreement on the IID water sale, which was contingent upon the boards' agreement to share river water. The state committed \$200 million to pay for Salton Sea environmental programs and \$150 million in loan guarantees for Imperial County farmers to install conservation measures, the *San Diego Union Tribune* reported.

Lawmakers are under pressure to renew legislation that would weaken environmental protections for some rare fish and wildlife along the river corridor – a necessary step for progress, according to the *Tribune*.

"We have completed and signed agreements necessary to implement a water transfer with SDCWA," IID General Counsel John Carter said in a Jan. 21 IID news release. IID and SDCWA have also agreed that after 45 years the water sale would end a change from the former 75-year pact, which favors CVWD.

As of press time, Southern California water boards were still in disagreement, and the situation appeared destined for the courts to settle.

Perchlorate Regulation in CA to be Delayed

On Nov. 22, the Associated Press (AP) reported that California's bid to become the first state to set drinking water standards for perchlorate has been

delayed. Los Angeles County Superior Court Judge Dzintra Janavs ordered state officials to submit a draft public health goal for perchlorate to a second round of review by scientists, AP said, delaying establishment of the health goal by at least several months.

According to AP, a draft perchlorate goal of 6 parts per billion (ppb) in drinking water for California was announced in March. Kerr-McGee Corp. and Lockheed Martin Corp., which owned sites where perchlorate was either manufactured or tested, then sued the state, seeking a second round of peer review, reported AP. The U.S. Environmental Protection Agency is considering federal perchlorate regulations, and has recommended a more stringent goal of 1 ppb, AP said.

Under state law passed in September, a public health goal for perchlorate concentration in drinking water was to be adopted by Jan. 1 2003, and a primary drinking water standard for perchlorate in public water systems was to be adopted on or before Jan 1, 2004.

According to AP, adoption of the primary drinking water standard in California, which takes into consideration the cost and feasibility of meeting the standard, will likely be delayed by the additional review as well.

(See related article, page 28.)

Critical Management Area Declared in South-Central NM

From the New Mexico Office of the State Engineer

On Dec. 4, 2002, New Mexico State Engineer Thomas C. Turney declared the La Luz/Fresnal and Laborcita Canyon watersheds in south-central New Mexico as Critical Management Areas (CMA). The CMA designation declares that the State Engineer will no longer allow new groundwater appropriations for non-domestic purposes from within the watershed area, and will limit diversions from new domestic wells to 0.30 acre-feet per year. In addition, all permits for domestic wells issued subsequent to this order will require metering.

The order affects the headwaters of the

drainage areas of La Luz-Fresnal-Laborcita Watersheds except for the Mescalero Indian Reservation and ends approximately at the east side of the basin fill. Mr. Turney based this decision on the severe drought that has resulted in greatly diminished surface and subsurface flows.

Visit www.seo.state.nm.us.

New Arizona Governor Identifies Leaders of Natural Resource Agencies

From the office of [then] Governor-elect Napolitano, Dec. 11, 2002

Arizona's new governor, Janet Napolitano, announced in December her choices to lead the state's natural resources agencies. She nominated Mark Winkleman to lead the Arizona Land Department, state Sen. Herb Guenther to head the Arizona Department of Water Resources, and Steve Owens to direct the Arizona Department of Environmental Quality. In addition, Napolitano announced that Lori Faeth will serve as her policy advisor for natural resources and the environment.

Guenther, a Democratic state senator from Yuma at the time of his nomination, was formerly a senior biologist with the U.S. Bureau of Reclamation and a biological assistant with the Arizona Game and Fish Department. He was a member of the Arizona House of Representatives from 1986 to 1993.

The founder and managing partner of MGS Partners, LLC, a commercial real estate business, Winkleman has been a close advisor to Governor Napolitano on land and land use issues.

Owens, an environmental lawyer, comes to the Napolitano administration with a wealth of public service experience. As a Congressional aide, Owens was active in the passage, reauthorization and oversight of several major federal environmental statutes, including the Resource Conservation and Recovery Act (RCRA).

Faeth was most recently the director of governmental relations for the Nature Conservancy of Arizona.

Texas to Designate Groundwater Management Areas

From the Texas Water Development Board

In November, the Texas Water Development Board (TWDB) adopted the preamble and rules for the designation of groundwater management areas (GMAs) in the state. The purpose of GMA designation is to identify the most suitable area for the management of groundwater resources. GMAs are important in both groundwater district creation, and in coordination of planning for groundwater resources. Cooperative water planning is a key element of Texas' 2002 State Water Plan.

In August 2002, the TWDB authorized the publication of a proposed rule to designate GMA boundaries. The boundaries were designated in a manner that coincided most closely with the boundaries of aquifers, consistent with the direction set forth in the Texas Water Code. TWDB staff used aquifers and other hydrologic boundaries to guide the delineation of the GMAs. The boundaries primarily honored the boundaries of the major aquifers of Texas as identified in various TWDB

publications, including the 2002 State Water Plan. In areas with multiple major aquifers, TWDB staff generally placed a preference on the overlying aquifer. Several of the major aquifers were divided into multiple GMAs. These divisions are based on hydrogeology and current water-use patterns and coincide with natural features where possible.

For its initial designation of the GMAs, the TWDB looked primarily at aquifer boundaries. Following the public comment period, however, they revised the proposed rules and boundaries such that the adopted GMA boundaries are consistent with political subdivisions (primarily county lines) when such changes create no significant compromise to regional management of the resource. In addition, the TWDB assigned counties to the GMA in which the most significant use of groundwater occurs. In some instances, a county remained split if the use in two aquifers/GMAs was significant in both.

The adopted preamble, rules, and GMA boundary designations are available on the TWDB's Web site www.twdb.state.tx.us.

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