

## **New EPA Report Evaluates VOC Sensors**

The U.S. Environmental Protection Agency (EPA) recently released *A Review of Emerging Sensor Technologies for Facilitating Long-Term Ground Water Monitoring of Volatile Organic Compounds* (EPA 542-R-03-007, November 2003, 61 pages). This report, published by the EPA's Technology Innovation Program, summarizes the status of emerging sensor technologies for facilitating long-term groundwater monitoring for volatile organic compounds. It also describes a number of factors that influence the applicability of these technologies, including regulatory acceptance and cost-effectiveness. The focus is on long-term groundwater monitoring that is generally associated with a selected remedy, such as monitored natural attenuation or pump and treat.

View the report at [www.clu-in.org/techdrct/techpubs.asp](http://www.clu-in.org/techdrct/techpubs.asp).

## **ADEQ Awards \$1.4M in Water Quality Improvement Grants**

On Jan. 29, 2004, Arizona Department of Environmental Quality (ADEQ) Director Steve Owens announced \$1.4 million in Water Quality Improvement Grants to help improve the state's water quality and mitigate non-point source watershed pollution throughout the state. A total of 15 grants were awarded.

The grants are funded through EPA under the Clean Water Act. The largest individual grants include \$230,000 for on-site sewer improvements to Camp Geronimo, a Boy Scout Camp in Gila County; \$225,000 to improve water quality in the West Clear Creek Tributary watersheds in Yavapai County; and \$132,000 to design and build toilets and a wastewater treatment and disposal system at Indian Gardens Visitor Center in Oak Creek Canyon, Coconino County.

Over three years, the program has provided more than \$6.9 million to public

and private entities to help reduce the impact of non-point source pollution on water resources. Past projects have addressed erosion control, aquatic wildlife restoration, and wetlands mitigation. Funded organizations or individuals are required to contribute matching funds. Non-point source pollution is widely considered the most significant threat to water quality and remains a top priority for ADEQ in its efforts to protect public health and the environment. It is caused by pollutants that are carried into lakes, streams, or groundwater resources through natural runoff.

Visit [www.adeq.state.az.us](http://www.adeq.state.az.us)

## **CA Water Districts Hail \$26M from EPA for Losses**

*From the Wheeler Ridge - Maricopa Water Storage District and Tulare Lake Basin Water Storage District*

On Dec. 31, 2003, a federal court awarded approximately \$26 million to several California water districts for water taken by the United States under the federal Endangered Species Act (ESA). Judge John Wiese of the U.S. Court of Federal Claims determined that a number of water districts and their water users in the San Joaquin Valley must be compensated at fair market value for the water, determined to be approximately \$14 million. It is expected that the final judgment in the case will be approximately \$26 million, including interest and recoverable litigation expenses. The water was taken from 1992 to 1994 in order to benefit species listed under the ESA.

The decision comes after an earlier ruling that the federal government was liable under the Fifth Amendment for the taking of the State Water Project (SWP) water and a lengthy trial to assess the actual amount of water taken and its value. In its earlier ruling concerning the taking of water for ESA purposes, the court stated, "The federal government is certainly free to preserve the fish; it must simply pay for the water it takes to do so."

The recent decision, issued after two weeks of testimony and evidence, finds that the federal government took more than 300,000 acre-feet of SWP water.

"It's a victory for both farmers and urban water users," said Peter Frick, a member of the Board of Directors of Kern County Water Agency, one of the plaintiffs. "Anyone who uses water from the Delta – in California that's most of us – should welcome this decision."

Veteran claims court counsel Roger Marzulla hailed the ruling as "a reaffirmation that the federal government cannot take property without just compensation to its owners."

Visit [www.wrmwsd.com](http://www.wrmwsd.com)

## **Water Quality Protection Conditional Waivers Approved**

On Jan. 22, 2004, the five-member California State Water Resources Control Board (SWRCB) unanimously approved three conditional waivers to protect water quality. Arthur G. Baggett Jr., chairman of the board, said this is the first program in the country to regulate the water quality of agricultural discharges.

The first conditional waiver applies to agricultural discharges to state waters. The Central Valley Regional Water Quality Control Board (RWQCB) adopted a conditional waiver of waste discharge requirements for discharges of water containing pesticides, nutrients, and other contaminants to surface water from irrigated lands in July 2003. Owners or operators of irrigated farmland will now have three choices for discharges of waste to surface water:

- participation by individual farmers (Individual Dischargers)
- participation by groups of farmers (Coalition Groups)
- participation by filing a report of waste discharge and receiving waste discharge requirements

Individual Dischargers and Coalition Groups must submit a Notice of Intent to the Central Valley RWQCB to become enrolled in the program and prepare runoff monitoring plans as well as management plans to control their runoff.

Other aspects of the Central Valley program include developing a 10-year plan to meet water quality standards by working with coalition groups, local groups, landowners, growers, and others, and providing monitoring and research on how various agricultural practices affect the surface waters of the region. The conditional waiver allows time for coalition groups to form, identify, and deal with runoff problems in their watersheds.

The other conditional waivers approved by the SWRCB were for timber harvesting practices. These conditional waivers include monitoring requirements, reporting requirements, and the development of best management practices.

According to a Jan. 22, 2004 report by *The Associated Press*, the new requirements came after environmental groups appealed an August 2003 decision by the Central Valley RWQCB to let farmers bypass regulations that other businesses must meet. Not surprisingly, some groups do not think the new measure goes far enough. Bill Jennings of DeltaKeeper, one of the groups that challenged the earlier decision, said the requirement that farmers monitor their water quality is good, but the new measure does not do enough to establish standards or a timeline for reducing pollution, *The AP* reported.

Visit [www.swrcb.ca.gov](http://www.swrcb.ca.gov).

## ***NM Senate Approves Domestic Water Well Regulation***

On Feb. 5, 2004, *KOB-TV.com* in Albuquerque, New Mexico reported that the state's Senate approved a measure that would provide the state engineer with stronger powers to regulate domestic water wells in areas of the state facing potential water problems. The legislation

would allow the state engineer to deny new wells in "critical management areas" unless the applicant could secure a water right to cover the proposed depletion. These areas would be designated by the state engineer, and could include places where increased water use may cause New Mexico to violate terms of an interstate compact, the article said.

Currently, the state engineer must grant permits for new domestic use wells, including those for household use and irrigation of up to an acre of land. According to *KOB-TV*, the wells are popular with developers because they don't require new water rights.

Visit [www.kobtv.com](http://www.kobtv.com).

## ***"Water Court Division" Announced for New Mexico District Courts***

On Jan. 29, 2004, New Mexico Gov. Bill Richardson announced that the New Mexico Supreme Court had ordered the state's district courts to create a "Water Court Division" within each district to help the state resolve ownership of water rights across the state. One judge in each district will be designated as a "water judge" who will hear and rule on water rights cases. The Supreme Court, along

with the New Mexico Office of the State Engineer, will create a training program to educate these judges, special masters, and staff in water law and procedure.

In his announcement, Gov. Richardson said at the current pace it could take up to 600 years to adjudicate all of New Mexico's water rights. Currently 11 major cases are pending, involving a total of 65,000 defendants, and these address only a portion of the water rights. As of January 2004, only 20 percent of the water rights in the state had been adjudicated, and over half of the stream systems had adjudications in progress. Some cases have dragged on for decades.

The Governor said that water courts will greatly accelerate the adjudication process and directly benefit communities by:

- having judges with water rights expertise give continuity to the process,
- encouraging people to settle individual cases by promoting negotiation over litigation, and
- involving judges and court personnel who are familiar with New Mexico water law and water rights issues unique to the different communities of the state.

Visit [www.governor.state.nm.us](http://www.governor.state.nm.us).

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