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Subject: FW: FYI Only: Water articles in the Press - AZ

FYI – Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

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Subject: FYI Only: Water articles in the Press

EPA Region 9 appears to drop objections to Arizona mine

March 07, 2019
EPA Region 9 appears to be dropping its long-running objections to a planned Arizona copper mine by saying it will not raise the issue from the region to agency headquarters, and will instead allow the Army Corps of Engineers to issue a Clean Water Act (CWA) dredge-and-fill permit for the project.

The Corps confirmed to the *Arizona DailyStar* March 4 that it intends to issue the CWA section 404 permit for the Rosemont Copper Mine, and EPA told the paper it will not ask for additional review of the permit.

EPA Region 9, which includes Arizona and other Western states, has repeatedly criticized the project in the past, most recently in November 2017 comments to the Corps. At the time, the region said, "As with prior EPA reviews, we continue to find the permitted activities of the proposed mine will significantly degrade Cienega Creek, Davidson Canyon, and their tributaries despite the actions proposed in the" habitat mitigation and monitoring plan.

But Region 9 Administrator Michael Stoker told Stu Gillespie of the Earthjustice, who represents the Tohono O'Odham Nation and two other Arizona tribes, in a Feb. 28 email that the regional office was not objecting to the Corps' plan to soon issue the permit -- the last permit needed for the copper mining project to start -- the Arizona paper reports. The regional office also told the paper it was not elevating the issue to headquarters.

Arizona Reps. Raúl M. Grijalva (D), chair of the Natural Resources Committee, and Ann Kirkpatrick (D) said in a Feb. 28 statement after meeting with Corps officials that they "both believe critical questions remain unanswered, including whether there has been adequate review under the National Environmental Policy Act."

The lawmakers said they "are concerned that this permit could be issued imminently without full consideration of the facts. We're going to pursue every avenue to ensure Rosemont is handled transparently, and we will be conducting additional oversight of this project."

The agency's reversal eliminates the possibility that it will veto the Corps' permit, given the Trump administration's objection to vetoing already issued permits.
EPA can use its statutory authority to limit disposal sites that would otherwise be allowed in a dredge-and-fill permit if it finds that there would be "unacceptable adverse effects" to the environment.

While section 404(c) does not allow EPA to completely vacate a permit, a broad enough bar on disposal is seen as a veto for all practical purposes because it effectively blocks the "fill" part of the dredge-and-fill permit.

Federal courts have ruled EPA can use its "veto" authority at any time in the permitting process, including before a permit application is made or retroactively.
But last year then EPA Administrator Scott Pruitt directed the Office of Water to develop a rule restricting when the agency can use its veto authority, specifically eliminating preemptive and retroactive vetoes. Environmentalists have urged the current administrator, Andrew Wheeler, to forgo the rulemaking.

INSIDEEPA.COM
an online news service from the publishers of Inside EPA

Wheeler Prioritizes EPA Research On PFAS Impacts On Agriculture

Entire Article: https://insideepa.com/daily-news/wheeler-prioritizes-epa-research-pfas-impacts-agriculture

EPA Administrator Andrew Wheeler is tasking the agency's Office of Research & Development (ORD) to lead efforts with other offices to steer existing funds toward projects that will aid in managing the impact of per- and polyfluoroalkyl substances (PFAS) on agriculture and rural economies, filling a gap in the agency's recent action plan.

The move appears to respond to concerns from some officials that PFAS waste is transferring into surrounding farmland or cropland, where it may contaminate groundwater, though it is unclear what other research the funding shift will draw from.

"EPA career staff, as well as state and local officials, have indicated to me the present strong need for quality scientific research specifically on best practices for managing PFAS-contaminated well/irrigation water and soil systems common in rural America," he says in a Feb. 27 memo to Jennifer Orme-Zavaleta, ORD's career deputy and also EPA's science adviser.

"Everyday farmers, ranchers, farm workers and food industry managers and employees work daily to protect and enhance U.S. food security, and therefore urgently need access to scientifically-driven information regarding PFAS chemicals and potential impacts on agriculture and rural communities," he writes.

ORD "should lead the coordination" with EPA's water and waste offices, as well as EPA regions "to identify and activate other Agency resources as needed, including the full EPA Laboratory enterprise," Wheeler added.

PFAS are a class of over 4,000 chemicals that are widely used for their nonstick properties. But they have been linked to adverse health effects including certain cancers, ulcerative colitis and other conditions -- a concern that has mounted as their presence in community drinking water supplies has grown.

EPA last month issued a multi-faceted action plan for addressing the chemicals that highlights a host of research the agency is conducting although critics say it continues mainly to contemplate regulatory actions, rather than move aggressively toward them.

The action plan includes measures to focus research activities on filling gaps in the agency's ability "to conduct sound risk assessment and risk management activities" on PFAS. It includes a number of near-term and long-term research activities in areas such as determining the human health and ecological effects of exposure to PFAS, and identifying the significant fate and transport pathways to humans and ecosystems, among other areas, though it is largely silent on agriculture-related issues.

Consistent with the plan, Wheeler says he is telling ORD to build on PFAS research and "find ways to direct existing funds immediately towards research projects that will generate practical and actionable science to help manage PFAS chemical issues impacting agriculture and rural economies."

Further, he calls for ORD to work with the U.S. Department of Agriculture (USDA) and other federal agencies "on PFAS-related research projects and, subsequent to their findings, work on risk-based communications plans specifically for agricultural and rural communities."

water. desalination +reuse

US EPA Announces Development of Water Reuse Action Plan

EPA says it will work across the water sector to lead the development of an integrated management approach for US water resources.

The plan sets out to leverage the expertise of both industry and government to ensure the effective use of the Nation's water resources.

"The Nation's water resources are the lifeblood of our communities, and the federal government has the responsibility to ensure all Americans have access to reliable sources of clean and safe water," said David Ross, U.S. EPA's Assistant Administrator for Water. "There is innovative work happening across the water sector to advance water reuse, and the EPA wants to accelerate that work through coordinated federal leadership."

The Water Reuse Action Plan is intended to foster water reuse as an important component of integrated water resource management. EPA says it will facilitate discussions among federal, state, and water sector stakeholders

and form new partnerships to develop and deploy the plan. A draft of the plan is scheduled for release and public review in September at the Annual WateReuse Symposium in San Diego.
More information can be found at: www.epa.gov/waterreuse/water-reuse-action-plan

EcoWatch

59 Craft Breweries Tell EPA Dirty Water Proposal Threatens Key Ingredient 'on Which Our Livelihoods Depend'
Entire Article: https://www.ecowatch.com/craft-breweries--2630929703.html?rebelltitem=1#rebelltitem1

Thursday a group of 59 craft breweries sent a letter to the U.S. Environmental Protection Agency and U.S. Army Corps of Engineers opposing the agencies' "Dirty Water Rule" proposal to slash clean water protections for waterways around the country.

These brewers, who are partners in NRDC's Brewers for Clean Water campaign, are standing up for safeguards that protect the sources of clean water on which their businesses depend.

Dear Administrator Wheeler and Assistant Secretary James:

We oppose your proposal to substantially limit the number of waterways receiving protection under the Clean Water Act. This rule would endanger critical wetlands and streams across the country — waterways that our craft breweries depend on to provide the clean water we use to brew our beer.

Beer is mostly water, so the quality of our source water significantly affects our finished product. Compounds present in brewing water can affect pH, color, aroma, and taste. Sulfates make hops taste astringent, while chlorine can create a medicinal off-flavor. The presence of bacteria can spoil a batch of beer. Even small chemical disruptions in our water supply can influence factors like shelf life and foam pattern.

Unexpected changes in water quality — due to pollution in our source water, or a change in the treatment process at our local drinking water plant — can threaten our brewing process and our bottom line. We need reliable sources of clean water to consistently produce the great beer that is key to our success. It is thanks in part to this important natural resource that the craft brewing industry contributes about $76.2 billion to the U.S. economy each year, along with more than 500,000 jobs.

For years, craft brewers have been asking for more clean water protections, not fewer. We supported the 2015 Clean Water Rule because it helped protect the sources of drinking water for 117 million Americans from pollution and destruction, providing certainty that we would continue to have access to the clean water on which our livelihoods depend. Importantly, that rule was based on sound science. The record showed that the waters it protected had biological, chemical, and physical connections to larger downstream waterways.

This proposed rule, to the contrary, ignores the overwhelming scientific evidence that protecting small streams and wetlands is essential to ensuring the quality of America's water sources. It would prohibit applying federal pollution-control safeguards to rain-dependent streams and exclude wetlands that do not have a surface connection to other protected waters. It also invites polluters to ask for even greater rollbacks, such as eliminating protections for seasonally-flowing streams.

We strongly oppose these proposed changes, which would affect millions of miles of streams and most of the nation's wetlands. Science shows that protecting these waters is important to downstream water quality. We must maintain clear protections for the vulnerable waterways that provide our most important ingredient.

We are depending on you not to roll back the safeguards established under the Clean Water Act. Protecting clean water is central to our long-term business success. Moreover, it is vital to the health and the economy of the communities where we live and work.

Thank you for considering our views on this important matter.

Inside EPA
Industry Fears 'Patchwork Quilt' For EPA Pharmaceutical Rule Implementation
https://insideepa.com/daily-news/industry-fears-patchwork-quilt-epa-pharmaceutical-rule-implementation
Lara Beaven
Posted: March 7, 2019

Some states will opt to retain their existing requirements for waste pharmaceuticals that are broader or more stringent than the approach EPA took in its recently finalized rule it finalized late last year, an industry attorney says, making it more challenging for large health sector companies that do business in multiple states.

"A patchwork quilt is coming," Elise Paeffgen, an attorney with Alston and Bird, said during a March 6 webinar on the rule sponsored by the Food and Drug Law Institute and the Environmental Law Institute.

Paeffgen said there is a lot of uncertainty about states' adoption of EPA's hazardous waste pharmaceutical ruleand whether they will maintain their more stringent requirements, adding that industry groups need to lobby state governments to ensure consistent approaches.
It is "important to have strong industry advocacy for an even playing field," she said.
At the same time, EPA officials say they have been "overwhelmed" with questions about the rule and its implementation and are developing responses in a frequently asked questions (FAQ) document.

EPA's Management Standards for Hazardous Waste Pharmaceuticals, signed in December and published in the *Federal Register* Feb. 22, sets requirements under the Resource Conservation & Recovery Act (RCRA) for managing hazardous waste pharmaceuticals by healthcare facilities and reverse distributors, which collect prescription pharmaceuticals to facilitate and verify they are eligible for credit from manufacturers.

The final RCRA rule excludes from the definition of solid waste -- and corresponding waste requirements -- non-prescription medication and other unsold retail items, such as pool chemicals, mercury-containing light bulbs and pesticides, that are sent by healthcare facilities to reverse logistics centers, which evaluate unsold retail items for resale in secondary markets.
But the rule does not provide this exemption to prescription pharmaceuticals, retaining a proposed Obama-era definition that those medications, sent from healthcare facilities to reverse distributors, are solid waste. The rule's definition of healthcare facility includes both places that provide care for humans and animals as well as retail facilities such as pharmacies and retailers of over-the-counter medications.

Additionally, the rule exempts Food and Drug Administration-approved nicotine replacement therapies, such as patches and gum, from hazardous waste disposal requirements and prohibits the "sewering" of waste pharmaceuticals.

Reverse distributors generally have been supportive of the rule while the retail sector has raised concerns about EPA's decision to create different requirements for prescription pharmaceuticals and over-the-counter (OTC) medication.

The sewer ban will become effective in all states Aug. 21 with the other provisions of the rule also becoming effective in Iowa and Alaska, the two states without delegated RCRA programs, Brian Knieser, a physical scientist with the EPA's Office of Resource Conservation and Recovery (ORCR), said on the webinar.

RCRA authorized states must adopt by July 1, 2021, most of the other provisions in the rule but are not required to adopt the nicotine provisions because those are less stringent than current requirements, although EPA expects most states will eventually adopt the nicotine provisions, he said.

Delegated States

However, RCRA allows states with delegated programs to adopt state regulations that are more stringent than the federal ones, and Paeffgen noted several states already regulate waste pharmaceuticals more stringently than EPA.

For example, California distinguishes between pharmaceuticals that contain ingredients that are a RCRA-listed hazardous waste and those that contain ingredients on a state list of hazardous materials. Pharmaceuticals in the first category cannot be sent a reverse distributor while California-only ones can.

In Colorado, if any P-or U-listed chemical is an active ingredient, even at a very low concentration, it is considered hazardous waste, and hazardous waste pharmaceuticals cannot be sent to a reverse distributor.

New Mexico prohibits expired hazardous waste pharmaceuticals from being sent to reverse distributors, and Washington state has a broad definition of hazardous waste that includes characteristics for solid corrosivity and two state-specific characteristics for toxicity and persistence.

Paeffgen and others also questioned whether OTC medications could be sent to a reverse distributor instead of a reverse logistics center.

EPA in the rule makes a clear distinction between unsold retail items, including nonprescription pharmaceuticals, and prescription pharmaceuticals.

Unsold retail items can in some cases be reused in secondary markets and thus they are not considered waste. It is up to reverse logistics centers to analyze secondary markets and assess the suitability of the unsold retail items in those markets, Laura Stanley, an economist with ORCR said.

But prescription medications are not reused and all of these pharmaceuticals become waste at the healthcare facility, Stanley said. However, because they still have value and healthcare facilities can receive credit for them from pharmaceutical manufacturers, EPA has taken a flexible approach with its waste handling requirements, she said.

Pharmaceuticals that are in their original manufacturer packaging (except for recalls), are undispensed, and are unexpired or less than one year past expiration, can be sent to a reverse distributor, which determines whether any credit is due the healthcare facility. Once the pharmaceuticals have been evaluated, the reverse distributor sends them to a hazardous waste treatment, storage or disposal facility.

Kristin Fitzgerald, an environmental protection specialist with ORCR, said EPA "didn't really contemplate" a scenario where OTC medications were sent to a reverse distributor because commenters on the proposed rule said reverse distribution and reverse logistics were two very different processes.

EPA is "in the process of developing an answer" to that question and others, which will be released as FAQ documents, Fitzgerald said.

She said the agency has been "overwhelmed" with questions about the rule and staff are unable to respond to individual questions. But the questions are being compiled and will be answered in the FAQs. -- *Lara Beaven*(lbeaven@iwpnews.com)

E&E News
Lawmakers demand faster action on PFAS
https://www.eenews.net/eedaily/stories/1060123361
Cecelia Smith-Schoenwalder, E&E News reporter

EPA and the Defense Department need to act faster on a family of chemicals contaminating drinking water, Oversight and Reform Committee Democrats said yesterday.

Members were examining per- and polyfluoroalkyl substances, or PFAS, which are often called "forever chemicals" because of their persistence in the environment. The chemicals can be found in nonstick cookware, waterproof clothing and firefighting foam used during training exercises on military bases.

"We should all be angry that those who are willing to pay the ultimate price for our country have to worry about exposure to toxic chemicals," Environment Subcommittee Chairman Harley Rouda (D-Calif.) said during a hearing.

The Environmental Working Group, in anticipation, released a map of PFAS contamination at 106 military sites at levels above EPA's nonbinding health advisory of 70 parts per trillion.

The chemicals have been linked to cancer, low fertility and thyroid disease. "The information available is sufficiently alarming to trigger immediate action from this administration," Rouda said.

David Ross, EPA's assistant administrator for the Office of Water, disagreed. "Despite their everyday use, the body of science necessary to fully understand and regulate these chemicals is not yet as robust as it needs to be," he said.

EPA received criticism last month for its action plan to tackle the chemicals (Greenwire, Feb. 14). The plan promised to make a regulatory decision on whether to limit two of the best-studied chemicals — PFOA and PFOS — in drinking water by the end of the year.

Some experts, however, have said that the regulatory process could take up to a decade before guidelines are finalized.

Hill scrutiny

In the Senate yesterday, lawmakers called for all the documents from four agencies related to EPA's action plan to "better understand the view of the agencies."

Democratic Sens. Tom Carper of Delaware, Patty Murray of Washington, Jack Reed of Rhode Island and Gary Peters of Michigan demanded papers from EPA, DOD, the Department of Health and Human Services, and the Office of Management and Budget.

Dave Ross. Photo credit: House Oversight and Reform Committee
David Ross, EPA Office of Water assistant administrator, during a hearing yesterday. Oversight and Reform Committee

Ross skirted questions from Rep. Katie Hill (D-Calif.) on the role of David Dunlap, a political deputy in EPA's research office who previously worked for Koch Industries Inc., in decisions related to PFAS.

Democrats this week urged EPA to investigate whether Dunlap violated his recusal terms by participating in the health assessment of formaldehyde, which Koch produced through a subsidiary (Greenwire, March 5).

Lawmakers during the Oversight hearing also questioned Maureen Sullivan, DOD's deputy assistant secretary for environment.

"It's my view that the Defense Department, in particular, has so far failed to act with the required urgency to address this growing public health and environmental crisis," said Rep. Dan Kildee (D-Mich.), co-chair of the bipartisan Congressional PFAS Task Force, who testified.

Sullivan defended DOD's work, noting that it is just one of the many users of the firefighting foam containing PFAS. She said the Pentagon no longer requires the use of the foam in training and testing.

Mass. cleanup
Separately, the group Public Employees for Environmental Responsibility released statements from EPA indicating help for a Massachusetts town contaminated with PFAS.

Documents PEER obtained under the Freedom of Information Act showed EPA and DOD officials struggling to address the contamination at a former military base.

Ayer, Mass., officials in June 2018 asked EPA to hold DOD accountable for the contamination and the cost of cleanup and testing.

The next month, then-EPA Region 1 Administrator Alexandra Dunn wrote to Sullivan urging DOD to address the issues at Fort Devens, or "EPA will pursue other options, including issuance of a Safe Drinking Water Act order."

Sullivan responded that DOD doesn't have the authority to pay the town for any cleanup or testing efforts. She said an order under the Safe Drinking Water Act would be "unnecessary and inconsistent."

EPA told PEER this week that DOD will assist the town by removing contamination in wells and providing funding for water treatment technology.

"PEER will be working to make the Army's treatment of Ayer standard for all military-caused PFAS contamination across the country," said New England Director Kyla Bennett.

Associated Press
Lawmakers: High costs slowing action on contaminant in water
https://www.apnews.com/951c6a5718ea469185d5e82cb90d48e9
By Ellen Knickmeyer

Rep. Harley Rouda, D-Calif., speaks during a House Oversight and Reform subcommittee hearing on PFAS chemicals and their risks on Wednesday, March 6, 2019, on Capitol Hill in Washington. (AP Photo/Sait Serkan Gurbuz)
WASHINGTON (AP) — Cleaning up and protecting U.S. drinking water from a class of toxic chemicals used in many household items could cost in the tens of billions of dollars nationally, including $2 billion for the Department of Defense alone, witnesses testified Wednesday before a House panel urging the federal government to move more quickly on the cleanup.

Rep. Harley Rouda, the California Democrat chairing the House Oversight and Reform environment subcommittee, told reporters after the hearing "it's clear" the high costs were slowing any federal efforts to regulate and clean up the toxic chemicals, which are found in a range of goods, including nonstick pans, stain-resistant clothing, dental floss and food containers. They also are in firefighting foam used by the military to battle jet-fuel fires.

The compounds, called perfluoroalkyl and polyfluoroalkyl substances, or PFAS, have been used for decades. Water sampling shows the contaminant — also called the "forever chemicals" because they will take thousands of years to break down —has seeped into many public water systems in the United States and globally, including around military bases and industries.

Environmental Protection Agency chief Andrew Wheeler told reporters Tuesday that the agency was moving toward establishing federal limits for some kinds of the contaminant in drinking water. States and local communities say they need a mandatory EPA limit to start full-scale cleanup and protections against the compounds.

"There's no indication of when the process might actually be complete," Rouda told EPA and Defense Department officials testifying before the panel. In the meantime, military officials "are passing the buck to the EPA" rather than conducting a national cleanup of bases that have high levels of PFAS contamination, he said.

Democratic Rep. Dan Kildee of Michigan said veterans and families are increasingly fearful of PFAS contamination around bases. "The Defense Department in particular has so far failed to act with the required urgency to address this growing problem," he said.

The Trump administration has been under increasing pressure to start regulating the toxic class of compounds since last year, when a draft federal toxicology report found some kinds of the widely used chemicals were harmful at levels much lower than the federal government's current advisory level. The federal Agency for Toxic Substances and Disease Registry cited studies linking PFAS contamination to liver problems, low birth weight, some cancers and other health issues.

Rep. Brian Fitzpatrick, a Pennsylvania Republican and co-chairman of a congressional PFAS task force, called the forever compound "one of the most widespread public health crises" that the U.S. faces.

But Fitzpatrick cautioned against setting any PFAS limits too low, saying it would cost tens of billions of dollars to bring water systems into compliance.

David Ross, assistant administrator of the EPA's water office, defended the agency's decision to continue researching the compounds ahead of any formal regulatory moves.

"The science to fully understand these chemicals ... is not yet as robust as it needs to be," Ross said. He said resolving PFAS contamination was a national priority for the agency.

Communities and states say the EPA has done little concrete to start tackling the problem. In a tweet Wednesday, Mayor Rob Allen of Hoosick Falls, New York, where industrial releases are blamed for dangerously high PFAS levels in water, evoked the compound's nickname in saying "it will take 'forever' for EPA to act on its responsibility to regulate them."

The Defense Department has identified 401 military sites where PFAS was used, and found 24 U.S. military drinking-water systems around the world with PFAS levels above the current U.S. advisory level, Maureen Sullivan, the deputy assistant secretary of defense, told lawmakers.

U.S. military officials at those bases were providing bottled water or other alternate water supplies, Sullivan said.

Cleaning up bases contaminated by two of the best-studied versions of PFAS would cost about $2 billion, she said.

Kildee, whose state of Michigan has been one of the most active in testing for PFAS and tackling contamination, said the Pentagon had yet to request the money for that cleanup.

Some states and local communities hosting military bases accuse the military of using the lack of any mandatory federal limit for PFAS in drinking water as a reason to deny Pentagon responsibility for cleanup.

New Mexico sued the Air Force on Tuesday over PFAS contamination around two bases in that state.

Sullivan said the Pentagon currently is discouraging the use of firefighting foam containing PFAS in training exercises on military bases. The Defense Department has yet to find a commercially available foam without PFAS that's effective enough in fighting aircraft fires, however, Sullivan said.

Bloomberg Environment
House Moves Toward Big Expansion of Wastewater Grants
https://news.bloombergenvironment.com/environment-and-energy/house-moves-toward-big-expansion-of-wastewater-grants-1
David Schultz
Posted: March 7, 2019, 1:05pm

- Legislation would more than double amount that could be spent on grants
- Bill has bipartisan support in House, but Senate prospects uncertain

A bill that would more than double the size of an EPA wastewater grant program has bipartisan support in the House and received ample praise at a March 7 congressional hearing.

The bill, H.R. 1497, would allow Congress to appropriate $4 billion annually to the State Revolving Fund, which helps offset the costs of wastewater infrastructure loans to utilities.

The grant program receives less than $1.5 billion from Congress in a typical year.

Andrew Kricun, executive director of the Municipal Utilities Authority in Camden County, N.J., said utilities like his can't afford major capital projects without the low-cost financing available through the State Revolving Fund, which offers interest rates of less than 1 percent.

"That makes the difference between go and no-go," Kricun told a House Transportation and Infrastructure subcommittee hearing.

Better Rates

Rep. Peter DeFazio (D-Ore.), chairman of the full committee, said the fund shows why Congress should allocate more dollars for water infrastructure rather than trying to boost public-private partnerships.

"There is no one that will lend you money at less than 1 percent in the private sector," DeFazio said.

Besides expanding the State Revolving Fund, H.R. 1497 would create grant programs that would give $1.5 billion to states and another $900 million to cities that are struggling to bring their sewage and stormwater systems into compliance with federal water pollution laws.

The House passed a similar bill in the past two sessions in which Democrats were in the majority back in 2007 and 2009. The Senate didn't take up the bills in either instance, even though Democrats controlled the upper chamber at that time.

Republicans now control the Senate.

And even though H.R. 1497 has two Republican backers in the House, other Republicans said more attention should be paid to what they said are excessively strict environmental regulations that drive up the costs of water.

"I don't think that just throwing money at the problem is always the answer," said Rep. Bruce Westerman (R-Ark.), the top Republican on the committee's Water Resources and Environment Subcommittee. "I think that we can be smarter about the policies we put in place.

Rep. Grace Napolitano (D-Calif.), the chair of the subcommittee and the one of the bill's cosponsors, said there are no particular senators she is talking to about this legislation but that she hopes the testimony at the March 7 hearing "reaches their ears."

(Adds comment from Rep. Grace Napolitano in the final paragraph.)

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