To: Pollins, Mark[Pollins.Mark@epa.gov]
Cc: Shinkman, Susan[Shinkman.Susan@epa.gov]; Chester, Steven[Chester.Steven@epa.gov]
From: Giles-AA, Cynthia
Sent: Fri 1/17/2014 3:34:57 PM
Subject: FW: Water Law News for January 17, 2014

See clip on proposed legislation re integrated planning. Let's talk at an upcoming weekly what progress has been made. Ex. 5 - Deliberative

Ex. 5 - Deliberative

Thanks -

From: Turley, Jennifer
Sent: Friday, January 17, 2014 9:57 AM
To: Allnutt, David; Bogoshian, Matthew; Brown, Samuel; Chester, Steven; Cozad, David; Dierker, Carl; Dolph, Becky; Field, Stephen; Frankenthaler, Douglas; Frey, Bert; Gable, Kelly; Giles-AA, Cynthia; Harrison, Ben; Helwig, Amanda; Isales, Lydia; Jackson, Brooke-Sidney; Kaplan, Robert; Mackey, Cyndy; Michaud, John; Morgan, Jeanette; Moyer, Robert; Mulkey, Marcia; Muller, Sheldon; Murray, Suzanne; Nalven, Heidi; Rodrigues, Cecil; Ryan, Mark; Schaaf, Eric; Shapiro, Mike; Shepherdson, Melanie; Siegal, Tod; Silver, Meg; Starfield, Lawrence; Stern, Allyn; Theis, Joseph; Wade, Alexis; Walker, Mike; Ward, W. Robert; Yager, Scott; OGC WLO; Conger, Nick
Subject: Water Law News for January 17, 2014

Water Law News

for January 17, 2014

Bloomberg BNA Daily Environment Report™

Energy

Canadian Minister Calls for Decision On Proposed Keystone XL Pipeline

The energy industry is a central part of mapping a common understanding of North America's place in the global economy in the face of mounting challenges by the emergence of regional trading blocks, Canadian Foreign Minister John Baird...

Insurance

Septage Ruled a 'Pollutant' Under Insurance Policy

Septic tank waste that allegedly contaminated a farm's well water is a "pollutant" within the meaning of the pollution exclusion in a pumping service's insurance policy, absolving its insurers of the duty to defend the company...

Natural Resources

Natural Resources Committee Chairman Gets Subpoena Powers for Stream Protection

The House Natural Resources Committee approved a motion Jan. 16 to allow chairman Doc Hastings (R-Wash.) to issue subpoenas for information on development of a stream protection rule that would restrict where coal mining waste can be dumped,...

Oceans

Scientists Call for Urgent Action to Address Ocean Acidification, Protect Marine Species

Governments need to urgently step up efforts to both assess and address the environmental, social and economic impacts of rapidly increasing ocean acidification, scientists warned Jan. 16....

Pipeline Safety

Pipeline Safety Among Top Priorities On Transportation Board's List for 2014

The National Transportation Safety Board Jan. 16 identified pipeline safety as a priority transportation safety issue in 2014....

Water Pollution

Bill Would Allow Cities to Modify Permits, Consent Orders to Meet Water Act Obligations

Municipalities would be able to restructure consent agreements, modify permits and take other steps to address financial and compliance challenges related to their Clean Water Act regulatory obligations under legislation introduced...

Water Pollution

Environmental Groups Allege Illegal Waste Discharge From N.C. Swine Farm

Stilley Farm, a swine feeding operation near Trenton, N.C., is illegally discharging waste into nearby groundwater, wetlands and streams, environmental groups said in a notice of intent to sue....

Water Pollution

Extended Delay in EPA Cooling Water Rule Runs Risk of Reopening Lawsuit, Lawyer Says

An attorney for the advocacy group Riverkeeper told a federal district judge Jan. 15 that the group may reopen its lawsuit against the Environmental Protection Agency for failing to issue final regulations for cooling water intake structures...

Water Resources

Chinese Plans Aim to Protect Drinking Water Resources in Yangtze River Delta

China's National Development and Reform Commission has issued a pair of plans to protect drinking water resources in the Yangtze River Delta near Shanghai. ...

Water Resources

Negotiations on WRDA Bill Slow; Boxer, Bishop Say Work to Resume After Recess

Negotiations between the House and Senate on water resources legislation have slowed down, but two key legislators reiterated commitments to complete work on the conference after a congressional recess during the week of Jan. 20. ...

Water Resources

More Data From Environmental Monitoring Now Supports Environmental Policy, Rules

A network of monitoring devices forms the frontline of research in the service of policy regulating land use, effluent discharge and other activities that affect water quality in the Chesapeake Bay....

Exxon Warns High Court Of MTBE Ruling Limiting EPA Air Policy Judgment

Exxon Mobile is urging the Supreme Court to reverse an appellate ruling forcing it to pay $104 million for water contamination from the gasoline oxygenate methyl tertiary butyl ether (MTBE), saying the ruling hinders EPA's ability to make Clean Air Act policy judgments such as allowing MTBE's use when it knew of contamination risks.

Greenwire

OCEANS:

SeaWorld backlash continues months after controversial film's release

Published: Thursday, January 16, 2014

A year after the documentary "Blackfish" premiered at the Sundance Film Festival, the controversy surrounding SeaWorld continues to grow.

The film focuses on the male orca Tilikum, who pulled trainer Dawn Brancheau into the water and killed her at the company's Orlando park in 2010.

SeaWorld dismissed the documentary when it was released in theaters last summer, saying it was "shamefully dishonest, deliberately misleading and scientifically inaccurate."

Still, there was an uptick in interest in the issue, especially after the documentary aired on CNN in October 2013.

"The attention spiked and kept going as more and more music artists began to cancel at SeaWorld," said Timothy Coombs, communications professor at the University of Central Florida. "And I don't think they anticipated that."

SeaWorld partially addressed critics in a letter sent to several newspapers. It didn't mention "Blackfish," instead choosing to defend its care for killer whales.

"I say, as someone who has worked with animals, I can assure you that they are in the best of hands," said former SeaWorld trainer Kyle Kittleson. "There is no harm being done to them. There is only the best possible care provided for them" (Greg Allen, NPR, Jan. 15). -- **JE**

FISHERIES:

Mystery swirls after massive die-off at Nev. marina

Published: Thursday, January 16, 2014

Wildlife officials are puzzled after a massive die-off killed thousands of fish at a northern Nevada marina.

At the stocked fishery at Sparks Marina outside of Reno, an estimated 100,000 trout, bass and catfish have died in the past month.

Nevada Department of Wildlife spokesman Chris Healy suggested the deaths were the result of a dramatic drop in dissolved oxygen levels. Scientists said recent cold weather has promoted the proliferation of pockets of oxygen-poor water. But it doesn't entirely account for the large numbers of deaths.

Sparks city spokesman Adam Mayberry said the water in the marina poses no health or safety threats (Scott Sonner, Associated Press, Jan. 15). -- **WW**

PEOPLE:

NOAA scientist pens global warming

haikus

Published: Thursday, January 16, 2014

A veteran oceanographer behind an international report on climate change is using haikus to share its findings.

Gregory Johnson, who has spent 20 years with the National Oceanic and Atmospheric Administration, came up with the poems -- all inspired by the "Climate Change 2013: The Physical Science Basis" report -- while he was home sick with the flu.

The report from the Intergovernmental Panel on Climate Change released in September outlines the key progress and remaining struggles in climate science (*ClimateWire*, Oct. 1, 2013).

"I thought that if I tried distilling these ideas into haiku, maybe that would help fix them in my mind," said Johnson, who wrote the oceans chapter of the report. "This was not intended for anything but my own personal consumption."

He ended up agreeing to publish the haikus and accompanying watercolor paintings after receiving feedback from friends and family.

One of the poems addresses how climate change could affect weather patterns: "Wet still get wetter/and dry drier, since warm air/carries more water."

He hopes the snippets of words may catch people's interest.

"If I could steer a few people to look at the official summary [of the report], that would be lovely," he said (Jonathan Kaminsky, Reuters, Jan. 15). **-- JE**

UTILITIES:

Green groups reluctantly agree to more time for cooling water intake rule

Annie Snider, E&E reporter

Published: Thursday, January 16, 2014

Environmental groups will give U.S. EPA until Jan. 28 to agree to a new deadline for proposing a controversial cooling water intake rule for power plants and factories, but they are keeping open the possibility of taking the agency back to court.

In a letter sent yesterday to U.S. District Judge Laura Taylor Swain in New York, the attorney representing environmental groups emphasized their frustration with the continued delays. EPA had won a number of deadline extensions for proposing the final rule before it missed the last deadline Tuesday (*Greenwire*, Jan. 14).

"Riverkeeper and the other plaintiffs also advised the U.S. Attorney that they are deeply troubled by EPA's

continuing delays in finalizing the Section 316(b) rulemaking and have serious reservations about agreeing to a further extension of any significant duration," attorney Reed Super wrote. "Accordingly, if the parties do not agree on a new date for EPA to take final rulemaking action, Riverkeeper may exercise its right to reopen the case as a result of EPA's failure to meet its deadline."

In informing environmental groups that Tuesday's deadline would be missed, the U.S. Attorney's Office pointed to ongoing Endangered Species Act consultations as a key reason for the delay. EPA told greens that it did not know how much additional time would be needed to finalize the rule, which was originally proposed in March 2011.

The rule would set new technological requirements for power plant cooling towers to prevent aquatic organisms from being sucked in and killed by being pinned against screens -- called "impingement" -- or boiled in extremely hot water -- called "entrainment."

EPA estimated at the time that the proposed rule would save about 615 million fish and shellfish per year, but environmental groups called its approach to preventing entrainment weak.

WATER POLLUTION:

Questions on spilled W.Va. chemical arise as pregnant women get warning

Jason Plautz, E&E reporter

Published: Thursday, January 16, 2014

As West Virginia residents continue to flush their water systems and resume use of tap water, questions continue to swirl about how much is known about the coal-cleaning chemical that leaked into the Elk River last week.

A notice from the West Virginia Department of Health and Human Resources yesterday warned pregnant women to drink bottled water until tap water is free of 4-methylcyclohexane methanol (MCHM). The order was made "out of an abundance of caution," the notice says, adding that the U.S. Centers for Disease Control and Prevention "re-affirmed previous advice that it does not anticipate any adverse health effects" from the current levels.

That comes after Monday's announcement that extensive tests showed that the levels of MCHM had dropped below 1 part per million (ppm), which CDC and U.S. EPA said would be safe.

The order yesterday evening has led to more questions about whether regulators have sufficient information on MCHM, which can result in skin or eye irritation and could be harmful if inhaled or ingested.

"Clearly something prompted the issuance of the advisory. I hope we'll learn more shortly," Richard Denison, senior scientist for the Environmental Defense Fund, wrote in a blog post. Denison said there's a question of whether new studies "suggest a potential for developmental toxicity or a related effect."

Denison had previously questioned the "shaky science" behind the 1 ppm safety level (*E&E Daily*, Jan. 14).

According to a report in the *Charleston Gazette*, emergency room visits have also spiked since the "do not use" ban on tap water was lifted with more than 100 people going to hospitals complaining of symptoms including skin and

eye irritation, upset stomachs, vomiting and diarrhea. Local officials told the paper that the symptoms could be linked to exposure to the chemical, aggravation of other symptoms due to the odor of the chemical or emotional stress.

In a letter to DHHR Secretary Karen Bowling, CDC Director Thomas Frieden cautioned that "there are few studies on this specialized chemical" and that the only current studies are based on animal exposures. However, scientists have obtained additional animal studies that are currently being reviewed, which prompted the order.

The spill has led to more calls to strengthen the federal government's authority to test and regulate chemicals by updating the 1976 Toxic Substances Control Act. MCHM was one of thousands of chemicals that was grandfathered in under the act when originally passed and was not subject to scrutiny. That's led to no information about the effects of long-term exposure.

Rep. John Shimkus (R-Ill.), who has been working on a House bill to reform TSCA, said the disaster would lend momentum to that effort, which has been unsuccessful in recent years. The spill "raises its profile, which is kind of good," Shimkus said.

A Senate bill has attracted 25 bipartisan co-sponsors but has lost support from most public health and environmental groups and has not passed muster with some Democrats. Shimkus said that those groups may now have to face the question of "Do you want no loaf, or do you want half a loaf or 60 percent of a loaf?"

The Elk River contamination suggests that "maybe half a loaf would have been better," he said.

Shimkus said there are no plans for a hearing in his committee specifically on the spill but that he would continue to examine TSCA.

The House Transportation and Infrastructure Committee is working to hold a field hearing in Charleston on the spill next month, according to ranking member Nick Rahall (D-W.Va.). The Senate Environment and Public Works Committee is also holding a pair of hearings on the spill, although those are expected to focus on water issues related to the spill and on chemical security efforts.

EPW Chairwoman Barbara Boxer (D-Calif.) has said that although TSCA remains a long-term goal of the committee, she'd like to see more immediate action taken on security issues in light of the spill.

West Virginia Attorney General Patrick Morrisey (R) said yesterday that his office would investigate the spill, promising that residents would "have answers to their questions about what happened, why it happened and how this could have been prevented."

"We need to make sure this never happens again and that responsible parties are held accountable," Morrisey said.

The Chemical Safety Board is also investigating the spill, including whether local authorities had planned for an accident of that scale.

Reporter Elana Schor contributed.

WATER POLLUTION:

W.Va. cites company behind spill for violations at 2nd storage site

Published: Thursday, January 16, 2014

The company behind the spill that leaked a coal processing chemical into Charleston, W.Va.'s water supply, forcing hundreds of thousands of residents to go without tap water for a week, has been cited at a second chemical storage site.

Freedom Industries moved its remaining chemical stock to a second site in response to the leak. But when West Virginia inspectors viewed the alternative facility, they promptly cited the company for five violations that could have resulted in another chemical leak.

The site's secondary containment was "deteriorated or nonexistent," according to a report prepared by the state's Department of Environmental Protection, describing problems similar to what caused the original spill of 7,500 gallons of 4-methylcyclohexane methanol into the Elk River last week.

The company now may be forced to move the chemicals again (AP/London *Guardian*, Jan. 15). -- **SP**

WATER POLLUTION:

Storage tank in Hawaii could be leaking fuel -- Navy

Published: Thursday, January 16, 2014

A fuel tank at an underground naval facility in Hawaii could be leaking, military officials said.

Officials noticed an inconsistency in the tank's liquid levels earlier in the week, indicating a potential loss in fuel. They said they are investigating whether the fuel tank is leaking.

The tank is located at the Red Hill Underground Fuel Storage Facility, which stored fuel for American planes during World War II. The 200-foot-tall cylinder holds 12.6 million gallons.

After the possible leak was detected, operators started transferring fuel to another tank. The process could take up to five days.

Nearby wells were shut down as a precaution, and the Navy said it notified local and state officials (Oskar Garcia, Associated Press, Jan. 16). -- **WW**

SOUTH CAROLINA:

'Mega potato farm' water use tops agenda as state Legislature reconvenes

Published: Thursday, January 16, 2014

Lawmakers in South Carolina reconvened yesterday with a major focus on a "mega potato farm" that could end up using billions of gallons of public water every year.

A 2010 law gives exemptions to farm corporations when it comes to water withdrawal. Critics say the exemption is unfair and could potentially harm rivers in the state.

To address the concerns, state Sen. Chip Campsen (R) this session intends to introduce a bill that would require large companies to obtain a permit before such withdrawals.

In the potato farm case, Walther Farms would need permission before taking about 9 billion gallons of water annually from the Edisto River Basin (Niraj Chokshi, *Washington Post*, Jan. 15). **-- JE**

ClimateWire -- Fri., January 17, 2014 -- **Read the full edition**

1. TRANSPORTATION: Effort to halt bullet train and allow 'Hyperloop'-like options aims for Calif. ballot

Two drives are underway to stop California's high-speed rail line through a November ballot initiative, including one that wants to speed development of a futuristic transport system like the "Hyperloop" described by Tesla Motors founder Elon Musk.

2. NEGOTIATIONS: Sustainability experts push for global focus on urban transportation

In order to eradicate poverty and tackle climate change, the global sustainability agenda must have transportation at its core, development experts said yesterday at a World Bank summit.

TODAY'S STORIES

3. ENERGY STORAGE: Internal disarray can lead to surprisingly good performance in lithium-ion batteries -- study

4. SCIENCE: Fast-rising ocean temperatures could produce more powerful storms in East Asia -- study

5. PUBLIC OPINION: Yale poll finds slight uptick in Americans who deny climate change

6. COAL: FutureGen gets final nod from DOE

7. SCIENCE: Soil production is faster in mountains, says study

8. DEFORESTATION: Rights of Indonesian communities were violated in conservation pilot project -- report

9. OCEANS: Researchers discover 'supercorals,' seemingly impervious to high acidity

10. ADVOCACY: Enviro groups should take stronger position in growing geoengineering debate -- author

11. CHINA: Nation's power plants, factories often exceed emission limits

12. EMISSIONS: BP forecasts rise in GHG levels over next 20 years

13. NATIONS: Canada's oil sands projected to boost CO_2 emissions by 2030

14. BUSINESS: Institutional investors should shift to clean energy, U.N. official says

EnergyWire -- Fri., January 17, 2014 -- **Read the full edition**

1. UTILITIES: In coal-reliant Mo., 'market rush' leaves solar push in limbo

A rebate program intended to make solar power more attractive in coal-dependent Missouri has become a victim of its own success.

2. MARKETS: Price-rigging probes jammed by oil industry bid to protect its secrets

A U.S. investigation into whether the world's biggest crude oil traders fix prices has sparked an escalating and high-stakes court battle over the disclosure of records.

THIS MORNING'S STORIES

3. SECURITY: New federal cyber strategy depends on industry buy-in

4. EARTHQUAKES: Texas lawmakers to probe whether quakes are related to drilling waste

5. TRANSPORT: Oil, rail industries vow to take safety steps

6. NATURAL GAS: Deep freeze put a big dent in U.S. supplies -- EIA

7. TRANSPORT: D.C. rail project faces scrutiny in wake of oil train disasters

8. HYDRAULIC FRACTURING: N.M. county sued again over its fracking ban

9. PEOPLE: Devon taps energy finance whiz to be next CFO

10. MARKETS: Oil industry fears dropping U.S. prices

11. NATURAL GAS: Another company abandons fracking in Poland

12. PENNSYLVANIA: Municipalities fight state drilling appeal

13. REFINING: Labor strike at French facilities shows overcapacity

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