

## ***EPA's Streamlined Pesticide Approval Rejected***

In late August, a federal judge determined that a 2004 regulation that had streamlined the U.S. Environmental Protection Agency's approval process for pesticides violated the Endangered Species Act and overturned the ruling. The 2004 regulation "allowed the EPA to bypass the U.S. Fish and Wildlife Service (FWS) in order to shorten the years-long process of reviewing whether each pesticide posed danger to any of the nation's 1,200-plus endangered species," reported the *Los Angeles Times*. With the ruling, the pre-2004 standards were restored.

The ruling was made by U.S. District Judge John C. Coughenour. Although he recognized that reinstating the FWS review would be "a task of gargantuan proportions," the *Times* quoted him, he stated that protection of species is critical, and the Bush Administration was "arbitrary and capricious" in allowing EPA to bypass the FWS review, resulting in a "total absence of any technical and scientific evidence to support or justify" the approval process.

According to the *Times*, the ruling was a victory for the nine environmental groups that sued the U.S. Department of Interior following the 2004 ruling, which had been heavily endorsed by pesticide manufacturers.

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

## ***EPA: Can't Meet the Target? Change It***

A mid-year report on water system compliance by the EPA Office of Water found that the percentage of the population served by community water systems that receive drinking water which meets all applicable health-based drinking water standards was 88.4 percent, below the 2006 objective of 90.9 percent. The agency did not expect to meet the target by the year's end for several reasons,

including "significant annual population impacts from the largest water systems" and difficulties in meeting microbial and microbial-disinfection standards by small systems. Small systems, particularly in Native American communities, were also having difficulty recruiting and retaining certified operators, according to the report.

The report stated that attainment of the "ideal" goal of 95 percent compliance by 2008 "will be a major challenge." Thus, it proposed to reduce the target to 91 percent by 2011, "a more realistic level, not the 'ideal' level of performance which has been set in the past."

On the positive side, the report noted that compliance increased from 79 percent in 1993 to recent levels of near 90 percent, despite increasingly stringent standards.

*EPA's mid-year report (July 2006) is available at [www.epa.gov/water/waterplan/documents/FY06\\_midyear\\_report.pdf](http://www.epa.gov/water/waterplan/documents/FY06_midyear_report.pdf).*

## ***Internal EPA Bickering on Analytical Integrity Findings***

In September, the U.S. EPA Office of the Inspector General (OIG) released a draft report, "Promising Techniques Identified to Improve Drinking Water Laboratory Integrity and Reduce Public Health Risks," the product of a review to identify vulnerabilities in drinking water sample analysis processes and offer means to reduce them. The review was performed in response to an increase in cases of laboratory fraud noted by OIG's Office of Investigations between 2000 and 2003.

According to the report, hundreds of vulnerabilities not addressed by EPA's laboratory certification procedures were identified within the drinking water sample analysis process. These vulnerabilities can compromise the quality of data produced, and thus the perceived public health risk. The report concluded that states that have implemented new techniques to detect laboratory integrity problems have found additional deficiencies, inappropriate procedures, and even cases of fraud.

Report recommendations included specific reforms to laboratory oversight processes, policy, guidance, and training. In addition, the report recommended that EPA's Office of Water (OW) improve awareness of the vulnerabilities and realities of fraud and inappropriate procedures affecting drinking water data quality. Further, it stated EPA's Office of Environmental Information should develop a mechanism to identify and a policy to address data in EPA databases from laboratories under investigation, indictment, or conviction.

OW responded with "significant concerns with some of the findings on the part of the OIG related to the role that OW has played to date in dealing with such activity." OW's response noted that OIG was unable to quantify the extent to which laboratory fraud is a problem, and that no waterborne disease outbreaks have been directly tied to cases of inappropriate laboratory procedures. Further, OW said OIG's report does not adequately distinguish between possibilities and likelihood of fraud, and as a result may present an unnecessarily alarming view of the situation. OW also stated that while many of the vulnerabilities noted in the drinking water sample analysis process could and would be addressed through modifications in its laboratory certification program, vulnerabilities in sample collection procedures and fraud detection are outside its purview.

*The 77-page report (2006-P-00036), including comments by OW and OEI, is available at [www.epa.gov/oig/reports/2006/20060921-2006-P-00036.pdf](http://www.epa.gov/oig/reports/2006/20060921-2006-P-00036.pdf).*

## ***Desal, Forbearance, Storage in Reclamation's 2007 Plan***

Among the activities set forth in the U.S. Bureau of Reclamation's 2007 operations plan are testing the Yuma Desalting Plant (YDP), a forbearance program with farmers, and construction of a new storage reservoir.

Following a 2005 report to Congress describing the feasibility of operating the YDP, including options that would

minimize the impact of operations on the Cienega de Santa Clara, a 90-day demonstration operation of the plant is scheduled to begin in March 2007. The plant will operate at about 10 percent of capacity, allowing about 3,000 acre-feet of water to be stored in Lake Mead as a result of recovered bypass flows during 2007.

Continuing its water savings programs from 2006, Reclamation will participate in arrangements with irrigation districts and farmers in the Lower Basin, whereby farmers are paid to fallow their land and the unused water is stored in Lake Mead for future use.

Based on a 2004 Reclamation study recommending construction of additional storage near the All-American Canal, the Drop 2 Reservoir is now in the engineering design and environmental compliance and permitting stage. Construction is scheduled to begin in 2007 and be completed by 2009. The small, 8,000-acre-foot reservoir is being designed to capture extra water in the system that would otherwise flow to Mexico, particularly during storm events.

*The 37-page draft report is available at [www.usbr.gov/uc/water/rsrvs/ops/aop/aop07\\_draft.pdf](http://www.usbr.gov/uc/water/rsrvs/ops/aop/aop07_draft.pdf).*

## Agreement Initiates San Joaquin River Restoration

As part of one of the West's largest river restoration efforts, the Natural Resources Defense Council (NRDC), Friant Water Users Authority (FWUA),

and the U.S. departments of Interior and Commerce announced in September an agreement to restore water flows for salmon in the San Joaquin River below Friant Dam near Fresno, California.

The settlement ends an 18-year legal dispute over the operation of Friant Dam and resolves longstanding legal claims brought by a coalition of conservation and fishing groups led by NRDC. It provides for substantial river channel improvements and sufficient water flow to sustain a salmon fishery upstream from the confluence of the Merced River tributary, while providing water supply certainty to Friant water contractors.

Historically, central California's San Joaquin River supported large salmon populations, including the southernmost Chinook salmon population in North America. Since Friant Dam became fully operational in the late 1940s, approximately 60 miles of the river have dried up in most years, eliminating salmon above the river's confluence with the Merced River.

Restoring continuous flows to the river will take place in phases. Planning, design work, and environmental reviews will begin immediately, and interim flows for experimental purposes will start in 2009. The flows will be increased gradually over the next several years, with salmon being re-introduced by December 31, 2012. The settlement continues in effect until 2026, with the U.S. District Court retaining jurisdiction to resolve disputes and enforce the settlement. After 2026, the

court, in conjunction with the California State Water Resources Control Board, would consider any requests by the parties for changes to the restoration program.

Funding for the projects will come from several sources, including current environmental contributions from farmers and cities served by Friant Dam, state bond initiatives, and authorization for federal contributions.

Visit [www.usbr.gov/mp/](http://www.usbr.gov/mp/), [www.fwua.org](http://www.fwua.org), and [www.nrdc.org](http://www.nrdc.org).

## Feds Drop Protest to SNWA Transfer; Challenges Remain

The day before hearings at the Nevada Office of the State Engineer began last September, agencies of the U.S. Department of Interior reached an agreement with the Southern Nevada Water Authority (SNWA) regarding the water agency's proposed transfer of 90,000 acre-feet of groundwater annually from White Pine County in rural Nevada to the Las Vegas area, reported the *Las Vegas Sun*. The agreement, involving Fish and Wildlife, National Park Service, Bureau of Land Management, and Bureau of Indian Affairs, calls for SNWA to monitor the county for impacts from pumping and to mitigate "unreasonable" effects in Spring Valley, located in the county. In addition, according to the *Sun*, SNWA also must avoid any impact from its actions to Great Basin National Park under the agreement.

As expected, ranchers, environmental groups, and rural communities in

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## HydroFacts

Percent of global CO<sub>2</sub> emissions absorbed by forests: **25**

Percent CO<sub>2</sub> projected to be absorbed by forests stressed by climate change-related drought: **20**

Days in 1970 that northern Alaska was cold enough to operate oil-drilling machinery without damaging the tundra: **213**

Days in 2002 that it was cold enough: **106**

Current annual loss in Greenland's ice cap: **27 cubic miles**

Annual loss in ice cap during the 1990s: **0 cubic miles**

Longest continuous record of temperature measurements: **since 1659 in the English Midlands of central England**

Estimated increase in rainfall due to urban heat island effect in Phoenix, Arizona: **12-14%**

Estimated cost of aggressive reductions in greenhouse gas emissions: **1% of global GDP**

Estimated cost of unabated climate change: **5-20% of global GDP**

Source: SAHRA's Global Water News Watch

Nevada and Utah were displeased by the agreement. Bob Fulkerson of the Progressive Leadership Alliance of Nevada, speaking to the *Sun* on behalf of the opposition, said they were “incredibly disappointed for [the federal agencies] abrogating their responsibilities to the environment of this state.”

SNWA was pleased that some of the opposition was removed, reported the *Sun*, but said that the agreement would not change the agency’s position that the transfer would provide considerable benefits in terms of economic growth and buffer from drought, and that it could be performed without environmental harm.

While this agreement meant that the Office of the State Engineer would not have to address protests by the federal agencies, the office still must determine whether or not to approve the proposed transfer.

During the hearings, which concluded in late September, Mike Turnipseed, the recently retired state engineer, was “asked whether the law states that the engineer can grant pumping rights if there’s a way to mitigate problems created for existing wells, or whether it states an application can’t be granted if it’s going to interfere with the existing rights,” reported the *Sun*. His answer: “The latter.”

Under additional questioning described in the *Sun*, Turnipseed stated that he knew of no state engineer-ordered shutdown of approved pumping wells if they began to conflict with existing rights, prompting the hearing officer to comment that even if SNWA made such a promise, “given the state’s history, ‘does it really ring true?’” Further, the paper said, although Turnipseed suggested that “municipal water agencies should be given ‘more latitude’ than other applicants for water-pumping rights,” he admitted that “Nowhere in Nevada law does it say that municipal use is the highest and best use.”

Current State Engineer Tracy Taylor must weigh the evidence presented during the hearings and decide

whether, and under what conditions, to approve the water transfer. His ruling is expected some time in 2007.

Visit [www.lasvegassun.com](http://www.lasvegassun.com) and [www.snwa.com](http://www.snwa.com).

## “Save Walker Lake” Discussions Breaking Down

Walker Lake, a terminal deep-water lake located in western Nevada, has been impacted by diversions and pumping for more than a century and its water level is now 150 feet lower than 120 years ago (see *Southwest Hydrology*, July/Aug 2004). Decreed water rights exceed average inflow and native fish can no longer survive in its increasingly saline waters.

A number of groups have been working to save the lake from this slow “death,” but frustrated by a lack of results, several recently dropped out, reported the *Las Vegas Sun*. Among them are the Walker River Paiute Tribe, Mineral County, and the Walker Lake Working Group. Still remaining in the effort are the states of Nevada and California, the Walker River Irrigation District, Lyon (Nevada) and Mono (California) counties, and the federal government, the paper said.

Simeon Herskovits of the Western Environmental Law Center told the *Sun* that “by dropping out, Mineral County and the working group can push ahead with a pending lawsuit in U.S. District Court, Reno, aimed at mandating increased water flow into Walker Lake.” The two groups had been reluctant to take action that could upset ongoing negotiations, but since no progress was apparent, they decided to pursue an alternative course.

The *Sun* reported that Nevada Senator Harry Reid has introduced federal legislation to provide \$88 million to restore Walker Lake. Herkovits told the paper that the negotiation breakdown would not impact that legislation.

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## San Juan-Chama Water Contracts Signed in NM

Permanent contracts, decades in the making, were signed in September for San Juan-Chama Project water by several New Mexico cities and counties, a ski area, New Mexico Governor Bill Richardson, and the U.S. Bureau of Reclamation, reported *The [Santa Fe] New Mexican*.

The project diverts water from the San Juan River by tunnel under the Continental Divide into the Chama River in northern New Mexico, which drains into the Rio Grande, from which the users will draw their claim. According to *The New Mexican*, the project provides more than 96,000 acre-feet of water per year, managed by Reclamation through contracts with some 15 counties, cities, and tribes. Among the largest users are Albuquerque and the Middle Rio Grande Conservancy District, both with permanent contracts dating to the 1970s. The newest contractors include the cities of Santa Fe, Espanola, and Los Lunas; Santa Fe and Los Alamos counties; and Taos Ski Valley. Most will use their new water security for economic growth, the newspaper said.

Although the contracts are signed, the security of the supply is conditional on two factors, reported *The New Mexican*. First, although analyses by the New Mexico Interstate Stream Commission determined that the San Juan-Chama system is likely to consistently be able to meet the contract terms, in the case of prolonged drought, these new users will need to share water shortages. Second, the Navajo Nation Water Rights settlement, signed by New Mexico and the Navajo Nation last year, still requires \$700 million in federal funding over the next 15 years. The settlement guarantees water rights to the tribe while protecting newer rights holders, including those of the San Juan-Chama project. If the funding does not come through, reported the newspaper, the settlement could break down, resulting in the tribe potentially claiming all San Juan River water.

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