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October 6, 2010

FROM STEVE'S DESK



Season of Spin

We all know that we are in the "season of spin" with the elections coming up next month. But, political campaigns do not have a monopoly on spin. The National Academy of Science (NAS) recently released a report

addressing the Corps of Engineer's habitat restoration projects which are dumping large amounts of sediment and nutrients into the Missouri River. The "spin" comes in regarding what sediment is harmful depending on who's responsible for the sediment and why.

The NAS report states that the Corps habitat projects are dumping around 10,700 and 19,400 metric tons/year of sediment into the Missouri River, which represents 6-12 percent of the current phosphorus load from the Mississippi basin. The report states that phosphorus causes hypoxia but that it is not appropriate to relate this phosphorus to increases in Gulf Hypoxia. This is because the cause and effect of nutrient runoff to Gulf Hypoxia is complicated and can only be modeled. The science is not exact. But, the "spin" really starts to swirl when, on the one hand, the federal government says it's ok for the Corps to continue dumping phosphorus into the river while businesses along the river and agriculture are severely scrutinized for the nutrients we contribute. This simply is not fair and is a double-standard.

The report seems to acknowledge the need to hold the Corps to some level of accountability by

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recommending that "all actions by the Corps of Engineers that discharge sediment to the Missouri River should be subjected to monitoring requirements." That's fine. But, perhaps we should only subject private businesses to monitoring requirements as well, instead of requiring permits? Seems only fair, right?

Beyond water quality in the Gulf, another issue the report addresses is that of EPA requiring states to meet water quality standards as required by the Federal Clean Water Act. The report admonishes EPA to support states' efforts to revise existing narrative criteria, rather than forcing numeric criteria such as EPA is currently doing in Florida.

At this point, you may be asking "Why should I care?" Here's why. The federal government is proposing tremendous expansion of regulations and initiatives to reduce nutrient runoff. The federal government is using Chesapeake Bay and Florida as templates to spread throughout the nation. The end result could be less land for agricultural production, more land for wetlands, and more stringent regulations on how we do our business and on production agriculture. MO-AG is dedicating significant resources in working with our national affiliates and other allies in pushing back on unnecessary regulations.

For those who want to know more, I invite you to join me in the weeds below.

Until next time,
Steve

In the Weeds

"Deep in the weeds" is a term some use for diving into the minutia of an issue. Let's take just a glance at what lies in the weeds by examining just a few specific excerpts from the NAS report and the White House Interagency Report on Hypoxia. On a national level, EPA is advocating development of stringent, numeric water quality criteria for nutrient standards in water. This NAS report rightly points out that this top-down regulatory approach by EPA has flaws that need to be addressed:

A recent EPA Inspector General report

recommended the need to accelerate the numeric criteria development process and focused especially on states in the Mississippi-Missouri River basins that are the main contributors to hypoxia in the Gulf of Mexico (USEPA, 2009b). There also has been an independent national EPA effort to develop approaches for the setting of numeric sediment criteria (USEPA, 2006), although numeric sediment criteria were not the intent of the Region 7 EPA (headquartered in Kansas City). EPA should support states that revise their existing narrative criteria for the mainstem Missouri River in order to reflect requirements for native species, even if such separate narrative sediment and nutrient criteria later are replaced by numeric criteria. Recent EPA supported water quality criteria development efforts for the mainstem Missouri were conducted with limited time and funding and not able to fully consider the needs of native species. Development of numeric criteria for sediment and nutrients should be based on further understanding of the sediment and phosphorus history of the river, and the effects on native species, as that information becomes available through the MRRP and other ongoing studies.

Section 404 of the federal Clean Water Act requires private sector businesses and individuals to obtain approval prior to discharging dredged or fill material into the waters of the United States. The report provides a subtle rebuke of the Corps for not taking account of the loadings they are contributing, which any other discharging permittee would be required to do, and recognized the double-standard between public and private entities with the following statement:

This report does not intend to suggest that load increases of any size or in any location can be ignored in permitting for the discharges of sediment and nutrients into waterbodies. Increases in nutrient loads from any source, including that associated with sediment discharges from mitigation and restoration projects, may have to be avoided or mitigated if avoidance would be counter to meeting sediment enrichment objectives for the Missouri River. The Corps of Engineers Missouri River restoration projects deliver additional nutrients to the river and Gulf at a time that federal and state agencies, and a variety of non-governmental organizations, are seeking ways to reduce nutrient loadings across the Mississippi River basin.

The U.S. Geological Survey (USGS) documented that during the spring of 2009, nitrite/nitrate discharges to the Gulf of Mexico was up 11% and total nitrogen discharges was up nearly 6%, compared to the 1979-2008 average. Given this increase in nitrogen discharge, government models predicted that the hypoxia problem would greatly increase with a record size hypoxia zone in the Gulf. Instead, the hypoxia zone shrunk and was almost 1/3 of the size of what was predicted. The last edition of MO-AG's "Wrap-Up" mentioned that the Whitehouse recently released a report on hypoxia which summarizes the current status of hypoxia and it's causes and effects. The report emphasizes that agriculture is still a major source of hypoxia but conceded that there are still unknowns regarding the cause and effects of hypoxia.

The major sources of nutrients are row crop agriculture and animal operations, industrial and municipal wastewater discharges, non-point source runoff from urban and suburban areas, and atmospheric deposition.

Freshwater inflow and nutrient inputs to coastal waters are the primary causes of hypoxia waters. Poor quantification of these factors makes it much harder to relate hypoxia to specific causes. Tracking nutrients back to source areas and human activities on the landscape is essential for designing effective management strategies.

Scientific data and tools are inadequate to fully inform management actions directed at hypoxia in all of the coastal environments impacted by hypoxia. Ideally, such tools would allow managers to readily establish reasonable science-based goals by quantitatively linking management actions to nutrient loads, nutrient loads to coastal water quality, and coastal water quality to ecological outcomes of concern. A significant effort has been expended, but substantial gaps in knowledge remain because the affected area is very large and costly to sample adequately (e.g., Gulf of Mexico hypoxic zone).

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Custom Applicator Recertification Nov. 17th-18th

The Kansas Ag Retailers Association is holding a

custom applicator re-certification training session on Nov. 17th-18th at the Kansas Agri Business Expo in Wichita, KS. KARA has been approved by the Missouri Department of Agriculture to provide re-certification training for Missouri pesticide applicators. To register please go to the KARA Expo website by [clicking here](#).

REGULATORY NEWS

OSHA to Formally Launch Increased Penalties

OSHA will formally launch a new policy that increases proposed penalties according to Dr. David Michaels, Assistant Secretary of Labor for Occupational Safety and Health. Michaels framed the upcoming changes in a speech given at the Occupational Safety & Health Review Commission annual judicial conference on September 14, 2010. The planned changes to the administrative penalty calculation system were announced by OSHA earlier this year and include:

- History reduction will be expanded from three to five years.
- Employers that have been cited by OSHA for any high gravity serious, willful, repeat, or failure-to-abate violation within the previous five years will receive a 10 percent increase in their penalty, up to the statutory maximum.
- Time period for repeat violations will be increased from three to five years.
- Area Director/Informal Conference reductions will be changed.
- High gravity, serious violations related to standards will be citable as separate violations.
- A gravity-based penalty determination will be adopted, providing for penalties between \$3,000 and \$7,000.
- Employment size reductions will be lessened.
- The current good faith procedures will be retained.
- Final penalties will be calculated serially, resulting in an increase of approximately 50% to a moderate gravity penalty.

[Source: Asmark Institute]

Grain Handling Facility Cited \$293,000 for Engulfment Hazards

OSHA cited a Nebraska grain handling facility and proposed \$293,000 in penalties for alleged safety and health violations discovered in a December, 2009 inspection. OSHA's inspection found seven alleged willful, 16 alleged serious, and three alleged other-than-serious violations. The willful violations stem from the company's failure to provide fall protection on open-sided platforms; operation of mechanical equipment, known as augers, while employees worked within the grain bin; failure to test the atmosphere prior to grain bin entry; instructing employees to walk down the grain; lack of a retrieval system for grain bin entries; lack of an attendant during bin entry operations, and fugitive grain dust that exceeded one-eighth inch depth. OSHA issues a willful violation when an employer exhibits plain indifference to or intentional disregard for employee safety and health.

The serious violations include deficient guardrail systems; unapproved powered industrial truck modifications; a lack of inspections on mechanical and safety control equipment; energized electric wiring left exposed, in disrepair, and/or inappropriately used; a lack of/ or deficient machine guarding; and a failure to label hazardous chemical containers. OSHA issues a serious citation when death or serious physical harm is likely to result from a hazard about which an employer knew or should have known.

[Source: *Asmark Institute*]

IDALS Warns of Pin-Holes in Nurse Tanks

The Iowa Department of Agriculture and Land Stewardship (IDALS) conducts inspection of tanks located at commercial fertilizer dealers and has found tanks from American Welding & Tank that have leaks. The Department has sent a letter to all anhydrous dealers to share their concerns about the tanks, but wanted to communicate with farmers, as well, who will soon be starting fall fertilizer applications. Iowa Secretary of Agriculture Bill Northey is encouraging farmers to check any anhydrous ammonia nurse tanks they have on their farm for pin-hole leaks or faulty welds that could undermine the integrity of the tank. If a farmer finds a tank leaking, they should

contact their dealer who provided the tank. None of the tanks found to have pin-hole leaks have had a catastrophic failure; however, leaking tanks are a serious health threat and it is important farmers exercise caution and work with their local dealer. IDALS has issued "stop use" orders on 15 tanks found to be leaking during its annual inspection process. The U.S. Department of Transportation is responsible for the regulation of nurse tanks and have been informed of the Department's findings, as well. [Source: *Asmark Institute*]

NEWS YOU CAN USE

Scientists Say Army Corps' Missouri River Plan Would Pollute, but Minimally

The National Research Council issued a report today concluding that the Army Corps of Engineers' plan to dump tons of sediment into the Missouri River would not significantly increase the "Dead Zone" in the Gulf of Mexico. The Council, part of the National Academy of Sciences, said more research is needed to know the impacts and potential benefits of the environmental plan. But the scientists made a strong connection between sediment and the overall health of the river that came to be known as Big Muddy.

Although the report reaffirmed the importance of sediment in the river, it also concluded that sediment carrying phosphorus would be reaching the Gulf of Mexico under the Corps' plans. The so-called "Dead Zone" in the Gulf of Mexico is a vast area of lifeless water measured this summer to be the size of the state of New Jersey. It results from farm fertilizers, urban runoff and naturally occurring nutrients pouring out of the Mississippi River. The report observed that an estimated 34 million tons of sediment that the Corps envisioned depositing in the Missouri could amount to a 10-20 percent increase in sediment delivered to Louisiana in coming years.

The report went on to say that even though the impact could be minimal, the projects need to be closely monitored because federal and state agencies are working to reduce the sources of the "Dead Zone" pollution. [Source: *St. Louis Post Dispatch*]

Two-Year Waiver for HOS

MO-AG expresses great appreciation to Missouri Congressmen Blaine Luetkemeyer (MO-9) and Sam Graves (MO-6) for leading the effort to successfully secure a two-year federal waiver for Hours of Service (HOS) for a motor carrier delivering anhydrous ammonia. While we believe that Congress intended for this agriculture activity to be included when the provision of law was created, the waiver was sought after concerns were raised about the interpretation of the FMCSA Hours-of-Service exemption for agricultural operations, in particular the delivery of anhydrous ammonia during the planting season.

MO-AG also appreciates the efforts of other members of Congress, including Missouri's Jo Ann Emerson and Ike Skelton who also supported this effort and co-signed a letter to FMCSA in August and the efforts of our national affiliates, particularly the Agricultural Retailers Association and The Fertilizer Institute. HOS is one of MO-AG's top issues.

Luetkemeyer and Graves have both committed to finding a permanent solution to the HOS issue. Luetkemeyer and Graves both serve on the House Agriculture Committee. [Source: MO-AG]

UPCOMING EVENTS

OCTOBER, 2010

- 6-8 Missouri Seedmen's Association Annual Meeting;
Resort at Port Arrowhead, Lake Ozark, MO
- 7 Ag Education Day; Wurdack Farm; Cook Station, MO
- 8 Field Day - Wurdack Farm; Cook Station, MO

NOVEMBER, 2010

- 17-18 Kansas Agri Business Expo; Custom Applicator Recertification; Wichita, KS**

18 ALOT Annual Meeting Seminar, Dinner
and Auction;
Columbia, MO

JANUARY, 2011

5-7 **MO-AG Convention; Lodge of Four
Seasons;**

Lake Ozark, MO

7-8 Missouri Land Improvement Contractors
Winter

Convention; Ramada Inn; St. Joseph, MO

FEBRUARY, 2011

9-10 2011 Missouri Pork Expo; Columbia, MO

Note: Items in **red** are new postings since the last
Wrap-Up issue.

Letters to the Editor

Do you have a response to the Missouri Agribusiness Wrap Up? Let us know! The Missouri Agribusiness Wrap Up is a bi-weekly publication of the Missouri Agribusiness Association (MO-AG). MO-AG is a member-owned association based in Jefferson City, Mo. which protects members' interests in state legislation and provides educational opportunities.

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