

From: [BDP Director](#)
To: [FOIA-SPK](#)
Cc: [Richard Baris](#)
Subject: Re: [URL Verdict: Neutral][Non-DoD Source] Freedom of Information Act Request
Date: Saturday, March 12, 2022 2:10:02 PM

Hello,

Thank you for getting back to me so quickly. I'll provide that below and please let me know if you need any additional information.

Business name: PPD Ventures LLC

Best!

Rich

On Mar 10, 2022, at 6:07 PM, FOIA-SPK <FOIA-SPK@usace.army.mil> wrote:

Good afternoon,

Please provide your self business name so that I can process your request. Thank you.
Drea

From: Richard Baris <ppd.ventures.llc@gmail.com>
Sent: Tuesday, March 8, 2022 3:18 PM
To: FOIA-SPK <FOIA-SPK@usace.army.mil>
Cc: BDP Director <director@bigdatapoll.com>
Subject: [URL Verdict: Neutral][Non-DoD Source] Freedom of Information Act Request

Sacramento District
U.S. Army Corps of Engineers Regulatory District
ATTENTION: CESP-OC
1325 J St
Sacramento, CA 95814-2922
Phone: 916-557-7204
Fax: 916-557-5118

Hello,

This is a request under the Freedom of Information Act (5 U.S.C. § 552).

I request that a copy of the following document(s) be provided to me: Any and all email communications, investigative reports, settlement documents, and all other documents related to lawsuits and complaints of alleged and/or violations of Section 404 of the Clean Water Act—or under any section of the CWA—in the case or cases against "John Duarte" and/or "Duarte Nursery Inc.", to include email communications and all other documents that contain "Mario Mendoza" and "Duarte".

Cases Referenced in Linked Article: <https://agnetwest.com/duarte-lawsuit/>

In order to help you determine my status for the purpose of assessing fees, you should know that I am:

- affiliated with a private business and am seeking information for use in the company's business.

I am willing to pay the appropriate fees for this request up to a maximum of \$250.00. If you estimate that the fees will exceed this limit, please inform me first.

I also include a telephone number at which I can be contacted if necessary to discuss any aspect of my request.

Sincerely,

Richard D. Baris
412 Belevue Ct.
New Bern, North Carolina 28560
352-278-4277

From: usarmy.redstone.rdecom-amrdec.mbx.safe-team@mail.mil
To: (b) (6) [SPK](#)
Subject: [EXTERNAL] AMRDEC Safe Access File Exchange Pick Up
Date: Thursday, May 12, 2016 09:51:41

AMRDEC Safe Access File Exchange Pick-Up Notice

The file(s) you sent through SAFE (Package ID 6433034) were downloaded at 5/12/2016 11:50:58 AM
by: stokely.peter@epa.gov

File description: Terraserver images

From: usarmy.redstone.rdecom-amrdec.mbx.safe-team@mail.mil
To: (b) (6) [SPK](#)
Subject: [EXTERNAL] AMRDEC Safe Access File Exchange Pick Up
Date: Thursday, May 12, 2016 10:57:08

AMRDEC Safe Access File Exchange Pick-Up Notice

The file(s) you sent through SAFE (Package ID 6438720) were downloaded at 5/12/2016 12:56:57 PM
by: stokely.peter@epa.gov

File description: 2008 Quickbird image

From: usarmy.redstone.rdecom-amrdec.mbx.safe-team@mail.mil
To: (b) (6) SPK
Subject: [EXTERNAL] AMRDEC Safe Access File Exchange Submittal Notice
Date: Thursday, May 12, 2016 10:16:25

DO NOT FORWARD

Please note, IAW Para 4-5.a(8) and 4-12.c, AR 25-2, it is a violation of SAFE security policy to share/forward Package passwords.

You must contact the Package originator to have the Package re-sent via SAFE (Blocked<https://safe.amrdec.army.mil/safe/>) to other users.

You uploaded the following file(s) on 5/12/2016 12:16:17 PM Central Time Zone, USA: 2008 Quickbird image

Package ID: 6438720

The file will be available until 5/26/2016

You can check the status of the files uploaded at:

Blocked<https://safe.amrdec.army.mil/safe/StatusLogIn.aspx?PackageID=6438720>

The Password is: 9rj2R998a5JbQm!3D!

NOTICE: This e-mail message is intended solely for the use of the addressee. If the reader of this message is not the intended recipient, you are hereby notified that any reading, dissemination, distribution, copying, or other use of this message or its attachments is strictly prohibited. If you have received this message in error, please notify the sender immediately.

Thank you.

This message may be forwarded to usarmy.redstone.rdecom-amrdec.mbx.safe-team@mail.mil for technical support purposes.

From: usarmy.redstone.rdecom-amrdec.mbx.safe-team@mail.mil
To: (b) (6) SPK
Subject: [EXTERNAL] AMRDEC Safe Access File Exchange Submittal Notice
Date: Thursday, May 12, 2016 09:09:23

DO NOT FORWARD

Please note, IAW Para 4-5.a(8) and 4-12.c, AR 25-2, it is a violation of SAFE security policy to share/forward Package passwords.

You must contact the Package originator to have the Package re-sent via SAFE (Blocked<https://safe.amrdec.army.mil/safe/>) to other users.

You uploaded the following file(s) on 5/12/2016 11:09:04 AM Central Time Zone, USA: 20070701 USGS HiRes

Package ID: 6437780

The file will be available until 5/26/2016

You can check the status of the files uploaded at:

Blocked<https://safe.amrdec.army.mil/safe/StatusLogIn.aspx?PackageID=6437780>

The Password is: WtPPC22z*vL*!2y

NOTICE: This e-mail message is intended solely for the use of the addressee. If the reader of this message is not the intended recipient, you are hereby notified that any reading, dissemination, distribution, copying, or other use of this message or its attachments is strictly prohibited. If you have received this message in error, please notify the sender immediately.

Thank you.

This message may be forwarded to usarmy.redstone.rdecom-amrdec.mbx.safe-team@mail.mil for technical support purposes.

From: usarmy.redstone.rdecom-amrdec.mbx.safe-team@mail.mil
To: (b) (6) SPK
Subject: [EXTERNAL] AMRDEC Safe Access File Exchange Submittal Notice
Date: Thursday, May 12, 2016 07:11:07

DO NOT FORWARD

Please note, IAW Para 4-5.a(8) and 4-12.c, AR 25-2, it is a violation of SAFE security policy to share/forward Package passwords.

You must contact the Package originator to have the Package re-sent via SAFE (Blocked<https://safe.amrdec.army.mil/safe/>) to other users.

You uploaded the following file(s) on 5/12/2016 9:10:46 AM Central Time Zone, USA: 1984 USGS image

Package ID: 6436070

The file will be available until 5/26/2016

You can check the status of the files uploaded at:

Blocked<https://safe.amrdec.army.mil/safe/StatusLogIn.aspx?PackageID=6436070>

The Password is: 9!3Q92*n*N95%v8

NOTICE: This e-mail message is intended solely for the use of the addressee. If the reader of this message is not the intended recipient, you are hereby notified that any reading, dissemination, distribution, copying, or other use of this message or its attachments is strictly prohibited. If you have received this message in error, please notify the sender immediately.

Thank you.

This message may be forwarded to usarmy.redstone.rdecom-amrdec.mbx.safe-team@mail.mil for technical support purposes.

From: usarmy.redstone.rdecom-amrdec.mbx.safe-team@mail.mil
To: (b) (6) SPK
Subject: [EXTERNAL] AMRDEC Safe Access File Exchange Submittal Notice
Date: Friday, May 13, 2016 13:44:10

DO NOT FORWARD

Please note, IAW Para 4-5.a(8) and 4-12.c, AR 25-2, it is a violation of SAFE security policy to share/forward Package passwords.

You must contact the Package originator to have the Package re-sent via SAFE (Blocked<https://safe.amrdec.army.mil/safe/>) to other users.

You uploaded the following file(s) on 5/12/2016 4:04:22 PM Central Time Zone, USA: 20050614_QB

Package ID: 6442046

The file will be available until 5/26/2016

You can check the status of the files uploaded at:

Blocked<https://safe.amrdec.army.mil/safe/StatusLogIn.aspx?PackageID=6442046>

The Password is: t?kU2A2*vS5Z2Rs

NOTICE: This e-mail message is intended solely for the use of the addressee. If the reader of this message is not the intended recipient, you are hereby notified that any reading, dissemination, distribution, copying, or other use of this message or its attachments is strictly prohibited. If you have received this message in error, please notify the sender immediately.

Thank you.

This message may be forwarded to usarmy.redstone.rdecom-amrdec.mbx.safe-team@mail.mil for technical support purposes.

From: (b) (6)
Subject: [EXTERNAL] lcleeincDocsign
Date: Thursday, February 2, 2017 07:46:43
Attachments: [lcleeincDocsign.pdf](#)

Please review the document attached.

Lyndon C. Lee, Ph.D., PWS
Principal Ecologist & President
L.C. Lee & Associates, Inc.
2442 NW Market Street, #392
Seattle, Washington 98107

Email: lyndon@lcleeinc.com

Downey Brand
621 Capitol Mall
Sacramento, CA 95814

SIGN IN LIST

August 11, 2016
from
V.S.V. Lalant et al.

Settlement Meeting

① ON PHONE

Andy Doyle, DOJ - ENRD - D.C.
SAMARA Spence - " "
J.T. Do - " "

~~② IN PERSON~~ Matt Kelley - USACE - Redding

② IN PERSON

Greg Broderick - VSAO - EASTERN DISTRICT of CA
Paul Manicera - USACE - SPK Regulatory Division
Robert P. Soran - Downey Brand
Jim Neyhard -
Mark Hurst - EMS
Jack Lalant
Todd Lalant
Demar Hooper

(b) (6)

Official Counsel Corps of Engineers.
USACE SPK Regulatory

HEROSE Y. GANNON for Mr. Lalant

From: (b) (6) SPK
To: (b) (6) SPK; (b) (6) SPK; (b) (6) SPK; (b) (6) SPK; (b) (6) SPK; (b) (6) SPK;
(b) (6) SPK; (b) (6) SPK; (b) (6) SPK
Subject: RE: US Senate EPW Committee Report on WOTUS
Date: Tuesday, September 27, 2016 08:55:06

Not sure about that, but most of them are Gallaway

-----Original Message-----

From: (b) (6) SPK
Sent: Tuesday, September 27, 2016 8:49 AM
To: (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>;
(b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK
<(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6)
SPK <(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>; G (b) (6)
(b) (6) SPK <(b) (6)@usace.army.mil>
Subject: RE: US Senate EPW Committee Report on WOTUS

How many of the seven "case studies" were Duarte?

(b) (6)
Chief, California South Branch
Regulatory Division
U.S. Army Corps of Engineers, Sacramento District
1325 J Street
Sacramento, California 95814

916-557-7253

We want your feedback! Please complete our survey at: http://corpsmapu.usace.army.mil/cm_apex/?p=regulatory_survey

For information on the Regulatory Program.
<http://www.spk.usace.army.mil/Missions/Regulatory.aspx>

-----Original Message-----

From: (b) (6) SPK
Sent: Tuesday, September 27, 2016 8:18 AM
To: (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK
<(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6)
(b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>;
(b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK
(b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>
Subject: RE: US Senate EPW Committee Report on WOTUS

Painfully.

-----Original Message-----

From: (b) (6) SPK
Sent: Tuesday, September 27, 2016 6:59 AM
To: (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK
<(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6)
(b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>;
(b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK

<(b) (6)@usace.army.mil>; (b) (6) SPK (b) (6)@usace.army.mil>
Subject: RE: US Senate EPW Committee Report on WOTUS

Chiefs - I took a look at this last night & are you all aware that of the 10 case studies, at least 7 are from our/SPK Division??!!

(b) (6)
Chief, Colorado West Regulatory Branch
U.S. Army Corps of Engineers
400 Rood Avenue, Room 224
Grand Junction, CO 81501
(970) 243-1199, #1016

-----Original Message-----

From: (b) (6) SPK
Sent: Tuesday, September 20, 2016 3:38 PM
To: (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>
Subject: FW: US Senate EPW Committee Report on WOTUS

FYI,

Respectfully,
(b) (6)
Deputy Chief, Regulatory Division
US Army Corps of Engineers, Sacramento District
1325 J Street, Room 1350
Sacramento, California 95814-2922
(916) 557-7262
(b) (6)@usace.army.mil

Let us know how we're doing. Please complete the survey at: http://corpsmapu.usace.army.mil/cm_apex/?p=regulatory_survey

Information on the Regulatory Program.
<http://www.spk.usace.army.mil/Missions/Regulatory.aspx>

Regulatory Public Notices: <http://www.spk.usace.army.mil/Media/RegulatoryPublicNotices.aspx>

-----Original Message-----

From: (b) (6) SPD
Sent: Tuesday, September 20, 2016 1:43 PM
To: (b) (6) SPA <(b) (6)@usace.army.mil>; (b) (6) SPA <(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPL <(b) (6)@usace.army.mil>; (b) (6) SPN <(b) (6)@usace.army.mil>
Cc: (b) (6) SPD <(b) (6)@usace.army.mil>
Subject: US Senate EPW Committee Report on WOTUS

Something for everyone here in SPD.

(b) (6)

(b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK
<(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>
Subject: RE: US Senate EPW Committee Report on WOTUS

Painfully.

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Sent: Tuesday, September 20, 2016 3:38 PM
To: (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK
<(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6)
SPK <(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6)
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(b) (6) SPK <(b) (6)@usace.army.mil>
Subject: FW: US Senate EPW Committee Report on WOTUS

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Deputy Chief, Regulatory Division
US Army Corps of Engineers, Sacramento District
1325 J Street, Room 1350
Sacramento, California 95814-2922
(916) 557-7262
(b) (6)@usace.army.mil

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Information on the Regulatory Program.
<http://www.spk.usace.army.mil/Missions/Regulatory.aspx>

Regulatory Public Notices: <http://www.spk.usace.army.mil/Media/RegulatoryPublicNotices.aspx>

-----Original Message-----

From: (b) (6) SPD

Sent: Tuesday, September 20, 2016 1:43 PM

To: (b) (6) E SPA <(b) (6)@usace.army.mil>; (b) (6) SPA
(b) (6)@usace.army.mil>; (b) (6) SPK (b) (6)@usace.army.mil>; (b) (6)

<(b) (6)@usace.army.mil>; (b) (6) SPL
<(b) (6)@usace.army.mil>; (b) (6) SPL <(b) (6)@usace.army.mil>; (b) (6)

SPN <(b) (6)@usace.army.mil>

Cc: (b) (6) SPD <(b) (6)@usace.army.mil>

Subject: US Senate EPW Committee Report on WOTUS

Something for everyone here in SPD.

(b) (6)

From: (b) (6) [CIV USARMY CESPCK \(US\)](#)
To: (b) (6) [CIV USARMY CESPCK \(US\)](#)
Subject: RE: US v. LaPant - telecon with DOJ (UNCLASSIFIED)
Date: Wednesday, November 8, 2017 12:24:02

(b) (6) sorry I had to change the time again. I know it's late for you there so I understand if you cannot make it.

Thank you,

(b) (6)

-----Original Message-----

From: (b) (6) CIV USARMY CESPCK (US)
Sent: Wednesday, November 08, 2017 12:16 PM
To: (b) (6) CIV USARMY CESPCK (US) (b) (6) @usace.army.mil>
Subject: RE: US v. LaPant - telecon with DOJ (UNCLASSIFIED)

Hey (b) (6), do you guys need me for this?

(b) (5)

CLASSIFICATION: UNCLASSIFIED

From: (b) (6) <[redacted]@usace.army.mil>
To: (b) (6) <[redacted]@usace.army.mil>; (b) (6) <[redacted]@usace.army.mil>
Subject: RE: Witness in trial 28 August possibly
Date: Monday, August 7, 2017 12:52:21

Thanks (b) (6).

(b) (6)
Deputy Chief, Regulatory Program
Headquarters, U.S. Army Corps of Engineers
3rd floor, Cubicle 3E72
441 G Street, NW
Washington, DC 20314-1000
202-761-4591 (office)
(b) (6)@usace.army.mil

-----Original Message-----

From: (b) (6) <[redacted]@usace.army.mil>
Sent: Monday, August 07, 2017 7:52 AM
To: (b) (6) <[redacted]@usace.army.mil>; (b) (6) <[redacted]@usace.army.mil>; (b) (6) <[redacted]@usace.army.mil>
Subject: Witness in trial 28 August possibly

Just wanted to keep you aware that there is a slight possibility that I may be called testify in the Duarte trial the week of 28 August in Sacramento. The DAG thinks the possibility is low but did ask for my availability.

From: (b) (6) SPK
To: (b) (6) SPK
Subject: (b) (6) (G61-1373)

Field visit with DOJ expert team

From: (b) (6) CIV USARMY CESPK (US)
Subject: SPK News Service -- Aug. 11, 2017 (View in HTML formatting)
Date: Friday, August 11, 2017 07:42:00

SPK News Service -- Aug. 11, 2017

Regional Items

South Sacramento Flood Control Project Now Complete

Outlet: Capital Public Radio
Media: Internet / Broadcast
Date: Aug. 10, 2017

A South Sacramento flood control project -- in the works for more than 20 years -- is now complete. The \$100 million dollar project redesigned a network of creeks, channels, and levees to protect an area prone to flooding from high water events in the Sacramento-San Joaquin Delta. Improvements were made in phases along Morrison, Florin, Elder, and Unionhouse Creeks.

Sacramento-area Congresswoman Doris Matsui says the project is key to protecting some 17,000 people living in the South Sacramento area.

"It's a complicated project, it got done successfully, and obviously, of course, the homeowners are thrilled because it will lower their flood insurance rates at the same time, too," says Matsui.

The project does that because roughly 3000 parcels of land are no longer in a FEMA designated flood zone.

Money for the project came from local, state, and federal sources.

LINK <http://www.capradio.org/articles/2017/08/10/south-sacramento-flood-control-project-now-complete/>

Yuba City levee work on schedule

Outlet: The Appeal-Democrat
Media: Internet
Date: Aug. 10, 2017

Emergency work to repair the levee protecting downtown Yuba City is right on schedule, an official with the Sutter Butte Flood Control Agency said Thursday, and heavy construction is expected to begin the middle of next week.

"Work is advancing quickly," said Mike Inamine. "We first broke into the ground last Thursday and started pre-construction activities on Monday. All of the levee degrade will be completed this weekend. We anticipate some of the first slurry wall placements will begin next Wednesday or Thursday."

SBFCA is planning on putting a slurry wall – essentially a cut-off wall that will be placed into the center of the levee about 80-85 feet deep to prevent seepage – into approximately 3 miles worth of

levee stretching from about a mile north of the 10th Street bridge to about 1.5 miles south of the Fifth Street bridge.

Though construction so far has gone according to plan, Inamine said there are always unknowns when it comes to such a large project.

Last weekend, the agency discovered a sinkhole along the work area, just south of a larger sinkhole found last winter.

“What happens is that if you get uncontrolled seepage, it erodes the soil, and that soil has to go somewhere,” Inamine said. “When that uncontrolled seepage carries soils, it creates a void, and that void can eventually surface.”

SBFCA investigated the recently surfaced sinkhole Thursday but determined it won’t affect construction plans.

Inamine said the find isn’t surprising. He expects there are others that haven’t quite reached the surface yet. Still, he said it’s nothing to worry about because the slurry wall will negate seepage issues. The recent find is just an example of the type of unforeseen circumstances that can arise, he said.

“The slurry wall will resolve those issues. It will stop or slow seepage from making its way to the land-side slope or land-side original ground,” he said ...

LINK http://m.appeal-democrat.com/news/yuba-city-levee-work-on-schedule/article_3f123144-7e4f-11e7-b9bf-e382480fe212.html?mode=jgm

Plowed Under -- The regulatory state vs. a California farmer

Outlet: The Weekly Standard

Media: Internet

Date: Aug. 10, 2017

On a rainy afternoon in late November 2012, Matthew Kelley, a project manager for the U.S. Army Corps of Engineers, pulled his truck over to the side of a road in Tehama County in northern California.

He’d seen something he found disturbing: a tractor parked in an open field. Fields and tractors are common in this rural region halfway between Sacramento and the Oregon border. The area is known for its almond and walnut orchards. What Kelley found so alarming was that this tractor was in a 450-acre field that he knew contained dozens of vernal pools. These are small depressions that can fill with rainwater seasonally, but environmental regulators consider them to be part of nearby Coyote Creek.

Kelley was the Army Corps’ lone representative in Tehama County, and nobody had asked him for a permit to plow. In an email to his superiors, Kelley wrote, “I think this is going to be a big violation.” He had no idea just how big the investigation he was launching would become. For rather than acquiesce to the Army Corps’s demands, the property owner, John Duarte, decided to fight. His decision unleashed the full fury of the government’s regulatory apparatus and resulted in a legal

battle that has stretched more than four years and placed Duarte on the brink of financial ruin.

This month, after a string of victories largely vindicating the government's legal positions, the Justice Department is heading to court to press Duarte to pay a \$2.8 million fine and to buy mitigation credits his lawyers say will cost at least \$13 million ...

LINK <http://www.weeklystandard.com/plowed-under/article/2009253>

Farmer mounts legal defense, political offensive in wetlands battle

Outlet: Capital Press

Media: Internet

Date: Aug. 10, 2017

John Duarte is on the eve of the trial he hoped would never take place.

He is the California farmer who gained national attention after the federal government sued him for plowing his field and will defend himself in court beginning Aug. 15.

In 2013, the U.S. Army Corps of Engineers notified Duarte that he had illegally "filled" wetlands in his Tehama County field by plowing it and ordered him to stop work. He argues the Corps violated his constitutional right to due process because the agency never gave him an opportunity to defend himself against the accusations before levying the fine.

If he loses, Duarte faces \$2.8 million in government fines and the possibility of being forced to buy tens of millions of dollars in required mitigation credits.

The trial follows years of legal maneuvering and months of pleas by Duarte, his attorneys and supporters to President Donald Trump's administration to intervene.

Duarte's lawyer, Pacific Legal Foundation senior attorney Tony Francois, has also been in settlement talks with the U.S. Justice Department, but as of press time no agreement had been reached.

"It keeps going," Duarte said one recent morning as he stood where the trouble began — in the middle of the 450-acre grass field south of Red Bluff, where he had intended to plant winter wheat. Francois hasn't given up on the possibility of an eleventh-hour reprieve.

"We remain hopeful that the administration will reassess its view of the case," he said, "but so far nothing has come to fruition on that front."

Asked by the Capital Press if a resolution could be near, Justice Department spokesman Justin Abueg declined to comment.

Troubles begin

Duarte, who also owns Duarte Nursery in Modesto, Calif., purchased the Tehama land in 2012 and pondered what to do with it. The field had been planted to wheat decades before but more recently was used to graze cattle, he said.

Commodity prices were high in 2012, so Duarte decided to put the land back into wheat production, Francois, his attorney, said.

Duarte said a wetland determination by a consultant had been done shortly before he bought the property.

“We knew where the wetlands were,” Duarte said. “I don’t think you’ll ever find a grower who’s done a wetland delineation to plant wheat. ... The depth of tillage on wheat isn’t enough.” The Army Corps still issued a cease-and-desist order to Duarte, finding him in violation of the 1972 Clean Water Act for farming without a wetlands permit. As a result of the order to stop, Duarte lost the \$50,000 it cost to plant the wheat and the ability to grow a field crop on the property, Francois said. He would also have to pay a multi-million-dollar fine.

The field was leased out last winter as cattle pasture, Duarte said. The PLF filed suit on Duarte’s behalf in 2013, disputing the Corps’ allegations and arguing the government violated his Fifth Amendment due-process right by not allowing him to answer the charge in a hearing. The Corps responded with a counterclaim alleging the Clean Water Act violation.

The Corps claims the tillage on Duarte’s property “relocated earthen material into ridges,” unlawfully raising the elevation of the soil in the wetlands with “fill material.” Last year, U.S. District Judge Kimberly Mueller agreed, ruling that Duarte should have obtained a permit to run shanks through wetlands at a depth of 4 to 6 inches, creating furrows.

Duarte and Francois insist the law is on their side, noting that Congress drew clear exemptions for normal farming practices such as plowing when it passed the Clean Water Act. They plan to appeal that decision.

“This case has the law wrong,” Francois said. “What Duarte ... did on this property was plowing.”

The attorney’s latest maneuver has been to file a motion to dismiss the case on the grounds that the Army Corps had no jurisdiction. The U.S. Environmental Protection Agency, not the Corps, has the authority to bring enforcement actions when no permit has been obtained, Francois said. Mueller will consider the motion Aug. 15 before hearing other evidence, he said.

Trump turnaround?

During the ordeal, Francois and Duarte have mounted a public-relations offensive, inviting reporters, members of Congress and leaders of organizations such as the American Farm Bureau Federation to the property.

As of this summer, a California Farm Bureau Federation-sponsored fund for Duarte had raised more than \$100,000, he said.

Their hopes for a political solution got a boost last November, when voters elected Trump and a Republican-led Senate and House of Representatives.

In February, the president issued an executive order directing EPA administrator Scott Pruitt to review the “Waters of the United States” rule and asking Attorney General Jeff Sessions to consider the review as it pursues litigation initiated under then-President Barack Obama.

The EPA and Army Corps have since proposed scrapping the WOTUS rule, which critics say encroaches on private property rights.

At his Senate confirmation hearing, Pruitt appeared to agree with Sen. Joni Ernst, R-Iowa, who ridiculed what she saw as the Obama administration’s policy that “any plowing that pushes soil into furrows is not an exempt farming activity because the tops of plowed furrows can dry out,” she said.

Ernst asked Pruitt if EPA “will work with the Corps and (the Department of the Justice) to make sure that federal agencies stop trying to regulate ordinary farming practices.”

“Yes, senator,” Pruitt responded.

In May, House Agriculture Committee Chairman Michael Conaway and House Judiciary Committee chairman Bob Goodlatte sent a letter to Sessions arguing that Duarte’s field work should qualify as “normal” farming practices under the Clean Water Act exemption.

Rep. Doug LaMalfa, R-Calif., a House Agriculture Committee member whose district includes Duarte’s land, said Sessions should “call the dogs off.”

“The administration needs to get a handle on it,” LaMalfa said. “We’ve talked with the attorney general’s office. They need to put the brakes on that lawsuit or at least minimize it.”

The political push suggests a shift in strategy for Duarte, said Richard Frank, director of the California Environmental Law and Policy Center at the University of California-Davis School of Law.

Duarte has “mounted a political campaign seeking to have the Trump administration — which is far less interested in asserting broad federal authority to regulate wetlands than was the Obama administration — intervene and withdraw the enforcement action altogether,” Frank, a professor of environmental practice, said in an email.

However, “he and PLF have been unsuccessful in their political lobbying efforts,” Frank said.

A key ally

Duarte has an ally in U.S. Agriculture Secretary Sonny Perdue, who said Aug. 7 he planned to get the “straight scoop” about the case from Pruitt and Sessions when he returned to Washington, D.C., from a tour of Midwest farms.

Perdue said he sees the government’s continued pursuit of the Duarte case is an “extension” of Obama administration policies.

“My understanding was there had been some reconciliation of the case, but it appears to be going forward,” Perdue told the Capital Press. “I’m hoping that the U.S. Justice Department will see fit to hold off on that until a better definition of Waters of the U.S. appears.”

But in a July 10 letter to committee chairmen Conaway and Goodlatte, acting Assistant Attorney General Samuel Ramer said he’s unaware of instances when the government settled a Clean Water Act case that was pending an appeal.

“To enter such a ‘contingent’ settlement would be, as a general matter, contrary to the United States’ interest in obtaining final resolution of an enforcement matter,” Ramer wrote. “Nonetheless, please rest assured that we are often able to achieve appropriate settlements in our Clean Water Act enforcement cases, and ... we actively pursue the settlement of our enforcement cases wherever feasible.”

While leaders in Washington discuss scrapping the WOTUS rule, there’s been no change in how officials at the local level enforce the Clean Water Act, said Col. David G. Ray, commander of the Army Corps’ Sacramento district.

“If and when there are changes, we will alter our procedures,” Ray told the Capital Press. “There’s

been no communication down to the district level.”

Paul Wenger, president of the California Farm Bureau Federation, said he wondered whether the Trump administration would drop its pursuit of the case. But he’s not surprised that it’s moving forward.

“Once it’s in the courts, you can’t pull it back,” he said. “I know there have been requests by Congressman Doug LaMalfa and others to the attorney general’s office that it’s not a good case and they ought to pull it back. ... But the judge ruled against Duarte, so it’s kind of like it’s on its own course now.”

Impact uncertain

Wenger and other farmers’ advocates say if the case against Duarte is upheld by the courts, it could force growers across the country to obtain costly permits for normal activities such as plowing and planting, which was not the intent of Congress. It could also bring more lawsuits from environmental groups, Francois said.

“No farm in America is safe from this kind of prosecution,” Duarte said.

But Kieran Suckling, executive director of the Center for Biological Diversity, said it’s difficult to determine the case’s ramifications because it’s unknown which issues the courts will decide are the critical factors when they make rulings.

Any “grand claims” by the PLF or farm groups about winning legal precedents and scaling back the reach of the Clean Water Act are just “political huffing and puffing,” Suckling said.

“The bottom line here is that no one can really predict either the outcome of the case or whether it will set interesting new legal precedents,” he said in an email.

While settlements are always possible in cases such as this, Suckling said he would be more concerned if the Trump administration simply dropped the case. Such a move would signal “that the administration is going to stop enforcing the Clean Water Act,” he said.

Francois acknowledges the case faces an uncertain fate on appeal, even if it reaches the U.S. Supreme Court. He believes the court could clarify the scope of the Clean Water Act as well as its farming protections. But previous cases before the high court “fell short of clarity,” he said.

Frank, of the UC-Davis School of Law, doesn’t think the outcome will amount to much.

“I confess that I don’t really see the Duarte case as likely to have a major, future effect on the federal government’s wetlands jurisdiction under Section 404 of the Clean Water Act,” he said.

But the Farm Bureau’s Wenger, an almond and walnut grower from Modesto, Calif., thinks the case is important.

“You always worry” about an appeal leading to an unfavorable precedent, Wenger said. “I think you just have to put up a fight.”

High stakes

Duarte said he’s spent more than \$2 million putting up a fight, but the penalties demanded by the government “would wipe me out,” he said.

Francois said the \$2.8 million fine “arrived from thin air,” as the government’s filings have never explained how officials arrived at that figure. In addition to the fine, the government wants Duarte to

purchase vernal pool mitigation credits, which Francois estimates could cost between \$13 million and \$43 million.

“That’s an order of magnitude (beyond) a civil penalty that’s just laughable if it weren’t real,” Francois said. “We’re prepared to show the judge that the evidence strongly favors a nominal penalty in this case as opposed to the ruinous figures that the government is demanding.”

Among the factors the judge can consider is the impact of a penalty on the defendant and his nursery, he said.

“It’s impossible to see how they would continue employing the 500-plus Modesto area workers that work for them,” Francois said. “Basically, the government would succeed in putting several hundred good people out of good work who’ve had nothing to do with what happened in that field near Red Bluff.”

Duarte argues there has been no long-term environmental damage to the property.

“If anything, I believe our tillage increased percolation into the ground, improved groundwater and enhanced grazing,” he said.

The grower said he will continue to welcome visitors to the property.

“We would like to meet them here, but we would provide access to the property,” Duarte said. “This is a very boring grass field with nothing special about it except the government prosecuting a farmer.”

And he continues to lead a push for officials to put a stop to the case.

“Every farmer should be contacting their Congress person right now to get the administration’s attention,” he said. “This case is extremely important.”

LINK http://www.capitalpress.com/Nation_World/Nation/20170810/farmer-mounts-legal-defense-political-offensive-in-wetlands-battle

Items for Your Situational Awareness

A Legal Battle in Idaho Portends Future Conflicts Over Water

Outlet: News Deeply

Media: Internet

Date: Aug. 11, 2017

On a sunny day in late April, the United States Army Corps of Engineers released hundreds of millions of gallons of water from Idaho’s Lucky Peak Dam, a dozen miles upstream of Boise. The dam operators call it a “rooster tail” display; thousands of observers took in the spectacle. The water, roaring out of a dam gate, arced high above the Boise River, rainbows shimmering in its spray.

Rooster tails are one way the Corps releases excess water to reduce the risk of flooding – a partially empty reservoir can capture spring runoff before it can race downstream and inundate Boise. Releases are necessary about seven years out of every 10, including this year, when basin flows were among the highest recorded. Lucky Peak and two associated reservoirs also store water for irrigation. In snow-heavy years, that means dam operators must strike a balance between letting

enough water go early in the spring and retaining sufficient water for the hot, dry days to come.

Getting releases right is crucial for the farmers who depend on the Boise River to irrigate crops like sugar beets and seed corn. The river also waters lawns and parks, and supplies about 30 percent of Boise's drinking water. As in other Western states, water users with older rights get first dibs. But since 2013, several irrigation companies and the Idaho Department of Water Resources have been fighting over administrative details that determine which water Lucky Peak irrigators are entitled to use during a wet year: flood-control releases, or the "refill" water that collects after releases are done. The case is now before the Idaho Supreme Court. Its outcome will determine how the water in the Boise River system is doled out – no small consequence for the people and fish that depend on it. The fight itself, however, highlights a larger challenge water managers across the West are confronting: How do you operate dams effectively as climate change alters the historical patterns used to predict runoff timing and volume? ...

LINK <https://www.newsdeeply.com/water/articles/2017/08/11/a-legal-battle-in-idaho-portends-future-conflicts-over-water>

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From: (b) (6) CIV.USARMY.CESPK (US)
Subject: SPK News Service -- Aug. 15, 2017 (View in HTML formatting)
Date: Tuesday, August 15, 2017 07:41:22

SPK News Service -- Aug. 15, 2017

Regional Items

California Farmer Faces \$2.8 Million Fine For Plowing Field

Outlet: Capital Public Radio

Media: Internet

Date: Aug. 15, 2017

When John Duarte of Duarte Nursery plowed 22 acres of his land in Tehama County near Red Bluff to plant wheat in 2012, the US Army Corps of Engineers filed a lawsuit alleging those actions damaged wetlands and a permit was required.

A judge sided with the Corps last year.

Now, the trial begins to determine whether to uphold a \$2.8 million fine. Duarte could also be forced to pay tens of millions of dollars to restore wetlands.

Tony Francois with the Pacific Legal Foundation, who represents Duarte, says the trial could set a precedent by requiring farmers to obtain costly permits just to plow.

"The Clean Water Act says explicitly in it that normal farming practices do not require Army Corps permits," says Francois.

But Jon Devine with the Natural Resources Defense Council says Duarte's actions were a clear violation of the federal law.

"The kind of activity that Mr. Duarte has been found liable for is not normal. The court found that there had been nearly 24 years of no activity that was farming-related," says Devine.

The case preceded a more controversial set of regulations that extended the Clean Water Act to protect isolated wetlands and small streams, but it's become a poster child for opponents of increased federal regulations.

Francois says the steep fine will shut down Duarte's business and leave hundreds of people unemployed.

LINK [http://www.capradio.org/articles/2017/08/15/california-farmer-faces-\\$28-million-fine-for-plowing-field/](http://www.capradio.org/articles/2017/08/15/california-farmer-faces-$28-million-fine-for-plowing-field/)

Agreements in Place to Fund Largest California Reservoir Proposal

Outlet: News Deeply

Media: Internet

Date: Aug. 15, 2017

California voters in 2014 approved a ballot measure that allocates \$2.7 billion for water storage

projects. It's likely there will be hot competition for the money when the California Water Commission gets around to awarding it next year.

But it turns out one of the largest projects, the proposed Sites Reservoir, already has enough funding commitments and doesn't necessarily need the state bond money. Some 32 water agencies throughout California have already signed agreements to invest in the Sites project and disclosed how much water they might want to buy. These range from Metropolitan Water District of Southern California (the biggest buyer), to more local entities like the city of American Canyon.

It's a major milestone for the largest water storage project currently under consideration in California. Sites, to be located in Colusa County northeast of Sacramento, would cost an estimated \$4.7 billion to construct, with a total capacity of 1.8 million acre-feet. About 500,000 acre-feet would be available for delivery to customers on an annual average basis. It is an "off-stream" reservoir, meaning it would receive water diverted from the Sacramento River via pumps and canals.

Yet Jim Watson, general manager of the Sites project, said he still hopes to secure state bond funds for the project. This is because the money would not only reduce costs for the water investors but also secure a role for Sites as a next-generation water storage reservoir that also benefits endangered species.

Water Deeply recently interviewed Watson about how the Sites project crossed this funding hurdle, and why the project is still a good candidate for state bond funds ...

LINK <https://www.newsdeeply.com/water/community/2017/08/15/agreements-in-place-to-fund-largest-california-reservoir-proposal>

Restore the Delta Finds Gaping Holes in MWD White Paper #3 [Opinion]

Outlet: YubaNet

Media: Internet

Date: Aug. 14, 2017

Restore the Delta issued a formal response to the Metropolitan Water District of Southern California third and final white paper on the Delta Tunnels. The response illuminates the gaping holes in MWD's financial analysis on various CA WaterFix costs.

Executive Director of Restore the Delta, Barbara Barrigan-Parrilla said:

"MWD's failure to analyze water costs in dry and drought years and water use by consumers so as to determine the real cost per household for WaterFix make this analysis invalid. MWD staff clearly wants to build this project so that water can be sold for maximum profit."

Policy Analyst for Restore the Delta, Tim Stroshane said:

"With its latest financing paper, MWD pedals a wish and a prayer to its board that a \$17 billion Tunnels project will only cost its 6.2 million residential customers \$2 to \$3 per month. MWD's rosy picture omits the cost of their customers' Tunnels water use. This is analytical malpractice of the highest order."

Policy Advocate for the Sierra Club (CA) Kyle Jones said:

“Metropolitan Water District continues to paint the Tunnels in the best light, using the lowest cost estimates possible. This proposed fantasy ignores costs of mitigation for their environmental harm, and assumes that all contractors are willing to pay for this \$68 billion boondoggle. Metropolitan also cherry picks alternative options for the Tunnels that look at only the most expensive options. Any true alternatives analysis, including conservation, efficiency, and groundwater cleanup, would show that there’s a better path forward for Metropolitan customers to develop a climate-resilient water system that isn’t conditioned on destroying the San Francisco Bay Delta.”

University of the Pacific Economist Dr. Jeff Michael and NRDC Senior Attorney Doug Obegi expressed similar sentiments in their respective analyses on MWD white paper #3. We thank them for their ongoing commitment to discovering the true costs and financial irresponsibility of the CA WaterFix project.

LINK <https://yubanet.com/california/restore-the-delta-finds-gaping-holes-in-mwd-white-paper-3/>

A nearly \$17-billion water project is being planned for California. What will it cost the Southland?

Outlet: LA Times

Media: Internet

Date: Aug. 14, 2017

After years of planning for one of the biggest California water projects in decades, a key question remains unanswered: Who exactly will pay for it?

Decision time is approaching for the agencies that will have to pick up the nearly \$17-billion tab for building two massive water tunnels under the Sacramento-San Joaquin Delta, the heart of the state’s water works.

Whether the board of the Metropolitan Water District of Southern California commits to paying roughly a quarter of the bill could make or break the project.

Metropolitan management has been a consistent cheerleader for the tunnels, arguing they are vital to stabilizing deliveries of Northern California water that on average provide the Southland with about a third of its supplies.

“The costs of California WaterFix are substantial,” the staff wrote in a report reviewed Monday by two MWD committees. “However...the costs that would be allocated to Metropolitan are reasonable and affordable, given the water supply reliability improvements.”

The staff estimated that the project would cost MWD about \$4.3 billion, increasing residential water rates an average of roughly \$23 to \$38 a year — depending on interest rates on the project debt.

Committee members appeared generally receptive to the presentation. But several indicated they wanted more time before the final project vote, which is scheduled for Sept. 26.

“The 26th is not realistic,” said board vice chair John Murray Jr., who represents Los Angeles.

Public comments at the Monday meeting were divided ...

LINK <http://www.latimes.com/local/lanow/la-me-tunnels-cost-20170814-story.html>

Items for Your Situational Awareness

No sequestration for agencies this year

Outlet: Federal News Radio

Media: Internet

Date: Aug. 15, 2017

Agencies will not face cuts from sequestration in the final six weeks of the fiscal year. The Congressional Budget Office reiterated its earlier findings that discretionary spending will not bust the budget caps established in the Bipartisan Budget Act of 2015. CBO warned the caps could be breached if Congress adds any new appropriations before Sept. 30 though. If that's done, then the 2018 discretionary budgets would have to be reduced.

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From: (b) (6) [CIV.USARMY.CESPK \(US\)](#)
Subject: SPK News Service -- Aug. 17, 2017 (View in HTML formatting)
Date: Thursday, August 17, 2017 08:29:34

SPK News Service -- Aug. 17, 2017

Regional Items

Duarte Settlement Leaves Unanswered Questions for Growers

Outlet: AgWeb
Media: Internet
Date: Aug. 16, 2017

Is agriculture exempt from the permitting requirements of the Clean Water Act? Growers will have to wait a while longer for an answer to that question following a \$1.1 million settlement in a landmark case this week.

California grower John Duarte was sued by the U.S. Army Corps of Engineers after plowing a wheat field without a permit from the Corps. The Corps of Engineers argued Duarte disturbed protected wetlands in the process of plowing. Ag groups and individuals watched the case closely as it progressed, hoping it would provide clarity in the increasingly murky waters at the intersection of agriculture and the Clean Water Act. The impact of a settlement is not lost on Duarte and his legal team at the Pacific Legal Foundation.

“We will not have the opportunity, in this case to challenge the re-interpretation of the Clean Water Act farming protections that the government successfully imposed in this case.” Duarte’s attorney, Tony Francois, told Farm Journal’s AgriTalk radio show. “Now the Pacific Legal Foundation will continue to look for solid cases in which to challenge that.”

“The only way a farmer knows if their practices are protected from permitting is to go ask your local Corps official.” Francois added. “We think that’s a complete misreading of what is actually a very clear and broad protection from permitting in the act. And that question is going to have to get resolved.”

Section 404 of the Clean Water Act provides an exemption to the discharge permit requirement for: “Established farming, ranching, and silviculture activities such as plowing, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices.”

Francois said Duarte had a desire to continue to challenge the Corps of Engineers and the court ruling, but that the potential of more than \$45 million in penalties put his 400 employees at an unacceptable risk.

AUDIO INTERVIEW LINK <https://www.agweb.com/article/duarte-settlement-leaves-unanswered-questions-for-growers-naa-john-herath/>

Our View: Agency is wasting no time in effecting slurry wall upgrade [Editorial]

Outlet: The Appeal-Democrat

Media: Internet

Date: Aug. 16, 2017

Sutter Butte Flood Control Agency wasted no time in starting an upgrade to a stretch of the levee system that is integral to the protection of the Yuba City community.

Around here, levee improvement is a never-ending chore. But this section really did need attention. An old slurry wall, put in place according to specifications that made sense at the time, is now found to be completely inadequate and last winter's high water and fluctuating water levels didn't help conditions.

Last week, SBFCA reported that work was on schedule and advancing quickly. It was a rushed affair, with permission coming at the last minute (but in record time) from the U.S. Army Corps of Engineers. SBFCA contractors will be replacing that inadequate slurry wall down the center of the levee. The new wall will run from 80 to 85 feet deep and is meant to prevent seepage of flood waters from under the levee – which is a major cause of levee breaches.

A public meeting is slated for Thursday from noon-1 p.m. at Boyd Hall, 1895 Lassen Blvd., Yuba City. It will update residents on the construction progress and plans.

LINK http://www.appeal-democrat.com/opinion/our_views/our-view-agency-is-wasting-no-time-in-effecting-slurry/article_12d894fc-82f4-11e7-bb92-f75ed7563ba0.html?mode=qjm

Is Tunneling Water Across the State Our Best Option?

Outlet: California -- UC Berkeley alumni magazine

Media: Internet

Date: Aug. 16, 2017

Like many before him, California Governor Jerry Brown has vowed to “fix” the Sacramento-San Joaquin Delta, that vast and beleaguered wetland east of San Francisco Bay that is a source for much of Southern California's water, an agricultural powerhouse, and a nursery for valuable fisheries.

The root of the problem, of course, is the number and degree of demands on the Delta. There are too many stakeholders and too little water, so nobody ever gets what they want, and often they don't get what they need. Brown's solution is the Delta Tunnels, a revised version of the Peripheral Canal that he pushed during his first gubernatorial tenure in 1980s. Like the Canal, the Tunnels are a conveyance system that would shunt water from the Sacramento River to Southern California, avoiding the direct pumping from the south Delta that now occurs at great expense to native fish.

Gov. Jerry Brown

Voters rejected the Canal, much to Brown's chagrin. The Tunnels appear to have more momentum, though they're still extremely unpopular with environmentalists, who argue they're a mid-20th Century solution to a 21st Century problem. Despite administration assurances that the massive project will help fish and wildlife by curtailing direct pumping from the Delta, conservationists

maintain the temptation to divert excessive quantities will be impossible to resist, given the power of San Joaquin Valley agribusiness and large urban water districts.

But the problem with California's water is bigger than the Delta or the Tunnels, says UC Berkeley adjunct environmental engineering professor Roger Bales. Information, he maintains, is the bedrock issue. The lack of it, that is. Not enough is known about the real time state of California's water resources. There are too few points of measurement and poor access to the data that does exist. Stream flow is monitored inadequately; groundwater basins are barely monitored at all. No one truly knows who is using water, how much and when. It's all largely rule of thumb and Kentucky windage

...

LINK <http://alumni.berkeley.edu/california-magazine/just-in/2017-08-16/tunneling-water-across-state-our-best-option>

This colorful frog's survival is at risk in California's streams. Here's how the state could save it

Outlet: The Sacramento Bee

Media: Internet

Date: Aug. 17, 2017

Shy of 3 inches with skin in muddy shades of red, green or brown, the foothill yellow-legged frog is unremarkable at first glance. Flipping it over, however, reveals the signature gold shading of its legs and lower abdomen that leads some to exclaim its beauty.

The amphibians used to be common in the foothill streams of mountain ranges across California, including the Sierra Nevada and Coast ranges. Now they're gone from over half of their historical habitat in California, and scientists and wildlife advocates are worried about their survival.

In 2012, the Center for Biological Diversity petitioned the U.S. government to protect the frog under the Endangered Species Act. But after a settlement last year pushed the decision to 2020, they decided to try listing it in California first.

On July 7, the California Fish and Game Commission named it a candidate species for protection under the California Endangered Species Act. Over the next year, the frog will be protected as though it were listed while the commission reviews its status.

"These frogs are really at the nexus of all the different ways in which we use water. ... They are sort of iconic and emblematic," said Sarah Kupferberg, a visiting scholar at UC Berkeley and an independent consultant at Questa Engineering who has studied the frogs for about 20 years.

A look past their pebbly skin reveals how the frogs evolved to thrive in California. The snowmelt-fed streams they inhabit can be torrents in the early spring, but later can dry up altogether. The frogs have accumulated adaptations to help them survive in this environment including timing their life cycles with the seasonal changes in the river ...

LINK <http://www.sacbee.com/news/local/environment/article167177902.html>

New dams coming to California? A dozen projects seek \$2.7 billion in state funding

Outlet: The Mercury News

Media: Internet

Date: Aug. 16, 2017

During the drought, Californians often asked why the state wasn't building more reservoirs. On Tuesday, the state finally began taking a major step toward that goal, unveiling a list of 12 huge new water projects — from massive new dams in the north to expanded groundwater banks in the south — that will compete for \$2.7 billion in state bond funding for new water storage projects. The money comes from Proposition 1, a \$7.5 billion water bond overwhelmingly passed by voters in November 2014 during the depths of the state's historic 2011-2016 drought.

Monday was the deadline for water agencies to submit applications for storage projects to the California Water Commission, an agency in Sacramento run by a nine-member board appointed by Gov. Jerry Brown.

The commission will decide by June 2018 which projects receive bond funding, as well as how much, if any, each will receive, after rating them on their public benefits.

"We're excited about the projects that have applied," said Chris Orrock, a spokesman for the commission. "They are providing benefits to the people of California, and that's what this program is aimed at funding."

As expected, there is more demand than money. All 12 projects would cost roughly \$13.1 billion to construct — five times as much money as is available under the bond. That means some won't get built, and others will need to find the bulk of their funding from federal or local sources — which could include raising water rates or taxes, which local voters may or may not approve.

The list of applicants includes many ideas that have been around for years. Among them:

Sites Reservoir: A proposed \$5 billion reservoir in Colusa County, roughly 100 miles north of Napa, the reservoir would be built "off stream" in a valley and would divert water from the Sacramento River, holding 1.8 million acre feet. That's enough water for the needs of 9 million people a year. It would rank Sites as the seventh largest reservoir in the state, roughly the size of San Luis between Gilroy and Los Banos.

Los Vaqueros: The Contra Costa Water District is proposing to raise the earthen dam at Los Vaqueros reservoir by 55 feet, increasing the reservoir's storage capacity from 160,000 acre feet to 275,000-acre feet, enough water to meet the annual needs of 1.4 million people. The \$914 million project has a dozen Bay Area partners that would put up some of the money and receive some of the water as drought insurance. Among them are the Santa Clara Valley Water District, East Bay Municipal Utility District and the San Francisco Public Utilities Commission. The project was endorsed Monday by a coalition of six prominent environmental groups — including the Nature Conservancy, Audubon Society and Planning and Conservation League — because some of the water would go to Central Valley wetland refuges for ducks, geese and other wildlife, in addition to people and farms.

Pacheco Pass: The Santa Clara Valley Water District is hoping to build a new reservoir in southern Santa Clara County near Pacheco Pass, along with a dam up to 300 feet high. The reservoir, which would cost roughly \$900 million, would hold 130,000 acre-feet of water — enough to meet the water needs of 650,000 people for a year. The project would replace an existing small reservoir of

6,000 acre-feet that is used to recharge farmers' groundwater.

Temperance Flat: The U.S. Bureau of Reclamation has proposed building a 665-foot-high dam on the San Joaquin River in the Sierra foothills in Fresno County. The \$3 billion project, which would construct the second-tallest dam in California, behind Oroville Dam, would create a reservoir of 1.3 million acre-feet, enough water for 6.5 million people a year.

Semitropic: The groundwater district near Bakersfield, which stores water for agencies from the Bay Area to Los Angeles, has proposed an expansion.

Kern Fan: The Irvine Ranch Water District in Irvine, which serves 380,000 residents of Orange County, is proposing to build a \$171 million groundwater storage project at the south end of the Kern River.

San Diego: The city of San Diego, which wants to produce one-third of its water by 2035 from recycled wastewater, is planning a \$1.2 billion project to purify it and deliver it to Miramar Reservoir.

Centennial Reservoir: The Nevada Irrigation District in Grass Valley is proposing building a 275-foot-tall dam and 110,000 acre-foot reservoir on the Bear River near Colfax in Placer County.

Other projects were proposed from the Sacramento Regional Water Authority, the Inland Empire Utilities Agency and other water districts ...

LINK <http://www.mercurynews.com/2017/08/15/new-dams-coming-to-california-a-dozen-projects-seek-2-7-billion-in-state-funding/>

Items for Your Situational Awareness

Federal Officials Say Privately They Are 'Pretty Certain' Layoffs Are Coming

Outlet: Government Executive

Media: Internet

Date: Aug. 16, 2017

Federal agency managers are privately telling members of the Trump administration they will soon lay off employees, according to Office of Personnel Management officials, and are seeking advice for how to do so in the most effective manner.

Agencies are "pretty certain" they will need to institute reductions in force as they aim to satisfy an executive order from President Trump and ensuing guidance from the Office of Management and Budget, said Leslie Pollack, deputy associate director of OPM's HR Strategy and Evaluation Solutions, on WJLA's "Government Matters" program. Those documents required executive branch agencies to reorganize themselves and, in the process, cut the size of their workforces. Pollack's office, which provides human resources consulting to federal agencies, has assisted officials across government looking at "closing down or realigning functions."

"They are coming to us specifically and saying 'I'm pretty certain I need to run a reduction in force,' and that is one area where OPM and our group in particular has some expertise in helping

agencies...to take a look at their situation and actually execute according to the restructuring rules and all the policies and procedures that are in place,” Pollack said. “So we’re definitely getting those questions.”

OPM is even helping agencies prepare to assist their employees in finding new jobs.

“We spend a lot of time working on communications, the relationships with supervisors and employees and transition assistance such as resume writing, mock interviews, things like that,” said Jason Parman, OPM’s HR Strategy branch manager, “so that folks who are impacted by these restructuring actions, they’ll be prepared for the next opportunity.”

Parman added the “human aspects of restructuring” are “easily overlooked,” and people whose livelihoods are affected will have to “transition with or without that agency as the agency moves forward.”

OMB required agencies to turn in preliminary, high-level strategies by June 30 that spelled out near and long-term plans to trim their rolls. The administration advised agencies to begin implementing workforce reduction strategies immediately, noting “achieving associated personnel reductions takes time to implement and realize savings.” ...

LINK <http://www.govexec.com/pay-benefits/2017/08/federal-agencies-say-privately-they-are-pretty-certain-layoffs-are-coming/140284/>

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From: (b) (6)
Subject: SPK News Service - August 3, 2016
Date: Wednesday, August 3, 2016 08:34:50

SPK News Service - August 3, 2016

PLF Attorney Reports Duarte Appeals Court Decision—Once Again

Outlet: California Ag Today

Media Type: Article

Date: 2 AUG 16

Damien Schiff, principal attorney at Pacific Legal Foundation (PLF) who has been representing the Duarte family in their legal battle with the U. S. Army Corps of Engineers (Corps), provided this update after Judge Kimberly J. Mueller, U.S. District Court for the Eastern District of California dismissed their summary judgment motions on June 10, 2016, and ruled the Corps' February 23, 2013 cease and desist order did not deprive Duarte of liberty or property. Schiff said his client's next course of action is...

<http://californiaagtoday.com/duarte-nursery-v-army-corps/>

Executive Order -- Planning for Federal Sustainability in the Next Decade

Outlet: The White House – Office of the Press Secretary

Media Type: News Release

Date: 19 MARCH 15

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to maintain Federal leadership in sustainability and greenhouse gas emission reductions, it is hereby ordered as follows: Section 1. Policy. Executive departments and agencies (agencies) have been among our Nation's leaders as the United States works to build a clean energy economy that will sustain our prosperity and the health of...

<https://www.whitehouse.gov/the-press-office/2015/03/19/executive-order-planning-federal-sustainability-next-decade>

Standstill on nation's levees threatens lives, property

Outlet: CBS News

Media Type: Article

Date: 3 AUG 16

The Almost half of Americans live within range of a levee, one of those 100,000 miles of earthen, sand and gravel walls that supposedly protect you from raging floodwaters. Many probably wish they didn't. A July report by the U.S. Government Accountability Office (GAO), the investigative arm

of Congress, blamed the U.S. Army Corps of Engineers and the Federal Emergency Management Agency (FEMA) for making "little progress" in...

<http://www.cbsnews.com/news/standstill-on-nations-levees-threatens-lives-property/>

Address all factors to improve salmon numbers

Outlet: Sacramento Bee

Media Type: Article

Date: 2 AUG 16

For most people traveling on Interstate 5 in Northern California, Lake Shasta is viewed as a recreational jewel along their journey. The fact is the reservoir is a major workhorse providing flood control, critical storage capacity and water deliveries that provide multiple benefits to the public, farmers, municipalities, aquatic species, waterfowl, wildlife and the environment. Yet, Lake Shasta is being operated today for the primary purpose of protecting a single fish species...

<http://www.sacbee.com/opinion/op-ed/article93291052.html>

(b) (6)

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From: (b) (6) [CIV.USARMY.CESPK \(US\)](#)
Subject: SPK News Service -- Dec. 26, 2017 (View in HTML) (UNCLASSIFIED)
Date: Tuesday, December 26, 2017 08:21:21

CLASSIFICATION: UNCLASSIFIED

SPK News Service -- Dec. 26, 2017

Northern California Wildfire Response

From hurricanes to fires, 2017 disasters tested DoD amid concern that forces are stretched thin

Outlet: CNBC

Date: Dec. 22, 2017

When major disaster relief orders come down from the White House, the Department of Defense plays a key role because of its vast response capabilities, say experts.

But the reliance on military resources often is more expensive in disasters than using civilian contractors. And, the use of the federal military also can put a strain on the Pentagon's other plans, as was the case after the Trump administration put more resources toward Hurricane Maria recovery efforts in Puerto Rico.

"When the president wants things done, people point to the DoD," said Todd Rosenblum, a former senior official at the Pentagon and now a nonresident senior fellow with the Atlantic Council's Brent Scowcroft Center for Strategy and Security. "The military is in many ways the operational backbone of the federal assistance."

The more than \$200 billion in devastation from hurricanes and California wildfires this year was a clear message that domestic disasters can take a heavy economic toll and require a combination of civil-military expertise.

Rosenblum said the federal military "has all the capacity and can go faster than anyone." He was quick to add that National Guard units around the country also are capable of handling emergency relief in disasters, though for large-scale events states often turn to the Pentagon for help.

Overall, some 67,000 DoD and National Guard personnel responded to help civil authorities during the three hurricanes that made landfall this year, according to Army Lt. Col. Jamie Davis, a Pentagon spokesman.

Strain on military

However, the Pentagon said in October the storm-relief efforts were putting a strain on some of its other plans, such as sending additional troops to Afghanistan. Also, some have complained the U.S. military has a readiness problem and is stretched too thin already.

Rosenblum disputes talk that the U.S. military lacks sufficient resources to handle both wartime and other demands, including the ability to deploy military cargo jets and Navy resources for extended periods of time for disaster relief efforts.

"DoD has this tremendous capacity and wasn't stretched thin," Rosenblum maintains. He said the Pentagon — the nation's largest employer — has no shortage when it comes to its vast fleet of cargo planes, command and control capabilities, and tapping into its workforce with engineering, communications, logistics and contracting expertise.

During the hurricane season, Texas, Florida, Georgia, Puerto Rico and the Virgin Islands were all impacted by major storms. Harvey killed 82 people, Irma resulted in the loss of 134 lives and at least 66 direct fatalities were blamed on Maria.

Preliminary damage estimates for both Harvey in August and Irma in September range between \$150 billion and \$200 billion, according to Moody's Analytics. Puerto Rico's governor has estimated rebuilding after catastrophic damage from Maria in September will cost nearly \$100 billion.

Hurricane response

Tens of thousands of National Guardsmen, reservists and active-duty federal military personnel responded to the storms, providing search and rescue recovery assistance in the affected areas. Also, the military helped clear thousands of miles of roads, opened damaged ports and delivered emergency supplies and equipment.

Army Brig. Gen. Patrick M. Hamilton, commander of the Texas National Guard's Domestic Operations Task Force, recalls that the day before Harvey hit, weather forecasters were still saying it would just be a tropical storm at most. He said the forecast was upgraded to a strong Category 4 so the number of military personnel assigned went up sharply. Record amounts of rain and flooding in Houston, the nation's fourth-largest city, eventually resulted in some 18,000 troops supporting the rescue and relief efforts.

"We had helicopters and trucks and Marine Corps amphibious vehicles from all components — active duty, National Guard, Reserves of each of the branches — on the ground working in unison to support the local responders and the local communities," said Hamilton, who served as the dual status commander overseeing active and Guard military personnel supporting Harvey relief efforts in Texas.

In Puerto Rico, Maria made landfall on the island Sept. 20, and the military's extended-response role continues to this day, with the U.S. Army Corps of Engineers helping with infrastructure repairs, including restoring power to the U.S. territory.

Puerto Rico had no major airfields available immediately after the storm struck, so that meant the military couldn't use all of its large cargo planes right away to bring in hurricane-relief supplies. Once the airfields in Puerto Rico reopened, though, large amounts of food, water and other vital supplies starting flowing to the island.

Another major role initially for the military was search-and-rescue operations on the island of about 3.4 million Americans, as well as clearing the seaports and opening roads scattered with debris.

Hospitals also were a problem after the storm struck since many lacked power or were damaged and struggled to provide care to residents. As a result, the Navy's Comfort hospital ship arrived in early October and ended up treating nearly 2,000 patients and providing surgeries, food and water.

Political fighting

Yet the post-Maria relief efforts haven't been without controversy, and some charge the Trump

administration was slow in its response to the crisis. Also, some say local officials didn't help by getting into political fights with Washington.

"One of the things that happened during Katrina also happened in Puerto Rico, and [that] was sniping by officials," said Rosenblum.

After Maria struck, the mayor of Puerto Rico's capital city held a press conference and accused the Trump administration of mishandling Puerto Rico relief efforts. "We are dying here," said Carmen Yulin Cruz, the mayor of San Juan. "I cannot fathom the thought that the greatest nation in the world cannot figure out logistics for a small island of 100 miles by 35 miles long."

In response, President Donald Trump tweeted back, "Such poor leadership ability by the Mayor of San Juan, and others in Puerto Rico, who are not able to get their workers to help."

At the time, White House press secretary Sarah Sanders responded to Puerto Rico criticism by saying: "The federal response has been anything but slow."

Puerto Rico's electrical power grid suffered extensive damage in the Category 5 hurricane and remains one of the pressing needs even today. About one-third of Puerto Rico still lacks electrical service three months after Maria hit.

Military's wildfire role

In California, the federal military played a lesser role in this year's wildfire disasters. But the Army Corps helped in the emergency response after major damage was found at Oroville Dam, the nation's tallest earthen dam, following heavy winter rains. The Army Corps also helped in debris removal after Northern California's deadly wine country fires in October.

Davis, the Pentagon spokesman, said the "DoD received no formal requests" to help in this month's wildfires in Southern California, although Navy and Marine Corps units from Ventura to San Diego provided assistance to Cal Fire under "pre-established local agreements."

Marine Corps Camp Pendleton executed more than a dozen air drops of water during this month's Lilac fire in San Diego County, while two Navy helicopters also assisted in the firefighting effort. In Ventura County, the local Navy base deployed several firefighting vehicles and crew to assist in the massive Thomas fire, and some of those resources remained active on the fire lines this week, according to a base spokesperson.

At the same time, thousands of California Army and Air National Guard personnel were mobilized to help with three major wildfire efforts this year and to support civilian firefighting agencies. They included the October wine country fires that resulted in 44 fatalities and destruction of or damage to more than 21,000 homes as well as summer fires in Central California and this month's Southern California blazes, such as the Thomas fire.

The Thomas fire — the second-largest wildfire in California history — has charred an area over 425 square miles, destroyed more than 1,000 structures and still threatens about 18,000 structures. The blaze in Ventura and Santa Barbara counties was 65 percent contained as of Thursday evening, according to Cal Fire.

"2017 was an especially busy year for the Cal Guard, as we not only deployed thousands of troops overseas, but several thousand here at home, as well," said Capt. Will Martin, spokesman for the California National Guard. "We've dropped several million gallons of water and retardant on the fires

this year, in addition to responding to floods in Northern California and hurricanes in Texas and beyond."

Martin said the Guard also mobilized Reaper drones during the wildfires to gather and relay real-time imagery to civilian incident commanders on the ground to help them more effectively combat the fires and do so as safely as possible. Other aerial assets used included various helicopters, from Black Hawks to Chinooks, along with two C-130J Super Hercules air tankers outfitted with fire retardant-dropping equipment.

LINK <https://www.cnn.com/2017/12/22/disasters-in-2017-tested-pentagon-amid-concern-forces-stretched-thin.html>

Other Regional Items

Farmer who faced \$2.8 million fine over plowing his field says case nearly bankrupted him

Outlet: Record Searchlight

Date: Dec. 26, 2017

It's been six years since John Duarte set out to grow wheat on 500 acres south of Red Bluff.

But no crop has been harvested since he planted wheat in 2012. Only weeds grow on the 450-acre plot surrounded by a barbed wire fence and a dusty dirt road south of Red Bluff.

While the area looks inconspicuous, for a few months last summer it drew nationwide attention when it became the focal point of a courtroom battle between Duarte and government officials who sought to fine him \$2.8 million for plowing his field.

Duarte, who owns Duarte Nursery near Modesto, and the U.S. Attorney's Office eventually settled the case before it went to trial on the fine amount.

But Duarte said four months after agreeing to spend \$1.1 million on restoration and fines in the case, nothing has changed. In addition to restoration work at the site, he has also agreed to raise cattle on the property for two years, he said.

There has been no restoration work done on the site, no penalties have been paid and the parties have not agreed to who will handle the vernal pool mitigation credits he is required to purchase as part of the settlement, he said.

The U.S. Attorney's Office in Sacramento did not respond to requests for information about the case.

"The Army Corps of Engineers refuses to come on the site with us to provide information about what the elements of the restoration plan should be," Duarte said.

Even though he settled the case, Duarte still believes he did nothing wrong. After spending about \$3 million in legal fees on the case, he was forced to settle to save his business from bankruptcy, Duarte said.

"They (the U.S. Attorney's Office) came within an eyelash of killing over 500 jobs," he said of the employees who work at his nursery outside of Modesto.

Farmers are typically exempt from having to get a Clean Water Act permit to plow their fields. But

the U.S. Army Corps of Engineers said Duarte had his field ripped to a depth of more than a foot, damaging vernal pools and wetlands on the property.

Duarte maintains the field was only plowed 4 to 7 inches deep.

The U.S. Attorney's Office in Sacramento said the tractor did not plow the field. Rather, the tractor was equipped with a ripper, with seven 36-inch shanks that dug an average of 10 inches deep into the soil.

Also, the U.S. Attorney alleges, Duarte ripped portions of the property that included wetland areas.

The ripping deposited dirt into wetlands and streams on the property, in violation of the Clean Water Act, according to the U.S. Attorney.

Duarte sued the Army Corps, claiming his constitutional right to due process was violated when the agency ordered him to stop work in the field.

The U.S. Attorney's Office counter-sued claiming he damaged wetlands and ignored a consultant's recommendation he get the Army Corps' approval before working in the field.

Duarte said he feels the lawsuit filed against him was retaliatory.

"Every farmer and food consumer should be concerned about this prosecution," Duarte said.

Brandon Fawaz, a district director for the California Farm Bureau Federation, said he is glad the Duarte case settled before going to trial so it could not set legal precedent requiring all farmers to get permits before farming.

"It would be the end of agriculture as we know it," Fawaz said.

However, after the settlement was announced in August, the U.S. Attorney's office said the prosecution is limited to Duarte and that "this case is not (and will not be used as) a pretext for federal prosecution of farmers who engage in normal plowing on their farms."

While the court battle may not have set case law, Duarte said a precedent has already been set because he lost the case when a federal judge ruled in the government's favor.

"It's a problem for rural communities, it's a problem for people who eat, it's a problem for farmers," Duarte said.

LINK <http://www.redding.com/story/news/2017/12/26/california-farmer-million-dollar-fine-over-plowing-field-case-nearly-bankrupted-him/975873001/>

Why California's most productive salmon hatchery is millions of fish short

Outlet: The Sacramento Bee

Date: Dec. 26, 2017

California's most productive salmon hatchery has 6 million fewer fish this year, another sign the state's drought woes linger despite last winter's record rainfall.

The federal Coleman National Fish Hatchery tries to produce about 12 million fall-run Chinook salmon for release each spring into Battle Creek, a Sacramento River tributary south of Redding. This spring, the Coleman hatchery will only have half as many young salmon to release.

The reason harkens back to the abysmal river conditions in the heart of California's historic five-year drought – and the choices fishery managers made those years to move the baby Chinook by tanker

truck out to sea in a frantic effort to save the commercially important fish.

They knew at the time trucking the fish would lead to fewer fish coming back to Coleman this year to spawn.

“Everybody kind of acknowledged and understood at the time the consequences,” said John McManus, executive director of the Golden Gate Salmon Association, a fishing advocacy group. Chinook live two or three years in the Pacific Ocean before adult fish head back upriver to lay their eggs and die, starting the cycle anew. Fish hatched in California’s five-year drought that ended officially in the spring are returning to Central Valley rivers this year.

Almost all of the Central Valley’s fall-run Chinook are hatched from eggs and sperm that biologists harvest from adults that return to hatcheries below the dams blocking the fish from their traditional spawning habitat.

Fall-run adult fish – raised at five hatcheries across the Central Valley – provide the bulk of the fish caught in the commercial and recreational fishing industry. McManus and other fishing advocates say fall-run Chinook support \$1.4 billion in annual economic activity in California and about 23,000 fishing related jobs while providing locally caught fish for Californians’ dinner tables.

Because of the hatcheries, fall-run Chinook (and the smaller late fall-run) are the only Central Valley salmon runs healthy enough to avoid protections under the U.S. Endangered Species Act. The spring run is listed as threatened. The winter-run is critically endangered. The runs are named for the season when the majority of the adult fish enter freshwater.

The drought played havoc on all the runs, which need cold water to thrive. Returns of spring- and winter-run Chinook born during the drought are among the lowest on record.

The dry winters of 2014 and 2015 left the Central Valley’s rivers languid, clear and warm for long stretches – terrible conditions for a young salmon, and particularly perilous for fish that hatch far upriver because they have farther to swim.

Salmon are a cold-water fish, and juveniles are more likely to survive their trip to the sea when they have plenty of food and can avoid predators in rivers cloudy and swift from nutrient-rich stormwater runoff.

Coleman is the farthest Sacramento Valley hatchery from the Pacific. Young fish – called smolts – hatched at Coleman have to swim 280 miles of river to reach salt water. Normally, that journey helps them navigate back to their hatchery years later.

In the dry spring of 2014, Coleman’s managers decided that the Sacramento River was so warm that almost all Coleman fish would die if they were released into Battle Creek – a move that would potentially kill the salmon fishing industry a couple of years later when the fish grew into adults.

So that spring, all 12 million Coleman fish were sucked into dozens of tanker trucks, driven to the Sacramento-San Joaquin Delta and dumped into floating pens near Rio Vista to acclimate them for later release.

Coleman fish weren’t the only fish trucked. Millions more juvenile fall-run fish raised at the Central Valley’s four other salmon hatcheries were also transported.

The process repeated the following year.

The trucking program likely saved this year's fishing season.

Biologists estimated this spring there were 230,700 in the Pacific Ocean waiting to pass under the Golden Gate Bridge and head upriver into the Central Valley. Though 70,000 fewer than last year, there were enough adult fish to allow for a commercial fishing season off a portion of California's coast. Recreational anglers also had some fish to catch this summer and fall in the Sacramento River and in its tributaries, the Feather and the American rivers.

By comparison, this year's salmon fishing season was closed on the Klamath River. No salmon are trucked from that river's hatchery below Iron Gate Reservoir.

Enough adult fish also returned to the four other Central Valley hatcheries for those facilities to reach their egg and smolt production goals.

It's another story at Coleman, where only a small fraction of the adults made it back. Biologists said the trucking process badly disoriented almost all of the young fish when they returned as adults.

As many as 143,000 adult fish will return to the Coleman hatchery to spawn in a normal year. In 2017, only around 3,000 adults returned, enough to fertilize about 4 million eggs – well shy of the hatchery's 12 million goal.

Many of the wayward adult fish hatched at Coleman actually ended up at the state's Nimbus Hatchery on the American River in Rancho Cordova. Biologists know they were Coleman fish because they insert specially coded wire tags the size of a pencil tip into a percentage of hatchery smolts. This fall, state and federal biologists were able to gather an additional 2 million fertilized eggs at Nimbus from the Coleman fish that got lost and ended up there. Those eggs were transported to Coleman.

The question is whether having just 6 million fish at Coleman will translate into worse fishing seasons in the years ahead.

Fishermen such as James Stone fear the worst.

"My membership and all of my guides are heavily concerned," said Stone, the Sutter-based president of the Nor-Cal Guides and Sportsmen's Association.

Stone said he and his fellow fishing guides are frustrated that more fertilized eggs weren't taken from other hatcheries to offset Coleman's low numbers.

Biologists chose not to go that route because they're wary of intermingling the genetic strains of the fish that spawn in the various rivers, said Shane Hunt, a spokesman for the U.S. Fish and Wildlife Service, which manages Coleman.

It's hard to say whether Coleman's low numbers will harm future salmon fishing seasons, said Mark Clifford, a state fisheries biologist.

"A multitude of variables affects adult salmon returns, including ocean and river conditions several months or even years from now," Clifford said in an email. "Some year(s) classes of salmon do better than others."

In other words, the best hope for the fish – and the anglers who hope to catch them someday – is that this dry December doesn't translate into another prolonged drought.

LINK <http://www.sacbee.com/news/state/california/water-and-drought/article191351274.html>

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CLASSIFICATION: UNCLASSIFIED

From: (b) (6) [CIV USARMY CESPK \(USA\)](#)
To: [DLL-CESPK-News](#)
Subject: SPK News Service – December 4, 2019
Date: Wednesday, December 4, 2019 09:00:30

SPK News Service – December 4, 2019

LOCAL

Preparing for a flood

Colusa County Sun-Herald

Dec. 3, 2019

With the first big storm of the season and the Nov. 15 start of flood season behind us, the Sun-Herald spoke to some local officials to see how things are looking during this years rainy season.

Lewis Bair, general manager of the Sacramento River West Side Levee District, said the levees in the area are in the best shape they have ever been, thanks to over \$40 million in recent repairs throughout the district that were completed by the U.S. Army Corps of Engineers.

https://www.appeal-democrat.com/colusa_sun_herald/preparing-for-a-flood/article_9f25c8d2-1639-11ea-bc5e-6b45c5a4e6b2.html

California Farmer Fights Government Claim That Dirt Is a Pollutant

The Daily Signal

Dec. 3, 2019

No one told Jack LaPant that he could be in violation of the Clean Water Act for farming his own land.

That's mostly because the federal law includes a clear exemption for "normal" farming activities. But it's also because the government officials LaPant consulted didn't view overturned dirt that has been tilled and plowed as pollution.

<https://www.dailysignal.com/2019/12/03/california-farmer-fights-government-claim-that-dirt-is-a-pollutant/>

REGIONAL

GAO: 102 military bases face water shortage risk; Pentagon must track issue better

The Stars & Stripes

Dec. 3, 2019

More than 100 U.S. military installations face water shortage risks, according to the Government Accountability Office, which warned in a new report that the Pentagon needs to use better standards for monitoring and determining the bases that could be impacted.

The federal watchdog cautioned in its Nov. 27 report that bases in the United States had already experienced water shortages that impacted critical operations and advised more installations were likely to be impacted by climate change-related issues and increasing severe weather events, citing the government's Fourth National Climate Assessment from 2018. In all, GAO listed 102 military locations in the United States as vulnerable, noting the Defense Department relies on billions of gallons of water to operate each year – some 84 billion gallons in fiscal year 2018, for example. <https://www.stripes.com/news/us/gao-102-military-bases-face-water-shortage-risk-pentagon-must-track-issue-better-1.609642>

NATIONAL

America's Dark History of Killing Its Own Troops With Cluster Munitions

New York Times

Dec. 4, 2019

Staff Sgt. Michael S. Crick huddled in the howling wind and wrote in his diary. It was just past noon on Feb. 26, 1991, the third day of the American-led invasion of Iraq during the Persian Gulf war. The day before, a French and American force had seized As Salman airfield, an Iraqi military installation about 70 miles from the Saudi Arabian border.

In a sandstorm driven by cool desert winds, Crick and three fellow explosive-ordnance disposal technicians discovered the presence of small yellow cylinders on the ground where coalition warplanes had struck. "Found about 10 to 15 BLU-97/B bomblets," he wrote. Since mid-January, the allies had repeatedly blanketed As Salman in cluster munitions, as they had done with other military targets across Iraq and Kuwait.

<https://www.nytimes.com/2019/12/04/magazine/cluster-munitions-history.html>

OTHER NEWS OF INTEREST

Trump jump-starts repairs for sinking California canal. But who will pay?

The Sacramento Bee

Dec. 4, 2019

The Trump administration is jump-starting a plan to repair a badly sinking canal in the San Joaquin Valley, a year after California voters rejected a bond measure that would have had them pay for the project.

The U.S. Bureau of Reclamation said Tuesday it will begin studying the environmental impact of

fixing a 33-mile stretch of the Friant-Kern Canal — a critical water artery on the Valley's east side. The federal agency said the repairs are needed to boost water deliveries to 1 million acres of farmland that have been dramatically reduced because of the sagging canal.

<https://www.sacbee.com/news/california/article238001964.html>

(b) (6)

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From: (b) (6) CIV_CESPK_CESPD.(US)
To: DLL-CESPK-News
Subject: SPK News Service - July 26, 2017
Date: Wednesday, July 26, 2017 11:47:14

SPK News Service - July 26, 2017

Lake Isabella Dam Safety Modification Project public meeting tonight

Outlet: Kern Golden Empire

Media Type: Article

Date: 25 JULY 17

...The U.S. Army Corps of Engineers began a dam safety modification study in 2006 to address seismic, hydrologic and seepage issues at the dams. Currently, an operating system is in place that limits the lake's storage capacity to reduce risks...

<http://www.kerngoldenempire.com/news/lake-isabella-dam-safety-modification-project-public-meeting-tonight/773970475>

Isabella Dam set to undergo major operation to prevent failure, flooding

Outlet: Bakersfield Now

Media Type: Article/Video

Date: 25 JULY 17

Isabella Dam and the Auxiliary Dam have both been monitored and studied for the better part of the last decade in efforts to determine how to prevent the old reservoir system from failing. The dams were built properly back in the day and aren't failing now, but the U.S. Army Corps of Engineers knows a lot more now than was known when the dams were built more than 50 years ago...

<http://bakersfieldnow.com/news/local/isabella-dam-set-to-undergo-major-operation-to-prevent-failure-flooding>

California farmer tries new strategy in fight with federal government over \$2.8 million plowing fine

Outlet: The Sacramento Bee

Media Type: Article/Video

Date: 25 JULY 17

Northern California farmer John Duarte, facing millions of dollars in fines for plowing a Sacramento Valley wheat field, previously sought help from President Donald Trump's attorney general and EPA

chief to get the government off his back. Now Duarte is making an 11th-hour bid for a dismissal of the federal government's high-profile case against him...

<http://www.sacbee.com/news/local/environment/article163526403.html>

OBAMA-ERA RULES JEOPARDIZE CALIFORNIA FARMING

Outlet: WORLDNETDAILY.COM

Media Type: Article

Date: 25 JULY 17

While President Donald Trump has cut over 800 regulations during just his first six months in office, freeing up small businesses to grow and prosper, one California farmer is hoping that his administration will drop a costly lawsuit held over from the Obama years. So he can pursue his livelihood, farming, without the shadow of a misapplied regulation...

<http://www.wnd.com/2017/07/obama-era-rules-jeopardize-california-farming/>

(b) (6)

Public Affairs Specialist

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See us on Flickr - www.flickr.com/photos/sacramentodistrict

From: (b) (6) .SPK
To: DLL-CESPK-News
Subject: SPK News Service -- June 22, 2016
Date: Wednesday, June 22, 2016 08:06:35

SPK News Service -- June 22, 2016

Farmer to challenge Clean Water Act tillage ruling

Outlet: Capital Press
Media Type: Internet
Date: June 21, 2016
Tone: Neutral

A California farmer plans to challenge a recent court ruling that he violated the Clean Water Act by tilling through wetlands in his field.

A federal judge has ruled John Duarte of Tehama County, Calif., should have obtained a Clean Water Act permit to run shanks through the wetlands at a depth of four to six inches, creating furrows prior to planting wheat in a 450-acre pasture.

The ruling is significant for other farmers because it undermines the “plowing exemption” to Clean Water Act regulations, said Tony Francois, an attorney with the Pacific Legal Foundation, a property-rights group that represents Duarte.

The U.S. Army Corps of Engineers claims the tillage operation on Duarte’s property doesn’t qualify as plowing because it “relocated earthen material into ridges,” unlawfully raising the elevation of the soil in the wetlands with “fill material.”

LINK <http://www.capitalpress.com/California/20160621/farmer-to-challenge-clean-water-act-tillage-ruling>

'Seismic strain': Land around the San Andreas fault is rising and sinking, new earthquake research shows

Outlet: LA Times
Media Type: Internet
Date: June 22, 2016
Tone: No USACE Mention

For the first time, scientists have produced a computer image showing huge sections of California rising and sinking around the San Andreas fault.

The vertical movement is the result of seismic strain that will be ultimately released in a large earthquake.

The San Andreas fault is California’s longest earthquake fault, and one of the state’s most dangerous. Scientists have long expected that parts of California are rising — and other parts sinking — around the fault in a way that is ongoing, very subtle and extremely slow.

Such vertical movement makes a lot of sense. California sits on the border of two gigantic tectonic

plates — the Pacific and North American — that are constantly grinding past each other.

LINK <http://www.latimes.com/local/lanow/la-me-ln-san-andreas-fault-20160622-snap-story.html>

--- # ---

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YouTube: www.youtube.com/sacramentodistrict

Twitter: www.twitter.com/USACESacramento

Flickr: www.flickr.com/photos/sacramentodistrict

From: (b) (6)
Subject: SPK News Service - November 1, 2016
Date: Tuesday, November 1, 2016 08:18:27

SPK News Service - November 1, 2016

The Sacramento Valley: Fighting Floods and Politics

Outlet: Comstock's Magazine

Media Type: Article

Date: 1 NOV 2016

California's Sacramento Valley today is a far different place than the early pioneers found. Their struggle to bring water to grow crops while avoiding terrible floods helps us understand the area of the vast Central Valley and its people. The history of the Sacramento Valley is also the story of how prevailing social movements shaped the land and people of the Valley. After the influx of pioneers during the Gold Rush years, land was cleared for farming. Wheat became the Valley's dominant crop since it did not require any irrigation and refrigeration to bring it to market in the East. With the arrival of the railroad's new refrigerated cars, Valley- grown fruit could be chilled and preserved during the journey east. As fruit became a major crop, wheat prices dropped and wheat ...

<http://www.comstocksmag.com/web-only/excerpts-book-water-more-or-less>

Grower Vows To Fight Clean Water Act Violation Suit

Outlet: Growing Produce

Media Type: Article

Date: 31 OCT 2016

The story of John Duarte and 450 acres in Northern California is a complicated matter. The U.S. Army Corps of Engineers says it's a tale of a clear violation of the Clean Water Act. Duarte, on the other hand, says the real story is about assumptions and overreach by the government. "I call it peeling the onion because this thing goes so many layers deep," he says. Duarte is owner of Duarte Nursery, one of the largest grapevine and nut tree suppliers on the West Coast. In 2012, he purchased 450 acres in Tehama County that, according to Duarte, had been in the USDA's Conservation Reserve Program under previous owners. The land had been planted with wheat many times...

<http://www.growingproduce.com/fruits/grower-vows-to-fight-clean-water-act-violation-suit/>

For Situational Awareness:

It Shouldn't Take Feds 6 Years to Approve Major Infrastructure Projects

Outlet: Government Executive

Media Type: Article

Date: 31 OCT 2016

Both presidential candidates have pledged to boost spending for crumbling roads, bridges, and other infrastructure. But if permitting and review processes takes an estimated six years for major projects, what hope is there that the next administration will preside over any ribbon-cutting ceremonies for completed projects? The Obama Administration first faced this dilemma when implementing the 2009 Recovery Act. Subsequently, in 2011, it launched an effort to untangle the nest of 35 sets of permitting and review responsibilities across 18 different agencies. It concluded, drolly, that the interplay among these different statutory requirements “is challenging and can sometimes result in uncertainty.” Historically, no coordinating mechanism existed to bridge...

[http://www.govexec.com/excellence/promising-practices/2016/10/it-shouldnt-take-feds-6-years-approve-major-infrastructure-projects/132783/?oref=river.](http://www.govexec.com/excellence/promising-practices/2016/10/it-shouldnt-take-feds-6-years-approve-major-infrastructure-projects/132783/?oref=river)

From: (b) (6) [CIV USARMY CESPCK \(US\)](#)
To: (b) (6) [CIV USARMY CEHQ \(US\)](#); (b) (6) [CIV USARMY CEHQ \(US\)](#)
Subject: Witness in trial 28 August possibly
Date: Monday, August 7, 2017 04:52:00

Just wanted to keep you aware that there is a slight possibility that I may be called testify in the Duarte trial the week of 28 August in Sacramento. The DAG thinks the possibility is low but did ask for my availability.

From: (b) (6)
Subject: [EXTERNAL] lcleeincDocsign
Date: Thursday, February 2, 2017 07:46:43
Attachments: [lcleeincDocsign.pdf](#)

Please review the document attached.

Lyndon C. Lee, Ph.D., PWS
Principal Ecologist & President
L.C. Lee & Associates, Inc.
2442 NW Market Street, #392
Seattle, Washington 98107

Email: lyndon@lcleeinc.com

Downey Brand
621 Capitol Mall
SACRAMENTO, CA 95814

SIGN IN LIST

August 11, 2016
from
V.S.V. Lalant et al.

Settlement Meeting

① ON PHONE

Andy Doyle, DOJ - ENRD - D.C.
SAMARA Spence - " "
J.T. Do - " "

~~② IN PERSON~~ Matt Kelley - USACE - Redding

② IN PERSON

Greg Broderick - VSAO - EASTERN DISTRICT of CA
Paul Manicera - USACE - SPK Regulatory Division
Robert P. Soran - Downey Brand
Jim Neyhard -
Mark Hurst - EMS
Jack Lalant
Todd Lalant
Demar Hooper

(b) (6)

Official Counsel Corps of Engineers.
USACE SPK Regulatory

HEROSE Y. GANNON for Mr. Lalant

From: (b) (6) SPK
To: (b) (6) SPK; (b) (6) SPK; (b) (6) SPK; (b) (6) SPK; (b) (6) SPK; (b) (6) SPK;
(b) (6) SPK; (b) (6) SPK; (b) (6) SPK
Subject: RE: US Senate EPW Committee Report on WOTUS
Date: Tuesday, September 27, 2016 08:55:06

Not sure about that, but most of them are Gallaway

-----Original Message-----

From: (b) (6) SPK
Sent: Tuesday, September 27, 2016 8:49 AM
To: (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>;
(b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK
<(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6)
SPK <(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>; G (b) (6)
(b) (6) SPK <(b) (6)@usace.army.mil>
Subject: RE: US Senate EPW Committee Report on WOTUS

How many of the seven "case studies" were Duarte?

(b) (6)
Chief, California South Branch
Regulatory Division
U.S. Army Corps of Engineers, Sacramento District
1325 J Street
Sacramento, California 95814

916-557-7253

We want your feedback! Please complete our survey at: http://corpsmapu.usace.army.mil/cm_apex/?p=regulatory_survey

For information on the Regulatory Program.
<http://www.spk.usace.army.mil/Missions/Regulatory.aspx>

-----Original Message-----

From: (b) (6) SPK
Sent: Tuesday, September 27, 2016 8:18 AM
To: (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK
<(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6)
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(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>
Subject: RE: US Senate EPW Committee Report on WOTUS

Painfully.

-----Original Message-----

From: (b) (6) SPK
Sent: Tuesday, September 27, 2016 6:59 AM
To: (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK
<(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6)
(b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>;
(b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK

<(b) (6)@usace.army.mil>; (b) (6) SPK (b) (6)@usace.army.mil>
Subject: RE: US Senate EPW Committee Report on WOTUS

Chiefs - I took a look at this last night & are you all aware that of the 10 case studies, at least 7 are from our/SPK Division??!!

(b) (6)
Chief, Colorado West Regulatory Branch
U.S. Army Corps of Engineers
400 Rood Avenue, Room 224
Grand Junction, CO 81501
(970) 243-1199, #1016

-----Original Message-----

From: (b) (6) SPK
Sent: Tuesday, September 20, 2016 3:38 PM
To: (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>
Subject: FW: US Senate EPW Committee Report on WOTUS

FYI,

Respectfully,
(b) (6)
Deputy Chief, Regulatory Division
US Army Corps of Engineers, Sacramento District
1325 J Street, Room 1350
Sacramento, California 95814-2922
(916) 557-7262
(b) (6)@usace.army.mil

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Information on the Regulatory Program.
<http://www.spk.usace.army.mil/Missions/Regulatory.aspx>

Regulatory Public Notices: <http://www.spk.usace.army.mil/Media/RegulatoryPublicNotices.aspx>

-----Original Message-----

From: (b) (6) SPD
Sent: Tuesday, September 20, 2016 1:43 PM
To: (b) (6) SPA <(b) (6)@usace.army.mil>; (b) (6) SPA <(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPL <(b) (6)@usace.army.mil>; (b) (6) SPN <(b) (6)@usace.army.mil>
Cc: (b) (6) SPD <(b) (6)@usace.army.mil>
Subject: US Senate EPW Committee Report on WOTUS

Something for everyone here in SPD.

(b) (6)

From: (b) (6) SPK
To: (b) (6) SPK; (b) (6) SPK; (b) (6) SPK; (b) (6) SPK; (b) (6) SPK; (b) (6) SPK
Subject: RE: US Senate EPW Committee Report on WOTUS
Date: Tuesday, September 27, 2016 09:25:14

Case study 10 - Duarte Nursery
Case study 9 - SPK-2014-1076 (AJD (b) (6))
Case study 8 - SPK-2014-183 (disking (b) (6))
Case study 7 - SPK-2015-526
Case study 6 - vernal pools (not sure if SPK)
Case study 4 - SPK-20131091
Case study 3 - something w/ (b) (6))
Case study 2 - SPK-2002-641 (Shasta County)

(b) (6)
Chief, Colorado West Regulatory Branch
U.S. Army Corps of Engineers

-----Original Message-----

From: (b) (6) SPK
Sent: Tuesday, September 27, 2016 9:49 AM
To: (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>; (b) (6) SPK <(b) (6)@usace.army.mil>
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(b) (6), PhD
Chief, California South Branch
Regulatory Division
U.S. Army Corps of Engineers, Sacramento District
1325 J Street
Sacramento, California 95814

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(b) (6)@usace.army.mil>; (b) (6) SPK (b) (6)@usace.army.mil>; (b) (6)

<(b) (6)@usace.army.mil>; (b) (6) SPL

<(b) (6)@usace.army.mil>; (b) (6) SPL <(b) (6)@usace.army.mil>; (b) (6)

SPN <(b) (6)@usace.army.mil>

Cc: (b) (6) SPD <(b) (6)@usace.army.mil>

Subject: US Senate EPW Committee Report on WOTUS

Something for everyone here in SPD.

(b) (6)

From: (b) (6) [CIV USARMY CESPCK \(US\)](#)
To: (b) (6) [CIV USARMY CESPCK \(US\)](#)
Subject: RE: US v. LaPant - telecon with DOJ (UNCLASSIFIED)
Date: Wednesday, November 8, 2017 12:24:02

(b) (6) sorry I had to change the time again. I know it's late for you there so I understand if you cannot make it.

Thank you,

(b) (6)

-----Original Message-----

From: (b) (6) CIV USARMY CESPCK (US)
Sent: Wednesday, November 08, 2017 12:16 PM
To: (b) (6) CIV USARMY CESPCK (US) (b) (6) @usace.army.mil>
Subject: RE: US v. LaPant - telecon with DOJ (UNCLASSIFIED)

Hey (b) (6), do you guys need me for this?

(b) (5)

CLASSIFICATION: UNCLASSIFIED

From: (b) (6) <[REDACTED]> [CIV USARMY CEHQ \(US\)](#)
To: (b) (6) <[REDACTED]> [CIV USARMY CESPCK \(US\)](#); (b) (6) <[REDACTED]> [CIV USARMY CEHQ \(US\)](#)
Subject: RE: Witness in trial 28 August possibly
Date: Monday, August 7, 2017 12:52:21

Thanks (b) (6).

(b) (6)
Deputy Chief, Regulatory Program
Headquarters, U.S. Army Corps of Engineers
3rd floor, Cubicle 3E72
441 G Street, NW
Washington, DC 20314-1000
202-761-4591 (office)
(b) (6) <[REDACTED]>@usace.army mil

-----Original Message-----

From: (b) (6) <[REDACTED]> [CIV USARMY CESPCK \(US\)](#)
Sent: Monday, August 07, 2017 7:52 AM
To: (b) (6) <[REDACTED]> [CIV USARMY CEHQ \(US\)](#) <(b) (6) <[REDACTED]>@usace.army mil>; (b) (6) <[REDACTED]>
[CIV USARMY CEHQ \(US\)](#) <(b) (6) <[REDACTED]>@usace.army.mil>
Subject: Witness in trial 28 August possibly

Just wanted to keep you aware that there is a slight possibility that I may be called testify in the Duarte trial the week of 28 August in Sacramento. The DAG thinks the possibility is low but did ask for my availability.

From: (b) (6) SPK
To: (b) (6) SPK
Subject: (b) (6) (G61-1373)

Field visit with DOJ expert team

From: (b) (6) CIV USARMY CESPK (US)
Subject: SPK News Service -- Aug. 11, 2017 (View in HTML formatting)
Date: Friday, August 11, 2017 07:42:00

SPK News Service -- Aug. 11, 2017

Regional Items

South Sacramento Flood Control Project Now Complete

Outlet: Capital Public Radio
Media: Internet / Broadcast
Date: Aug. 10, 2017

A South Sacramento flood control project -- in the works for more than 20 years -- is now complete. The \$100 million dollar project redesigned a network of creeks, channels, and levees to protect an area prone to flooding from high water events in the Sacramento-San Joaquin Delta. Improvements were made in phases along Morrison, Florin, Elder, and Unionhouse Creeks.

Sacramento-area Congresswoman Doris Matsui says the project is key to protecting some 17,000 people living in the South Sacramento area.

"It's a complicated project, it got done successfully, and obviously, of course, the homeowners are thrilled because it will lower their flood insurance rates at the same time, too," says Matsui.

The project does that because roughly 3000 parcels of land are no longer in a FEMA designated flood zone.

Money for the project came from local, state, and federal sources.

LINK <http://www.capradio.org/articles/2017/08/10/south-sacramento-flood-control-project-now-complete/>

Yuba City levee work on schedule

Outlet: The Appeal-Democrat
Media: Internet
Date: Aug. 10, 2017

Emergency work to repair the levee protecting downtown Yuba City is right on schedule, an official with the Sutter Butte Flood Control Agency said Thursday, and heavy construction is expected to begin the middle of next week.

"Work is advancing quickly," said Mike Inamine. "We first broke into the ground last Thursday and started pre-construction activities on Monday. All of the levee degrade will be completed this weekend. We anticipate some of the first slurry wall placements will begin next Wednesday or Thursday."

SBFCA is planning on putting a slurry wall – essentially a cut-off wall that will be placed into the center of the levee about 80-85 feet deep to prevent seepage – into approximately 3 miles worth of

levee stretching from about a mile north of the 10th Street bridge to about 1.5 miles south of the Fifth Street bridge.

Though construction so far has gone according to plan, Inamine said there are always unknowns when it comes to such a large project.

Last weekend, the agency discovered a sinkhole along the work area, just south of a larger sinkhole found last winter.

“What happens is that if you get uncontrolled seepage, it erodes the soil, and that soil has to go somewhere,” Inamine said. “When that uncontrolled seepage carries soils, it creates a void, and that void can eventually surface.”

SBFCA investigated the recently surfaced sinkhole Thursday but determined it won’t affect construction plans.

Inamine said the find isn’t surprising. He expects there are others that haven’t quite reached the surface yet. Still, he said it’s nothing to worry about because the slurry wall will negate seepage issues. The recent find is just an example of the type of unforeseen circumstances that can arise, he said.

“The slurry wall will resolve those issues. It will stop or slow seepage from making its way to the land-side slope or land-side original ground,” he said ...

LINK http://m.appeal-democrat.com/news/yuba-city-levee-work-on-schedule/article_3f123144-7e4f-11e7-b9bf-e382480fe212.html?mode=jgm

Plowed Under -- The regulatory state vs. a California farmer

Outlet: The Weekly Standard

Media: Internet

Date: Aug. 10, 2017

On a rainy afternoon in late November 2012, Matthew Kelley, a project manager for the U.S. Army Corps of Engineers, pulled his truck over to the side of a road in Tehama County in northern California.

He’d seen something he found disturbing: a tractor parked in an open field. Fields and tractors are common in this rural region halfway between Sacramento and the Oregon border. The area is known for its almond and walnut orchards. What Kelley found so alarming was that this tractor was in a 450-acre field that he knew contained dozens of vernal pools. These are small depressions that can fill with rainwater seasonally, but environmental regulators consider them to be part of nearby Coyote Creek.

Kelley was the Army Corps’ lone representative in Tehama County, and nobody had asked him for a permit to plow. In an email to his superiors, Kelley wrote, “I think this is going to be a big violation.” He had no idea just how big the investigation he was launching would become. For rather than acquiesce to the Army Corps’s demands, the property owner, John Duarte, decided to fight. His decision unleashed the full fury of the government’s regulatory apparatus and resulted in a legal

battle that has stretched more than four years and placed Duarte on the brink of financial ruin.

This month, after a string of victories largely vindicating the government's legal positions, the Justice Department is heading to court to press Duarte to pay a \$2.8 million fine and to buy mitigation credits his lawyers say will cost at least \$13 million ...

LINK <http://www.weeklystandard.com/plowed-under/article/2009253>

Farmer mounts legal defense, political offensive in wetlands battle

Outlet: Capital Press

Media: Internet

Date: Aug. 10, 2017

John Duarte is on the eve of the trial he hoped would never take place.

He is the California farmer who gained national attention after the federal government sued him for plowing his field and will defend himself in court beginning Aug. 15.

In 2013, the U.S. Army Corps of Engineers notified Duarte that he had illegally "filled" wetlands in his Tehama County field by plowing it and ordered him to stop work. He argues the Corps violated his constitutional right to due process because the agency never gave him an opportunity to defend himself against the accusations before levying the fine.

If he loses, Duarte faces \$2.8 million in government fines and the possibility of being forced to buy tens of millions of dollars in required mitigation credits.

The trial follows years of legal maneuvering and months of pleas by Duarte, his attorneys and supporters to President Donald Trump's administration to intervene.

Duarte's lawyer, Pacific Legal Foundation senior attorney Tony Francois, has also been in settlement talks with the U.S. Justice Department, but as of press time no agreement had been reached.

"It keeps going," Duarte said one recent morning as he stood where the trouble began — in the middle of the 450-acre grass field south of Red Bluff, where he had intended to plant winter wheat. Francois hasn't given up on the possibility of an eleventh-hour reprieve.

"We remain hopeful that the administration will reassess its view of the case," he said, "but so far nothing has come to fruition on that front."

Asked by the Capital Press if a resolution could be near, Justice Department spokesman Justin Abueg declined to comment.

Troubles begin

Duarte, who also owns Duarte Nursery in Modesto, Calif., purchased the Tehama land in 2012 and pondered what to do with it. The field had been planted to wheat decades before but more recently was used to graze cattle, he said.

Commodity prices were high in 2012, so Duarte decided to put the land back into wheat production, Francois, his attorney, said.

Duarte said a wetland determination by a consultant had been done shortly before he bought the property.

“We knew where the wetlands were,” Duarte said. “I don’t think you’ll ever find a grower who’s done a wetland delineation to plant wheat. ... The depth of tillage on wheat isn’t enough.” The Army Corps still issued a cease-and-desist order to Duarte, finding him in violation of the 1972 Clean Water Act for farming without a wetlands permit. As a result of the order to stop, Duarte lost the \$50,000 it cost to plant the wheat and the ability to grow a field crop on the property, Francois said. He would also have to pay a multi-million-dollar fine.

The field was leased out last winter as cattle pasture, Duarte said. The PLF filed suit on Duarte’s behalf in 2013, disputing the Corps’ allegations and arguing the government violated his Fifth Amendment due-process right by not allowing him to answer the charge in a hearing. The Corps responded with a counterclaim alleging the Clean Water Act violation.

The Corps claims the tillage on Duarte’s property “relocated earthen material into ridges,” unlawfully raising the elevation of the soil in the wetlands with “fill material.” Last year, U.S. District Judge Kimberly Mueller agreed, ruling that Duarte should have obtained a permit to run shanks through wetlands at a depth of 4 to 6 inches, creating furrows.

Duarte and Francois insist the law is on their side, noting that Congress drew clear exemptions for normal farming practices such as plowing when it passed the Clean Water Act. They plan to appeal that decision.

“This case has the law wrong,” Francois said. “What Duarte ... did on this property was plowing.”

The attorney’s latest maneuver has been to file a motion to dismiss the case on the grounds that the Army Corps had no jurisdiction. The U.S. Environmental Protection Agency, not the Corps, has the authority to bring enforcement actions when no permit has been obtained, Francois said. Mueller will consider the motion Aug. 15 before hearing other evidence, he said.

Trump turnaround?

During the ordeal, Francois and Duarte have mounted a public-relations offensive, inviting reporters, members of Congress and leaders of organizations such as the American Farm Bureau Federation to the property.

As of this summer, a California Farm Bureau Federation-sponsored fund for Duarte had raised more than \$100,000, he said.

Their hopes for a political solution got a boost last November, when voters elected Trump and a Republican-led Senate and House of Representatives.

In February, the president issued an executive order directing EPA administrator Scott Pruitt to review the “Waters of the United States” rule and asking Attorney General Jeff Sessions to consider the review as it pursues litigation initiated under then-President Barack Obama.

The EPA and Army Corps have since proposed scrapping the WOTUS rule, which critics say encroaches on private property rights.

At his Senate confirmation hearing, Pruitt appeared to agree with Sen. Joni Ernst, R-Iowa, who ridiculed what she saw as the Obama administration’s policy that “any plowing that pushes soil into furrows is not an exempt farming activity because the tops of plowed furrows can dry out,” she said.

Ernst asked Pruitt if EPA “will work with the Corps and (the Department of the Justice) to make sure that federal agencies stop trying to regulate ordinary farming practices.”

“Yes, senator,” Pruitt responded.

In May, House Agriculture Committee Chairman Michael Conaway and House Judiciary Committee chairman Bob Goodlatte sent a letter to Sessions arguing that Duarte’s field work should qualify as “normal” farming practices under the Clean Water Act exemption.

Rep. Doug LaMalfa, R-Calif., a House Agriculture Committee member whose district includes Duarte’s land, said Sessions should “call the dogs off.”

“The administration needs to get a handle on it,” LaMalfa said. “We’ve talked with the attorney general’s office. They need to put the brakes on that lawsuit or at least minimize it.”

The political push suggests a shift in strategy for Duarte, said Richard Frank, director of the California Environmental Law and Policy Center at the University of California-Davis School of Law.

Duarte has “mounted a political campaign seeking to have the Trump administration — which is far less interested in asserting broad federal authority to regulate wetlands than was the Obama administration — intervene and withdraw the enforcement action altogether,” Frank, a professor of environmental practice, said in an email.

However, “he and PLF have been unsuccessful in their political lobbying efforts,” Frank said.

A key ally

Duarte has an ally in U.S. Agriculture Secretary Sonny Perdue, who said Aug. 7 he planned to get the “straight scoop” about the case from Pruitt and Sessions when he returned to Washington, D.C., from a tour of Midwest farms.

Perdue said he sees the government’s continued pursuit of the Duarte case is an “extension” of Obama administration policies.

“My understanding was there had been some reconciliation of the case, but it appears to be going forward,” Perdue told the Capital Press. “I’m hoping that the U.S. Justice Department will see fit to hold off on that until a better definition of Waters of the U.S. appears.”

But in a July 10 letter to committee chairmen Conaway and Goodlatte, acting Assistant Attorney General Samuel Ramer said he’s unaware of instances when the government settled a Clean Water Act case that was pending an appeal.

“To enter such a ‘contingent’ settlement would be, as a general matter, contrary to the United States’ interest in obtaining final resolution of an enforcement matter,” Ramer wrote. “Nonetheless, please rest assured that we are often able to achieve appropriate settlements in our Clean Water Act enforcement cases, and ... we actively pursue the settlement of our enforcement cases wherever feasible.”

While leaders in Washington discuss scrapping the WOTUS rule, there’s been no change in how officials at the local level enforce the Clean Water Act, said Col. David G. Ray, commander of the Army Corps’ Sacramento district.

“If and when there are changes, we will alter our procedures,” Ray told the Capital Press. “There’s

been no communication down to the district level.”

Paul Wenger, president of the California Farm Bureau Federation, said he wondered whether the Trump administration would drop its pursuit of the case. But he’s not surprised that it’s moving forward.

“Once it’s in the courts, you can’t pull it back,” he said. “I know there have been requests by Congressman Doug LaMalfa and others to the attorney general’s office that it’s not a good case and they ought to pull it back. ... But the judge ruled against Duarte, so it’s kind of like it’s on its own course now.”

Impact uncertain

Wenger and other farmers’ advocates say if the case against Duarte is upheld by the courts, it could force growers across the country to obtain costly permits for normal activities such as plowing and planting, which was not the intent of Congress. It could also bring more lawsuits from environmental groups, Francois said.

“No farm in America is safe from this kind of prosecution,” Duarte said.

But Kieran Suckling, executive director of the Center for Biological Diversity, said it’s difficult to determine the case’s ramifications because it’s unknown which issues the courts will decide are the critical factors when they make rulings.

Any “grand claims” by the PLF or farm groups about winning legal precedents and scaling back the reach of the Clean Water Act are just “political huffing and puffing,” Suckling said.

“The bottom line here is that no one can really predict either the outcome of the case or whether it will set interesting new legal precedents,” he said in an email.

While settlements are always possible in cases such as this, Suckling said he would be more concerned if the Trump administration simply dropped the case. Such a move would signal “that the administration is going to stop enforcing the Clean Water Act,” he said.

Francois acknowledges the case faces an uncertain fate on appeal, even if it reaches the U.S. Supreme Court. He believes the court could clarify the scope of the Clean Water Act as well as its farming protections. But previous cases before the high court “fell short of clarity,” he said.

Frank, of the UC-Davis School of Law, doesn’t think the outcome will amount to much.

“I confess that I don’t really see the Duarte case as likely to have a major, future effect on the federal government’s wetlands jurisdiction under Section 404 of the Clean Water Act,” he said.

But the Farm Bureau’s Wenger, an almond and walnut grower from Modesto, Calif., thinks the case is important.

“You always worry” about an appeal leading to an unfavorable precedent, Wenger said. “I think you just have to put up a fight.”

High stakes

Duarte said he’s spent more than \$2 million putting up a fight, but the penalties demanded by the government “would wipe me out,” he said.

Francois said the \$2.8 million fine “arrived from thin air,” as the government’s filings have never explained how officials arrived at that figure. In addition to the fine, the government wants Duarte to

purchase vernal pool mitigation credits, which Francois estimates could cost between \$13 million and \$43 million.

“That’s an order of magnitude (beyond) a civil penalty that’s just laughable if it weren’t real,” Francois said. “We’re prepared to show the judge that the evidence strongly favors a nominal penalty in this case as opposed to the ruinous figures that the government is demanding.”

Among the factors the judge can consider is the impact of a penalty on the defendant and his nursery, he said.

“It’s impossible to see how they would continue employing the 500-plus Modesto area workers that work for them,” Francois said. “Basically, the government would succeed in putting several hundred good people out of good work who’ve had nothing to do with what happened in that field near Red Bluff.”

Duarte argues there has been no long-term environmental damage to the property.

“If anything, I believe our tillage increased percolation into the ground, improved groundwater and enhanced grazing,” he said.

The grower said he will continue to welcome visitors to the property.

“We would like to meet them here, but we would provide access to the property,” Duarte said. “This is a very boring grass field with nothing special about it except the government prosecuting a farmer.”

And he continues to lead a push for officials to put a stop to the case.

“Every farmer should be contacting their Congress person right now to get the administration’s attention,” he said. “This case is extremely important.”

LINK http://www.capitalpress.com/Nation_World/Nation/20170810/farmer-mounts-legal-defense-political-offensive-in-wetlands-battle

Items for Your Situational Awareness

A Legal Battle in Idaho Portends Future Conflicts Over Water

Outlet: News Deeply

Media: Internet

Date: Aug. 11, 2017

On a sunny day in late April, the United States Army Corps of Engineers released hundreds of millions of gallons of water from Idaho’s Lucky Peak Dam, a dozen miles upstream of Boise. The dam operators call it a “rooster tail” display; thousands of observers took in the spectacle. The water, roaring out of a dam gate, arced high above the Boise River, rainbows shimmering in its spray.

Rooster tails are one way the Corps releases excess water to reduce the risk of flooding – a partially empty reservoir can capture spring runoff before it can race downstream and inundate Boise. Releases are necessary about seven years out of every 10, including this year, when basin flows were among the highest recorded. Lucky Peak and two associated reservoirs also store water for irrigation. In snow-heavy years, that means dam operators must strike a balance between letting

enough water go early in the spring and retaining sufficient water for the hot, dry days to come.

Getting releases right is crucial for the farmers who depend on the Boise River to irrigate crops like sugar beets and seed corn. The river also waters lawns and parks, and supplies about 30 percent of Boise's drinking water. As in other Western states, water users with older rights get first dibs. But since 2013, several irrigation companies and the Idaho Department of Water Resources have been fighting over administrative details that determine which water Lucky Peak irrigators are entitled to use during a wet year: flood-control releases, or the "refill" water that collects after releases are done. The case is now before the Idaho Supreme Court. Its outcome will determine how the water in the Boise River system is doled out – no small consequence for the people and fish that depend on it. The fight itself, however, highlights a larger challenge water managers across the West are confronting: How do you operate dams effectively as climate change alters the historical patterns used to predict runoff timing and volume? ...

LINK <https://www.newsdeeply.com/water/articles/2017/08/11/a-legal-battle-in-idaho-portends-future-conflicts-over-water>

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From: (b) (6) CIV.USARMY.CESPK (US)
Subject: SPK News Service -- Aug. 15, 2017 (View in HTML formatting)
Date: Tuesday, August 15, 2017 07:41:22

SPK News Service -- Aug. 15, 2017

Regional Items

California Farmer Faces \$2.8 Million Fine For Plowing Field

Outlet: Capital Public Radio

Media: Internet

Date: Aug. 15, 2017

When John Duarte of Duarte Nursery plowed 22 acres of his land in Tehama County near Red Bluff to plant wheat in 2012, the US Army Corps of Engineers filed a lawsuit alleging those actions damaged wetlands and a permit was required.

A judge sided with the Corps last year.

Now, the trial begins to determine whether to uphold a \$2.8 million fine. Duarte could also be forced to pay tens of millions of dollars to restore wetlands.

Tony Francois with the Pacific Legal Foundation, who represents Duarte, says the trial could set a precedent by requiring farmers to obtain costly permits just to plow.

"The Clean Water Act says explicitly in it that normal farming practices do not require Army Corps permits," says Francois.

But Jon Devine with the Natural Resources Defense Council says Duarte's actions were a clear violation of the federal law.

"The kind of activity that Mr. Duarte has been found liable for is not normal. The court found that there had been nearly 24 years of no activity that was farming-related," says Devine.

The case preceded a more controversial set of regulations that extended the Clean Water Act to protect isolated wetlands and small streams, but it's become a poster child for opponents of increased federal regulations.

Francois says the steep fine will shut down Duarte's business and leave hundreds of people unemployed.

LINK [http://www.capradio.org/articles/2017/08/15/california-farmer-faces-\\$28-million-fine-for-plowing-field/](http://www.capradio.org/articles/2017/08/15/california-farmer-faces-$28-million-fine-for-plowing-field/)

Agreements in Place to Fund Largest California Reservoir Proposal

Outlet: News Deeply

Media: Internet

Date: Aug. 15, 2017

California voters in 2014 approved a ballot measure that allocates \$2.7 billion for water storage

projects. It's likely there will be hot competition for the money when the California Water Commission gets around to awarding it next year.

But it turns out one of the largest projects, the proposed Sites Reservoir, already has enough funding commitments and doesn't necessarily need the state bond money. Some 32 water agencies throughout California have already signed agreements to invest in the Sites project and disclosed how much water they might want to buy. These range from Metropolitan Water District of Southern California (the biggest buyer), to more local entities like the city of American Canyon.

It's a major milestone for the largest water storage project currently under consideration in California. Sites, to be located in Colusa County northeast of Sacramento, would cost an estimated \$4.7 billion to construct, with a total capacity of 1.8 million acre-feet. About 500,000 acre-feet would be available for delivery to customers on an annual average basis. It is an "off-stream" reservoir, meaning it would receive water diverted from the Sacramento River via pumps and canals.

Yet Jim Watson, general manager of the Sites project, said he still hopes to secure state bond funds for the project. This is because the money would not only reduce costs for the water investors but also secure a role for Sites as a next-generation water storage reservoir that also benefits endangered species.

Water Deeply recently interviewed Watson about how the Sites project crossed this funding hurdle, and why the project is still a good candidate for state bond funds ...

LINK <https://www.newsdeeply.com/water/community/2017/08/15/agreements-in-place-to-fund-largest-california-reservoir-proposal>

Restore the Delta Finds Gaping Holes in MWD White Paper #3 [Opinion]

Outlet: YubaNet

Media: Internet

Date: Aug. 14, 2017

Restore the Delta issued a formal response to the Metropolitan Water District of Southern California third and final white paper on the Delta Tunnels. The response illuminates the gaping holes in MWD's financial analysis on various CA WaterFix costs.

Executive Director of Restore the Delta, Barbara Barrigan-Parrilla said:

"MWD's failure to analyze water costs in dry and drought years and water use by consumers so as to determine the real cost per household for WaterFix make this analysis invalid. MWD staff clearly wants to build this project so that water can be sold for maximum profit."

Policy Analyst for Restore the Delta, Tim Stroshane said:

"With its latest financing paper, MWD pedals a wish and a prayer to its board that a \$17 billion Tunnels project will only cost its 6.2 million residential customers \$2 to \$3 per month. MWD's rosy picture omits the cost of their customers' Tunnels water use. This is analytical malpractice of the highest order."

Policy Advocate for the Sierra Club (CA) Kyle Jones said:

“Metropolitan Water District continues to paint the Tunnels in the best light, using the lowest cost estimates possible. This proposed fantasy ignores costs of mitigation for their environmental harm, and assumes that all contractors are willing to pay for this \$68 billion boondoggle. Metropolitan also cherry picks alternative options for the Tunnels that look at only the most expensive options. Any true alternatives analysis, including conservation, efficiency, and groundwater cleanup, would show that there’s a better path forward for Metropolitan customers to develop a climate-resilient water system that isn’t conditioned on destroying the San Francisco Bay Delta.”

University of the Pacific Economist Dr. Jeff Michael and NRDC Senior Attorney Doug Obegi expressed similar sentiments in their respective analyses on MWD white paper #3. We thank them for their ongoing commitment to discovering the true costs and financial irresponsibility of the CA WaterFix project.

LINK <https://yubanet.com/california/restore-the-delta-finds-gaping-holes-in-mwd-white-paper-3/>

A nearly \$17-billion water project is being planned for California. What will it cost the Southland?

Outlet: LA Times

Media: Internet

Date: Aug. 14, 2017

After years of planning for one of the biggest California water projects in decades, a key question remains unanswered: Who exactly will pay for it?

Decision time is approaching for the agencies that will have to pick up the nearly \$17-billion tab for building two massive water tunnels under the Sacramento-San Joaquin Delta, the heart of the state’s water works.

Whether the board of the Metropolitan Water District of Southern California commits to paying roughly a quarter of the bill could make or break the project.

Metropolitan management has been a consistent cheerleader for the tunnels, arguing they are vital to stabilizing deliveries of Northern California water that on average provide the Southland with about a third of its supplies.

“The costs of California WaterFix are substantial,” the staff wrote in a report reviewed Monday by two MWD committees. “However...the costs that would be allocated to Metropolitan are reasonable and affordable, given the water supply reliability improvements.”

The staff estimated that the project would cost MWD about \$4.3 billion, increasing residential water rates an average of roughly \$23 to \$38 a year — depending on interest rates on the project debt.

Committee members appeared generally receptive to the presentation. But several indicated they wanted more time before the final project vote, which is scheduled for Sept. 26.

“The 26th is not realistic,” said board vice chair John Murray Jr., who represents Los Angeles.

Public comments at the Monday meeting were divided ...

LINK <http://www.latimes.com/local/lanow/la-me-tunnels-cost-20170814-story.html>

Items for Your Situational Awareness

No sequestration for agencies this year

Outlet: Federal News Radio

Media: Internet

Date: Aug. 15, 2017

Agencies will not face cuts from sequestration in the final six weeks of the fiscal year. The Congressional Budget Office reiterated its earlier findings that discretionary spending will not bust the budget caps established in the Bipartisan Budget Act of 2015. CBO warned the caps could be breached if Congress adds any new appropriations before Sept. 30 though. If that's done, then the 2018 discretionary budgets would have to be reduced.

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Subject: SPK News Service -- Aug. 17, 2017 (View in HTML formatting)
Date: Thursday, August 17, 2017 08:29:34

SPK News Service -- Aug. 17, 2017

Regional Items

Duarte Settlement Leaves Unanswered Questions for Growers

Outlet: AgWeb
Media: Internet
Date: Aug. 16, 2017

Is agriculture exempt from the permitting requirements of the Clean Water Act? Growers will have to wait a while longer for an answer to that question following a \$1.1 million settlement in a landmark case this week.

California grower John Duarte was sued by the U.S. Army Corps of Engineers after plowing a wheat field without a permit from the Corps. The Corps of Engineers argued Duarte disturbed protected wetlands in the process of plowing. Ag groups and individuals watched the case closely as it progressed, hoping it would provide clarity in the increasingly murky waters at the intersection of agriculture and the Clean Water Act. The impact of a settlement is not lost on Duarte and his legal team at the Pacific Legal Foundation.

“We will not have the opportunity, in this case to challenge the re-interpretation of the Clean Water Act farming protections that the government successfully imposed in this case.” Duarte’s attorney, Tony Francois, told Farm Journal’s AgriTalk radio show. “Now the Pacific Legal Foundation will continue to look for solid cases in which to challenge that.”

“The only way a farmer knows if their practices are protected from permitting is to go ask your local Corps official.” Francois added. “We think that’s a complete misreading of what is actually a very clear and broad protection from permitting in the act. And that question is going to have to get resolved.”

Section 404 of the Clean Water Act provides an exemption to the discharge permit requirement for: “Established farming, ranching, and silviculture activities such as plowing, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices.”

Francois said Duarte had a desire to continue to challenge the Corps of Engineers and the court ruling, but that the potential of more than \$45 million in penalties put his 400 employees at an unacceptable risk.

AUDIO INTERVIEW LINK <https://www.agweb.com/article/duarte-settlement-leaves-unanswered-questions-for-growers-naa-john-herath/>

Our View: Agency is wasting no time in effecting slurry wall upgrade [Editorial]

Outlet: The Appeal-Democrat

Media: Internet

Date: Aug. 16, 2017

Sutter Butte Flood Control Agency wasted no time in starting an upgrade to a stretch of the levee system that is integral to the protection of the Yuba City community.

Around here, levee improvement is a never-ending chore. But this section really did need attention. An old slurry wall, put in place according to specifications that made sense at the time, is now found to be completely inadequate and last winter's high water and fluctuating water levels didn't help conditions.

Last week, SBFCA reported that work was on schedule and advancing quickly. It was a rushed affair, with permission coming at the last minute (but in record time) from the U.S. Army Corps of Engineers. SBFCA contractors will be replacing that inadequate slurry wall down the center of the levee. The new wall will run from 80 to 85 feet deep and is meant to prevent seepage of flood waters from under the levee – which is a major cause of levee breaches.

A public meeting is slated for Thursday from noon-1 p.m. at Boyd Hall, 1895 Lassen Blvd., Yuba City. It will update residents on the construction progress and plans.

LINK http://www.appeal-democrat.com/opinion/our_views/our-view-agency-is-wasting-no-time-in-effecting-slurry/article_12d894fc-82f4-11e7-bb92-f75ed7563ba0.html?mode=qjm

Is Tunneling Water Across the State Our Best Option?

Outlet: California -- UC Berkeley alumni magazine

Media: Internet

Date: Aug. 16, 2017

Like many before him, California Governor Jerry Brown has vowed to “fix” the Sacramento-San Joaquin Delta, that vast and beleaguered wetland east of San Francisco Bay that is a source for much of Southern California's water, an agricultural powerhouse, and a nursery for valuable fisheries.

The root of the problem, of course, is the number and degree of demands on the Delta. There are too many stakeholders and too little water, so nobody ever gets what they want, and often they don't get what they need. Brown's solution is the Delta Tunnels, a revised version of the Peripheral Canal that he pushed during his first gubernatorial tenure in 1980s. Like the Canal, the Tunnels are a conveyance system that would shunt water from the Sacramento River to Southern California, avoiding the direct pumping from the south Delta that now occurs at great expense to native fish.

Gov. Jerry Brown

Voters rejected the Canal, much to Brown's chagrin. The Tunnels appear to have more momentum, though they're still extremely unpopular with environmentalists, who argue they're a mid-20th Century solution to a 21st Century problem. Despite administration assurances that the massive project will help fish and wildlife by curtailing direct pumping from the Delta, conservationists

maintain the temptation to divert excessive quantities will be impossible to resist, given the power of San Joaquin Valley agribusiness and large urban water districts.

But the problem with California's water is bigger than the Delta or the Tunnels, says UC Berkeley adjunct environmental engineering professor Roger Bales. Information, he maintains, is the bedrock issue. The lack of it, that is. Not enough is known about the real time state of California's water resources. There are too few points of measurement and poor access to the data that does exist. Stream flow is monitored inadequately; groundwater basins are barely monitored at all. No one truly knows who is using water, how much and when. It's all largely rule of thumb and Kentucky windage

...

LINK <http://alumni.berkeley.edu/california-magazine/just-in/2017-08-16/tunneling-water-across-state-our-best-option>

This colorful frog's survival is at risk in California's streams. Here's how the state could save it

Outlet: The Sacramento Bee

Media: Internet

Date: Aug. 17, 2017

Shy of 3 inches with skin in muddy shades of red, green or brown, the foothill yellow-legged frog is unremarkable at first glance. Flipping it over, however, reveals the signature gold shading of its legs and lower abdomen that leads some to exclaim its beauty.

The amphibians used to be common in the foothill streams of mountain ranges across California, including the Sierra Nevada and Coast ranges. Now they're gone from over half of their historical habitat in California, and scientists and wildlife advocates are worried about their survival.

In 2012, the Center for Biological Diversity petitioned the U.S. government to protect the frog under the Endangered Species Act. But after a settlement last year pushed the decision to 2020, they decided to try listing it in California first.

On July 7, the California Fish and Game Commission named it a candidate species for protection under the California Endangered Species Act. Over the next year, the frog will be protected as though it were listed while the commission reviews its status.

"These frogs are really at the nexus of all the different ways in which we use water. ... They are sort of iconic and emblematic," said Sarah Kupferberg, a visiting scholar at UC Berkeley and an independent consultant at Questa Engineering who has studied the frogs for about 20 years.

A look past their pebbly skin reveals how the frogs evolved to thrive in California. The snowmelt-fed streams they inhabit can be torrents in the early spring, but later can dry up altogether. The frogs have accumulated adaptations to help them survive in this environment including timing their life cycles with the seasonal changes in the river ...

LINK <http://www.sacbee.com/news/local/environment/article167177902.html>

New dams coming to California? A dozen projects seek \$2.7 billion in state funding

Outlet: The Mercury News

Media: Internet

Date: Aug. 16, 2017

During the drought, Californians often asked why the state wasn't building more reservoirs. On Tuesday, the state finally began taking a major step toward that goal, unveiling a list of 12 huge new water projects — from massive new dams in the north to expanded groundwater banks in the south — that will compete for \$2.7 billion in state bond funding for new water storage projects. The money comes from Proposition 1, a \$7.5 billion water bond overwhelmingly passed by voters in November 2014 during the depths of the state's historic 2011-2016 drought.

Monday was the deadline for water agencies to submit applications for storage projects to the California Water Commission, an agency in Sacramento run by a nine-member board appointed by Gov. Jerry Brown.

The commission will decide by June 2018 which projects receive bond funding, as well as how much, if any, each will receive, after rating them on their public benefits.

"We're excited about the projects that have applied," said Chris Orrock, a spokesman for the commission. "They are providing benefits to the people of California, and that's what this program is aimed at funding."

As expected, there is more demand than money. All 12 projects would cost roughly \$13.1 billion to construct — five times as much money as is available under the bond. That means some won't get built, and others will need to find the bulk of their funding from federal or local sources — which could include raising water rates or taxes, which local voters may or may not approve.

The list of applicants includes many ideas that have been around for years. Among them:

Sites Reservoir: A proposed \$5 billion reservoir in Colusa County, roughly 100 miles north of Napa, the reservoir would be built "off stream" in a valley and would divert water from the Sacramento River, holding 1.8 million acre feet. That's enough water for the needs of 9 million people a year. It would rank Sites as the seventh largest reservoir in the state, roughly the size of San Luis between Gilroy and Los Banos.

Los Vaqueros: The Contra Costa Water District is proposing to raise the earthen dam at Los Vaqueros reservoir by 55 feet, increasing the reservoir's storage capacity from 160,000 acre feet to 275,000-acre feet, enough water to meet the annual needs of 1.4 million people. The \$914 million project has a dozen Bay Area partners that would put up some of the money and receive some of the water as drought insurance. Among them are the Santa Clara Valley Water District, East Bay Municipal Utility District and the San Francisco Public Utilities Commission. The project was endorsed Monday by a coalition of six prominent environmental groups — including the Nature Conservancy, Audubon Society and Planning and Conservation League — because some of the water would go to Central Valley wetland refuges for ducks, geese and other wildlife, in addition to people and farms.

Pacheco Pass: The Santa Clara Valley Water District is hoping to build a new reservoir in southern Santa Clara County near Pacheco Pass, along with a dam up to 300 feet high. The reservoir, which would cost roughly \$900 million, would hold 130,000 acre-feet of water — enough to meet the water needs of 650,000 people for a year. The project would replace an existing small reservoir of

6,000 acre-feet that is used to recharge farmers' groundwater.

Temperance Flat: The U.S. Bureau of Reclamation has proposed building a 665-foot-high dam on the San Joaquin River in the Sierra foothills in Fresno County. The \$3 billion project, which would construct the second-tallest dam in California, behind Oroville Dam, would create a reservoir of 1.3 million acre-feet, enough water for 6.5 million people a year.

Semitropic: The groundwater district near Bakersfield, which stores water for agencies from the Bay Area to Los Angeles, has proposed an expansion.

Kern Fan: The Irvine Ranch Water District in Irvine, which serves 380,000 residents of Orange County, is proposing to build a \$171 million groundwater storage project at the south end of the Kern River.

San Diego: The city of San Diego, which wants to produce one-third of its water by 2035 from recycled wastewater, is planning a \$1.2 billion project to purify it and deliver it to Miramar Reservoir.

Centennial Reservoir: The Nevada Irrigation District in Grass Valley is proposing building a 275-foot-tall dam and 110,000 acre-foot reservoir on the Bear River near Colfax in Placer County.

Other projects were proposed from the Sacramento Regional Water Authority, the Inland Empire Utilities Agency and other water districts ...

LINK <http://www.mercurynews.com/2017/08/15/new-dams-coming-to-california-a-dozen-projects-look-for-2-7-billion-in-state-funding/>

Items for Your Situational Awareness

Federal Officials Say Privately They Are 'Pretty Certain' Layoffs Are Coming

Outlet: Government Executive

Media: Internet

Date: Aug. 16, 2017

Federal agency managers are privately telling members of the Trump administration they will soon lay off employees, according to Office of Personnel Management officials, and are seeking advice for how to do so in the most effective manner.

Agencies are "pretty certain" they will need to institute reductions in force as they aim to satisfy an executive order from President Trump and ensuing guidance from the Office of Management and Budget, said Leslie Pollack, deputy associate director of OPM's HR Strategy and Evaluation Solutions, on WJLA's "Government Matters" program. Those documents required executive branch agencies to reorganize themselves and, in the process, cut the size of their workforces. Pollack's office, which provides human resources consulting to federal agencies, has assisted officials across government looking at "closing down or realigning functions."

"They are coming to us specifically and saying 'I'm pretty certain I need to run a reduction in force,' and that is one area where OPM and our group in particular has some expertise in helping

agencies...to take a look at their situation and actually execute according to the restructuring rules and all the policies and procedures that are in place,” Pollack said. “So we’re definitely getting those questions.”

OPM is even helping agencies prepare to assist their employees in finding new jobs.

“We spend a lot of time working on communications, the relationships with supervisors and employees and transition assistance such as resume writing, mock interviews, things like that,” said Jason Parman, OPM’s HR Strategy branch manager, “so that folks who are impacted by these restructuring actions, they’ll be prepared for the next opportunity.”

Parman added the “human aspects of restructuring” are “easily overlooked,” and people whose livelihoods are affected will have to “transition with or without that agency as the agency moves forward.”

OMB required agencies to turn in preliminary, high-level strategies by June 30 that spelled out near and long-term plans to trim their rolls. The administration advised agencies to begin implementing workforce reduction strategies immediately, noting “achieving associated personnel reductions takes time to implement and realize savings.” ...

LINK <http://www.govexec.com/pay-benefits/2017/08/federal-agencies-say-privately-they-are-pretty-certain-layoffs-are-coming/140284/>

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From: (b) (6)
Subject: SPK News Service - August 3, 2016
Date: Wednesday, August 3, 2016 08:34:50

SPK News Service - August 3, 2016

PLF Attorney Reports Duarte Appeals Court Decision—Once Again

Outlet: California Ag Today

Media Type: Article

Date: 2 AUG 16

Damien Schiff, principal attorney at Pacific Legal Foundation (PLF) who has been representing the Duarte family in their legal battle with the U. S. Army Corps of Engineers (Corps), provided this update after Judge Kimberly J. Mueller, U.S. District Court for the Eastern District of California dismissed their summary judgment motions on June 10, 2016, and ruled the Corps' February 23, 2013 cease and desist order did not deprive Duarte of liberty or property. Schiff said his client's next course of action is...

<http://californiaagtoday.com/duarte-nursery-v-army-corps/>

Executive Order -- Planning for Federal Sustainability in the Next Decade

Outlet: The White House – Office of the Press Secretary

Media Type: News Release

Date: 19 MARCH 15

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to maintain Federal leadership in sustainability and greenhouse gas emission reductions, it is hereby ordered as follows: Section 1. Policy. Executive departments and agencies (agencies) have been among our Nation's leaders as the United States works to build a clean energy economy that will sustain our prosperity and the health of...

<https://www.whitehouse.gov/the-press-office/2015/03/19/executive-order-planning-federal-sustainability-next-decade>

Standstill on nation's levees threatens lives, property

Outlet: CBS News

Media Type: Article

Date: 3 AUG 16

The Almost half of Americans live within range of a levee, one of those 100,000 miles of earthen, sand and gravel walls that supposedly protect you from raging floodwaters. Many probably wish they didn't. A July report by the U.S. Government Accountability Office (GAO), the investigative arm

of Congress, blamed the U.S. Army Corps of Engineers and the Federal Emergency Management Agency (FEMA) for making "little progress" in...

<http://www.cbsnews.com/news/standstill-on-nations-levees-threatens-lives-property/>

Address all factors to improve salmon numbers

Outlet: Sacramento Bee

Media Type: Article

Date: 2 AUG 16

For most people traveling on Interstate 5 in Northern California, Lake Shasta is viewed as a recreational jewel along their journey. The fact is the reservoir is a major workhorse providing flood control, critical storage capacity and water deliveries that provide multiple benefits to the public, farmers, municipalities, aquatic species, waterfowl, wildlife and the environment. Yet, Lake Shasta is being operated today for the primary purpose of protecting a single fish species...

<http://www.sacbee.com/opinion/op-ed/article93291052.html>

(b) (6)

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From: (b) (6) [CIV.USARMY.CESPK \(US\)](#)
Subject: SPK News Service -- Dec. 26, 2017 (View in HTML) (UNCLASSIFIED)
Date: Tuesday, December 26, 2017 08:21:21

CLASSIFICATION: UNCLASSIFIED

SPK News Service -- Dec. 26, 2017

Northern California Wildfire Response

From hurricanes to fires, 2017 disasters tested DoD amid concern that forces are stretched thin

Outlet: CNBC

Date: Dec. 22, 2017

When major disaster relief orders come down from the White House, the Department of Defense plays a key role because of its vast response capabilities, say experts.

But the reliance on military resources often is more expensive in disasters than using civilian contractors. And, the use of the federal military also can put a strain on the Pentagon's other plans, as was the case after the Trump administration put more resources toward Hurricane Maria recovery efforts in Puerto Rico.

"When the president wants things done, people point to the DoD," said Todd Rosenblum, a former senior official at the Pentagon and now a nonresident senior fellow with the Atlantic Council's Brent Scowcroft Center for Strategy and Security. "The military is in many ways the operational backbone of the federal assistance."

The more than \$200 billion in devastation from hurricanes and California wildfires this year was a clear message that domestic disasters can take a heavy economic toll and require a combination of civil-military expertise.

Rosenblum said the federal military "has all the capacity and can go faster than anyone." He was quick to add that National Guard units around the country also are capable of handling emergency relief in disasters, though for large-scale events states often turn to the Pentagon for help.

Overall, some 67,000 DoD and National Guard personnel responded to help civil authorities during the three hurricanes that made landfall this year, according to Army Lt. Col. Jamie Davis, a Pentagon spokesman.

Strain on military

However, the Pentagon said in October the storm-relief efforts were putting a strain on some of its other plans, such as sending additional troops to Afghanistan. Also, some have complained the U.S. military has a readiness problem and is stretched too thin already.

Rosenblum disputes talk that the U.S. military lacks sufficient resources to handle both wartime and other demands, including the ability to deploy military cargo jets and Navy resources for extended periods of time for disaster relief efforts.

"DoD has this tremendous capacity and wasn't stretched thin," Rosenblum maintains. He said the Pentagon — the nation's largest employer — has no shortage when it comes to its vast fleet of cargo planes, command and control capabilities, and tapping into its workforce with engineering, communications, logistics and contracting expertise.

During the hurricane season, Texas, Florida, Georgia, Puerto Rico and the Virgin Islands were all impacted by major storms. Harvey killed 82 people, Irma resulted in the loss of 134 lives and at least 66 direct fatalities were blamed on Maria.

Preliminary damage estimates for both Harvey in August and Irma in September range between \$150 billion and \$200 billion, according to Moody's Analytics. Puerto Rico's governor has estimated rebuilding after catastrophic damage from Maria in September will cost nearly \$100 billion.

Hurricane response

Tens of thousands of National Guardsmen, reservists and active-duty federal military personnel responded to the storms, providing search and rescue recovery assistance in the affected areas. Also, the military helped clear thousands of miles of roads, opened damaged ports and delivered emergency supplies and equipment.

Army Brig. Gen. Patrick M. Hamilton, commander of the Texas National Guard's Domestic Operations Task Force, recalls that the day before Harvey hit, weather forecasters were still saying it would just be a tropical storm at most. He said the forecast was upgraded to a strong Category 4 so the number of military personnel assigned went up sharply. Record amounts of rain and flooding in Houston, the nation's fourth-largest city, eventually resulted in some 18,000 troops supporting the rescue and relief efforts.

"We had helicopters and trucks and Marine Corps amphibious vehicles from all components — active duty, National Guard, Reserves of each of the branches — on the ground working in unison to support the local responders and the local communities," said Hamilton, who served as the dual status commander overseeing active and Guard military personnel supporting Harvey relief efforts in Texas.

In Puerto Rico, Maria made landfall on the island Sept. 20, and the military's extended-response role continues to this day, with the U.S. Army Corps of Engineers helping with infrastructure repairs, including restoring power to the U.S. territory.

Puerto Rico had no major airfields available immediately after the storm struck, so that meant the military couldn't use all of its large cargo planes right away to bring in hurricane-relief supplies. Once the airfields in Puerto Rico reopened, though, large amounts of food, water and other vital supplies starting flowing to the island.

Another major role initially for the military was search-and-rescue operations on the island of about 3.4 million Americans, as well as clearing the seaports and opening roads scattered with debris.

Hospitals also were a problem after the storm struck since many lacked power or were damaged and struggled to provide care to residents. As a result, the Navy's Comfort hospital ship arrived in early October and ended up treating nearly 2,000 patients and providing surgeries, food and water.

Political fighting

Yet the post-Maria relief efforts haven't been without controversy, and some charge the Trump

administration was slow in its response to the crisis. Also, some say local officials didn't help by getting into political fights with Washington.

"One of the things that happened during Katrina also happened in Puerto Rico, and [that] was sniping by officials," said Rosenblum.

After Maria struck, the mayor of Puerto Rico's capital city held a press conference and accused the Trump administration of mishandling Puerto Rico relief efforts. "We are dying here," said Carmen Yulin Cruz, the mayor of San Juan. "I cannot fathom the thought that the greatest nation in the world cannot figure out logistics for a small island of 100 miles by 35 miles long."

In response, President Donald Trump tweeted back, "Such poor leadership ability by the Mayor of San Juan, and others in Puerto Rico, who are not able to get their workers to help."

At the time, White House press secretary Sarah Sanders responded to Puerto Rico criticism by saying: "The federal response has been anything but slow."

Puerto Rico's electrical power grid suffered extensive damage in the Category 5 hurricane and remains one of the pressing needs even today. About one-third of Puerto Rico still lacks electrical service three months after Maria hit.

Military's wildfire role

In California, the federal military played a lesser role in this year's wildfire disasters. But the Army Corps helped in the emergency response after major damage was found at Oroville Dam, the nation's tallest earthen dam, following heavy winter rains. The Army Corps also helped in debris removal after Northern California's deadly wine country fires in October.

Davis, the Pentagon spokesman, said the "DoD received no formal requests" to help in this month's wildfires in Southern California, although Navy and Marine Corps units from Ventura to San Diego provided assistance to Cal Fire under "pre-established local agreements."

Marine Corps Camp Pendleton executed more than a dozen air drops of water during this month's Lilac fire in San Diego County, while two Navy helicopters also assisted in the firefighting effort. In Ventura County, the local Navy base deployed several firefighting vehicles and crew to assist in the massive Thomas fire, and some of those resources remained active on the fire lines this week, according to a base spokesperson.

At the same time, thousands of California Army and Air National Guard personnel were mobilized to help with three major wildfire efforts this year and to support civilian firefighting agencies. They included the October wine country fires that resulted in 44 fatalities and destruction of or damage to more than 21,000 homes as well as summer fires in Central California and this month's Southern California blazes, such as the Thomas fire.

The Thomas fire — the second-largest wildfire in California history — has charred an area over 425 square miles, destroyed more than 1,000 structures and still threatens about 18,000 structures. The blaze in Ventura and Santa Barbara counties was 65 percent contained as of Thursday evening, according to Cal Fire.

"2017 was an especially busy year for the Cal Guard, as we not only deployed thousands of troops overseas, but several thousand here at home, as well," said Capt. Will Martin, spokesman for the California National Guard. "We've dropped several million gallons of water and retardant on the fires

this year, in addition to responding to floods in Northern California and hurricanes in Texas and beyond."

Martin said the Guard also mobilized Reaper drones during the wildfires to gather and relay real-time imagery to civilian incident commanders on the ground to help them more effectively combat the fires and do so as safely as possible. Other aerial assets used included various helicopters, from Black Hawks to Chinooks, along with two C-130J Super Hercules air tankers outfitted with fire retardant-dropping equipment.

LINK <https://www.cnn.com/2017/12/22/disasters-in-2017-tested-pentagon-amid-concern-forces-stretched-thin.html>

Other Regional Items

Farmer who faced \$2.8 million fine over plowing his field says case nearly bankrupted him

Outlet: Record Searchlight

Date: Dec. 26, 2017

It's been six years since John Duarte set out to grow wheat on 500 acres south of Red Bluff.

But no crop has been harvested since he planted wheat in 2012. Only weeds grow on the 450-acre plot surrounded by a barbed wire fence and a dusty dirt road south of Red Bluff.

While the area looks inconspicuous, for a few months last summer it drew nationwide attention when it became the focal point of a courtroom battle between Duarte and government officials who sought to fine him \$2.8 million for plowing his field.

Duarte, who owns Duarte Nursery near Modesto, and the U.S. Attorney's Office eventually settled the case before it went to trial on the fine amount.

But Duarte said four months after agreeing to spend \$1.1 million on restoration and fines in the case, nothing has changed. In addition to restoration work at the site, he has also agreed to raise cattle on the property for two years, he said.

There has been no restoration work done on the site, no penalties have been paid and the parties have not agreed to who will handle the vernal pool mitigation credits he is required to purchase as part of the settlement, he said.

The U.S. Attorney's Office in Sacramento did not respond to requests for information about the case.

"The Army Corps of Engineers refuses to come on the site with us to provide information about what the elements of the restoration plan should be," Duarte said.

Even though he settled the case, Duarte still believes he did nothing wrong. After spending about \$3 million in legal fees on the case, he was forced to settle to save his business from bankruptcy, Duarte said.

"They (the U.S. Attorney's Office) came within an eyelash of killing over 500 jobs," he said of the employees who work at his nursery outside of Modesto.

Farmers are typically exempt from having to get a Clean Water Act permit to plow their fields. But

the U.S. Army Corps of Engineers said Duarte had his field ripped to a depth of more than a foot, damaging vernal pools and wetlands on the property.

Duarte maintains the field was only plowed 4 to 7 inches deep.

The U.S. Attorney's Office in Sacramento said the tractor did not plow the field. Rather, the tractor was equipped with a ripper, with seven 36-inch shanks that dug an average of 10 inches deep into the soil.

Also, the U.S. Attorney alleges, Duarte ripped portions of the property that included wetland areas.

The ripping deposited dirt into wetlands and streams on the property, in violation of the Clean Water Act, according to the U.S. Attorney.

Duarte sued the Army Corps, claiming his constitutional right to due process was violated when the agency ordered him to stop work in the field.

The U.S. Attorney's Office counter-sued claiming he damaged wetlands and ignored a consultant's recommendation he get the Army Corps' approval before working in the field.

Duarte said he feels the lawsuit filed against him was retaliatory.

"Every farmer and food consumer should be concerned about this prosecution," Duarte said.

Brandon Fawaz, a district director for the California Farm Bureau Federation, said he is glad the Duarte case settled before going to trial so it could not set legal precedent requiring all farmers to get permits before farming.

"It would be the end of agriculture as we know it," Fawaz said.

However, after the settlement was announced in August, the U.S. Attorney's office said the prosecution is limited to Duarte and that "this case is not (and will not be used as) a pretext for federal prosecution of farmers who engage in normal plowing on their farms."

While the court battle may not have set case law, Duarte said a precedent has already been set because he lost the case when a federal judge ruled in the government's favor.

"It's a problem for rural communities, it's a problem for people who eat, it's a problem for farmers," Duarte said.

LINK <http://www.redding.com/story/news/2017/12/26/california-farmer-million-dollar-fine-over-plowing-field-case-nearly-bankrupted-him/975873001/>

Why California's most productive salmon hatchery is millions of fish short

Outlet: The Sacramento Bee

Date: Dec. 26, 2017

California's most productive salmon hatchery has 6 million fewer fish this year, another sign the state's drought woes linger despite last winter's record rainfall.

The federal Coleman National Fish Hatchery tries to produce about 12 million fall-run Chinook salmon for release each spring into Battle Creek, a Sacramento River tributary south of Redding. This spring, the Coleman hatchery will only have half as many young salmon to release.

The reason harkens back to the abysmal river conditions in the heart of California's historic five-year drought – and the choices fishery managers made those years to move the baby Chinook by tanker

truck out to sea in a frantic effort to save the commercially important fish.

They knew at the time trucking the fish would lead to fewer fish coming back to Coleman this year to spawn.

“Everybody kind of acknowledged and understood at the time the consequences,” said John McManus, executive director of the Golden Gate Salmon Association, a fishing advocacy group. Chinook live two or three years in the Pacific Ocean before adult fish head back upriver to lay their eggs and die, starting the cycle anew. Fish hatched in California’s five-year drought that ended officially in the spring are returning to Central Valley rivers this year.

Almost all of the Central Valley’s fall-run Chinook are hatched from eggs and sperm that biologists harvest from adults that return to hatcheries below the dams blocking the fish from their traditional spawning habitat.

Fall-run adult fish – raised at five hatcheries across the Central Valley – provide the bulk of the fish caught in the commercial and recreational fishing industry. McManus and other fishing advocates say fall-run Chinook support \$1.4 billion in annual economic activity in California and about 23,000 fishing related jobs while providing locally caught fish for Californians’ dinner tables.

Because of the hatcheries, fall-run Chinook (and the smaller late fall-run) are the only Central Valley salmon runs healthy enough to avoid protections under the U.S. Endangered Species Act. The spring run is listed as threatened. The winter-run is critically endangered. The runs are named for the season when the majority of the adult fish enter freshwater.

The drought played havoc on all the runs, which need cold water to thrive. Returns of spring- and winter-run Chinook born during the drought are among the lowest on record.

The dry winters of 2014 and 2015 left the Central Valley’s rivers languid, clear and warm for long stretches – terrible conditions for a young salmon, and particularly perilous for fish that hatch far upriver because they have farther to swim.

Salmon are a cold-water fish, and juveniles are more likely to survive their trip to the sea when they have plenty of food and can avoid predators in rivers cloudy and swift from nutrient-rich stormwater runoff.

Coleman is the farthest Sacramento Valley hatchery from the Pacific. Young fish – called smolts – hatched at Coleman have to swim 280 miles of river to reach salt water. Normally, that journey helps them navigate back to their hatchery years later.

In the dry spring of 2014, Coleman’s managers decided that the Sacramento River was so warm that almost all Coleman fish would die if they were released into Battle Creek – a move that would potentially kill the salmon fishing industry a couple of years later when the fish grew into adults.

So that spring, all 12 million Coleman fish were sucked into dozens of tanker trucks, driven to the Sacramento-San Joaquin Delta and dumped into floating pens near Rio Vista to acclimate them for later release.

Coleman fish weren’t the only fish trucked. Millions more juvenile fall-run fish raised at the Central Valley’s four other salmon hatcheries were also transported.

The process repeated the following year.

The trucking program likely saved this year's fishing season.

Biologists estimated this spring there were 230,700 in the Pacific Ocean waiting to pass under the Golden Gate Bridge and head upriver into the Central Valley. Though 70,000 fewer than last year, there were enough adult fish to allow for a commercial fishing season off a portion of California's coast. Recreational anglers also had some fish to catch this summer and fall in the Sacramento River and in its tributaries, the Feather and the American rivers.

By comparison, this year's salmon fishing season was closed on the Klamath River. No salmon are trucked from that river's hatchery below Iron Gate Reservoir.

Enough adult fish also returned to the four other Central Valley hatcheries for those facilities to reach their egg and smolt production goals.

It's another story at Coleman, where only a small fraction of the adults made it back. Biologists said the trucking process badly disoriented almost all of the young fish when they returned as adults.

As many as 143,000 adult fish will return to the Coleman hatchery to spawn in a normal year. In 2017, only around 3,000 adults returned, enough to fertilize about 4 million eggs – well shy of the hatchery's 12 million goal.

Many of the wayward adult fish hatched at Coleman actually ended up at the state's Nimbus Hatchery on the American River in Rancho Cordova. Biologists know they were Coleman fish because they insert specially coded wire tags the size of a pencil tip into a percentage of hatchery smolts. This fall, state and federal biologists were able to gather an additional 2 million fertilized eggs at Nimbus from the Coleman fish that got lost and ended up there. Those eggs were transported to Coleman.

The question is whether having just 6 million fish at Coleman will translate into worse fishing seasons in the years ahead.

Fishermen such as James Stone fear the worst.

"My membership and all of my guides are heavily concerned," said Stone, the Sutter-based president of the Nor-Cal Guides and Sportsmen's Association.

Stone said he and his fellow fishing guides are frustrated that more fertilized eggs weren't taken from other hatcheries to offset Coleman's low numbers.

Biologists chose not to go that route because they're wary of intermingling the genetic strains of the fish that spawn in the various rivers, said Shane Hunt, a spokesman for the U.S. Fish and Wildlife Service, which manages Coleman.

It's hard to say whether Coleman's low numbers will harm future salmon fishing seasons, said Mark Clifford, a state fisheries biologist.

"A multitude of variables affects adult salmon returns, including ocean and river conditions several months or even years from now," Clifford said in an email. "Some year(s) classes of salmon do better than others."

In other words, the best hope for the fish – and the anglers who hope to catch them someday – is that this dry December doesn't translate into another prolonged drought.

LINK <http://www.sacbee.com/news/state/california/water-and-drought/article191351274.html>

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CLASSIFICATION: UNCLASSIFIED

From: (b) (6) CIV USARMY CESPK (USA)
To: DLL-CESPK-News
Subject: SPK News Service – December 4, 2019
Date: Wednesday, December 4, 2019 09:00:30

SPK News Service – December 4, 2019

LOCAL

Preparing for a flood

Colusa County Sun-Herald

Dec. 3, 2019

With the first big storm of the season and the Nov. 15 start of flood season behind us, the Sun-Herald spoke to some local officials to see how things are looking during this years rainy season.

Lewis Bair, general manager of the Sacramento River West Side Levee District, said the levees in the area are in the best shape they have ever been, thanks to over \$40 million in recent repairs throughout the district that were completed by the U.S. Army Corps of Engineers.

https://www.appeal-democrat.com/colusa_sun_herald/preparing-for-a-flood/article_9f25c8d2-1639-11ea-bc5e-6b45c5a4e6b2.html

California Farmer Fights Government Claim That Dirt Is a Pollutant

The Daily Signal

Dec. 3, 2019

No one told Jack LaPant that he could be in violation of the Clean Water Act for farming his own land.

That's mostly because the federal law includes a clear exemption for "normal" farming activities. But it's also because the government officials LaPant consulted didn't view overturned dirt that has been tilled and plowed as pollution.

<https://www.dailysignal.com/2019/12/03/california-farmer-fights-government-claim-that-dirt-is-a-pollutant/>

REGIONAL

GAO: 102 military bases face water shortage risk; Pentagon must track issue better

The Stars & Stripes

Dec. 3, 2019

More than 100 U.S. military installations face water shortage risks, according to the Government Accountability Office, which warned in a new report that the Pentagon needs to use better standards for monitoring and determining the bases that could be impacted.

The federal watchdog cautioned in its Nov. 27 report that bases in the United States had already experienced water shortages that impacted critical operations and advised more installations were likely to be impacted by climate change-related issues and increasing severe weather events, citing the government's Fourth National Climate Assessment from 2018. In all, GAO listed 102 military locations in the United States as vulnerable, noting the Defense Department relies on billions of gallons of water to operate each year – some 84 billion gallons in fiscal year 2018, for example. <https://www.stripes.com/news/us/gao-102-military-bases-face-water-shortage-risk-pentagon-must-track-issue-better-1.609642>

NATIONAL

America's Dark History of Killing Its Own Troops With Cluster Munitions

New York Times

Dec. 4, 2019

Staff Sgt. Michael S. Crick huddled in the howling wind and wrote in his diary. It was just past noon on Feb. 26, 1991, the third day of the American-led invasion of Iraq during the Persian Gulf war. The day before, a French and American force had seized As Salman airfield, an Iraqi military installation about 70 miles from the Saudi Arabian border.

In a sandstorm driven by cool desert winds, Crick and three fellow explosive-ordnance disposal technicians discovered the presence of small yellow cylinders on the ground where coalition warplanes had struck. "Found about 10 to 15 BLU-97/B bomblets," he wrote. Since mid-January, the allies had repeatedly blanketed As Salman in cluster munitions, as they had done with other military targets across Iraq and Kuwait.

<https://www.nytimes.com/2019/12/04/magazine/cluster-munitions-history.html>

OTHER NEWS OF INTEREST

Trump jump-starts repairs for sinking California canal. But who will pay?

The Sacramento Bee

Dec. 4, 2019

The Trump administration is jump-starting a plan to repair a badly sinking canal in the San Joaquin Valley, a year after California voters rejected a bond measure that would have had them pay for the project.

The U.S. Bureau of Reclamation said Tuesday it will begin studying the environmental impact of

fixing a 33-mile stretch of the Friant-Kern Canal — a critical water artery on the Valley's east side. The federal agency said the repairs are needed to boost water deliveries to 1 million acres of farmland that have been dramatically reduced because of the sagging canal.

<https://www.sacbee.com/news/california/article238001964.html>

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From: (b) (6) CIV_CESPK_CESPD.(US)
To: DLL-CESPK-News
Subject: SPK News Service - July 26, 2017
Date: Wednesday, July 26, 2017 11:47:14

SPK News Service - July 26, 2017

Lake Isabella Dam Safety Modification Project public meeting tonight

Outlet: Kern Golden Empire

Media Type: Article

Date: 25 JULY 17

...The U.S. Army Corps of Engineers began a dam safety modification study in 2006 to address seismic, hydrologic and seepage issues at the dams. Currently, an operating system is in place that limits the lake's storage capacity to reduce risks...

<http://www.kerngoldenempire.com/news/lake-isabella-dam-safety-modification-project-public-meeting-tonight/773970475>

Isabella Dam set to undergo major operation to prevent failure, flooding

Outlet: Bakersfield Now

Media Type: Article/Video

Date: 25 JULY 17

Isabella Dam and the Auxiliary Dam have both been monitored and studied for the better part of the last decade in efforts to determine how to prevent the old reservoir system from failing. The dams were built properly back in the day and aren't failing now, but the U.S. Army Corps of Engineers knows a lot more now than was known when the dams were built more than 50 years ago...

<http://bakersfieldnow.com/news/local/isabella-dam-set-to-undergo-major-operation-to-prevent-failure-flooding>

California farmer tries new strategy in fight with federal government over \$2.8 million plowing fine

Outlet: The Sacramento Bee

Media Type: Article/Video

Date: 25 JULY 17

Northern California farmer John Duarte, facing millions of dollars in fines for plowing a Sacramento Valley wheat field, previously sought help from President Donald Trump's attorney general and EPA

chief to get the government off his back. Now Duarte is making an 11th-hour bid for a dismissal of the federal government's high-profile case against him...

<http://www.sacbee.com/news/local/environment/article163526403.html>

OBAMA-ERA RULES JEOPARDIZE CALIFORNIA FARMING

Outlet: WORLDNETDAILY.COM

Media Type: Article

Date: 25 JULY 17

While President Donald Trump has cut over 800 regulations during just his first six months in office, freeing up small businesses to grow and prosper, one California farmer is hoping that his administration will drop a costly lawsuit held over from the Obama years. So he can pursue his livelihood, farming, without the shadow of a misapplied regulation...

<http://www.wnd.com/2017/07/obama-era-rules-jeopardize-california-farming/>

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From: (b) (6) .SPK
To: DLL-CESPK-News
Subject: SPK News Service -- June 22, 2016
Date: Wednesday, June 22, 2016 08:06:35

SPK News Service -- June 22, 2016

Farmer to challenge Clean Water Act tillage ruling

Outlet: Capital Press
Media Type: Internet
Date: June 21, 2016
Tone: Neutral

A California farmer plans to challenge a recent court ruling that he violated the Clean Water Act by tilling through wetlands in his field.

A federal judge has ruled John Duarte of Tehama County, Calif., should have obtained a Clean Water Act permit to run shanks through the wetlands at a depth of four to six inches, creating furrows prior to planting wheat in a 450-acre pasture.

The ruling is significant for other farmers because it undermines the “plowing exemption” to Clean Water Act regulations, said Tony Francois, an attorney with the Pacific Legal Foundation, a property-rights group that represents Duarte.

The U.S. Army Corps of Engineers claims the tillage operation on Duarte’s property doesn’t qualify as plowing because it “relocated earthen material into ridges,” unlawfully raising the elevation of the soil in the wetlands with “fill material.”

LINK <http://www.capitalpress.com/California/20160621/farmer-to-challenge-clean-water-act-tillage-ruling>

'Seismic strain': Land around the San Andreas fault is rising and sinking, new earthquake research shows

Outlet: LA Times
Media Type: Internet
Date: June 22, 2016
Tone: No USACE Mention

For the first time, scientists have produced a computer image showing huge sections of California rising and sinking around the San Andreas fault.

The vertical movement is the result of seismic strain that will be ultimately released in a large earthquake.

The San Andreas fault is California’s longest earthquake fault, and one of the state’s most dangerous. Scientists have long expected that parts of California are rising — and other parts sinking — around the fault in a way that is ongoing, very subtle and extremely slow.

Such vertical movement makes a lot of sense. California sits on the border of two gigantic tectonic

plates — the Pacific and North American — that are constantly grinding past each other.

LINK <http://www.latimes.com/local/lanow/la-me-ln-san-andreas-fault-20160622-snap-story.html>

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From: (b) (6)
Subject: SPK News Service - November 1, 2016
Date: Tuesday, November 1, 2016 08:18:27

SPK News Service - November 1, 2016

The Sacramento Valley: Fighting Floods and Politics

Outlet: Comstock's Magazine

Media Type: Article

Date: 1 NOV 2016

California's Sacramento Valley today is a far different place than the early pioneers found. Their struggle to bring water to grow crops while avoiding terrible floods helps us understand the area of the vast Central Valley and its people. The history of the Sacramento Valley is also the story of how prevailing social movements shaped the land and people of the Valley. After the influx of pioneers during the Gold Rush years, land was cleared for farming. Wheat became the Valley's dominant crop since it did not require any irrigation and refrigeration to bring it to market in the East. With the arrival of the railroad's new refrigerated cars, Valley-grown fruit could be chilled and preserved during the journey east. As fruit became a major crop, wheat prices dropped and wheat ...

<http://www.comstocksmag.com/web-only/excerpts-book-water-more-or-less>

Grower Vows To Fight Clean Water Act Violation Suit

Outlet: Growing Produce

Media Type: Article

Date: 31 OCT 2016

The story of John Duarte and 450 acres in Northern California is a complicated matter. The U.S. Army Corps of Engineers says it's a tale of a clear violation of the Clean Water Act. Duarte, on the other hand, says the real story is about assumptions and overreach by the government. "I call it peeling the onion because this thing goes so many layers deep," he says. Duarte is owner of Duarte Nursery, one of the largest grapevine and nut tree suppliers on the West Coast. In 2012, he purchased 450 acres in Tehama County that, according to Duarte, had been in the USDA's Conservation Reserve Program under previous owners. The land had been planted with wheat many times...

<http://www.growingproduce.com/fruits/grower-vows-to-fight-clean-water-act-violation-suit/>

For Situational Awareness:

It Shouldn't Take Feds 6 Years to Approve Major Infrastructure Projects

Outlet: Government Executive

Media Type: Article

Date: 31 OCT 2016

Both presidential candidates have pledged to boost spending for crumbling roads, bridges, and other infrastructure. But if permitting and review processes takes an estimated six years for major projects, what hope is there that the next administration will preside over any ribbon-cutting ceremonies for completed projects? The Obama Administration first faced this dilemma when implementing the 2009 Recovery Act. Subsequently, in 2011, it launched an effort to untangle the nest of 35 sets of permitting and review responsibilities across 18 different agencies. It concluded, drolly, that the interplay among these different statutory requirements “is challenging and can sometimes result in uncertainty.” Historically, no coordinating mechanism existed to bridge...

[http://www.govexec.com/excellence/promising-practices/2016/10/it-shouldnt-take-feds-6-years-approve-major-infrastructure-projects/132783/?oref=river.](http://www.govexec.com/excellence/promising-practices/2016/10/it-shouldnt-take-feds-6-years-approve-major-infrastructure-projects/132783/?oref=river)

From: (b) (6) [CIV USARMY CESPCK \(US\)](#)
To: (b) (6) [CIV USARMY CEHQ \(US\)](#); (b) (6) [CIV USARMY CEHQ \(US\)](#)
Subject: Witness in trial 28 August possibly
Date: Monday, August 7, 2017 04:52:00

Just wanted to keep you aware that there is a slight possibility that I may be called testify in the Duarte trial the week of 28 August in Sacramento. The DAG thinks the possibility is low but did ask for my availability.