

Perdue: Japan ag trade deal possible next month

Trade talks between the U.S. and Japan are moving quickly, and there's a good chance the two countries can wrap up an ag-centric deal to lift Japanese tariffs next month, U.S. Agriculture Secretary Sonny Perdue said Tuesday.

“I think we can get that done quickly, and hopefully by the time the president visits Japan,” Perdue said.

President Donald Trump, who hosted visiting Japanese Prime Minister Shinzo Abe in the White House Friday and Saturday, is scheduled to travel to Japan from May 25-28 for the accession of the country's new emperor.



Ag Secretary Sonny Perdue

U.S. Trade Representative Robert Lighthizer met with Japanese Economy Minister Toshimitsu Motegi on the sidelines of Abe's visit, and U.S. government officials tell *AgriPulse* that much of the talks were dedicated to agriculture trade and a potential abbreviated trade deal that could be completed far ahead of a comprehensive free trade agreement.

When asked if a comprehensive deal could be completed before Trump's trip, Perdue responded: **“Maybe not a comprehensive bilateral trade (deal), but certainly one that seals down the agriculture issues that we care about.”**

Speaking to reporters at USDA headquarters, Perdue stressed the importance of the U.S. ag sector getting the same lowered tariffs as European and Pacific Rim countries that implemented trade pacts with Japan already this year.

“We want to be treated the same way (Japan) treats these other 10 countries in the (Comprehensive and Progressive Agreement for Trans-Pacific Partnership) as well as the 28 countries in Europe,” Perdue said.

And it won't be good enough to just cut tariffs for U.S. beef, pork, wheat, potatoes and other commodities, Perdue stressed. The Japanese need to cut those tariffs retroactively.

The U.S. was originally one of the founding members in the Pacific Rim pact, back when it was still called the Trans-Pacific Partnership, but President Donald Trump followed through on a campaign promise and pulled the U.S. out during his first month in office. At the time, it seemed like the trade deal might fall apart, but the countries renamed the deal and decided to push on without the U.S.

Japan, Australia, Canada, New Zealand, Vietnam and six other Pacific Rim countries implemented the CPTPP in December. Two months later, Japan and the European Union kicked off a separate free trade agreement.

Since then, Japan has reduced its tariffs on ag imports from those countries twice, while Japanese importers are forced to pay higher duties for U.S. commodities.

U.S. wheat is just one commodity already suffering. As of April 1, U.S. wheat cost about \$20 more per metric ton (about 55 cents per bushel) than competing wheat from countries in Europe or the CPTPP, according to officials with the U.S. Wheat Associates.

The U.S. has been selling about 3 million metric tons of wheat per year to Japan, but that number is expected to drop if the U.S. doesn't get on a level playing field soon. USW spokesman Steve Mercer said in a recent interview the group expects U.S. wheat exports to Japan could be cut in half in four or five years.

U.S. dairy is another sector desperate for a pact with Japan that lowers tariffs. U.S. exporters of cheese, whey, lactose and skim milk powder have also been put at a disadvantage to their competitors in European and CPTPP countries, Tom Vilsack, president and CEO of the U.S. Dairy Export Council, told *Agri-Pulse* in a recent interview that the U.S. dairy industry would lose billions of dollars so long as the U.S. is at a disadvantage.

It's unclear if Japan will agree to all of the benefits for the U.S. that it did when the U.S. was still part of the TPP, but if it does, that would help a lot of California farmers sell a lot more rice.

Japan buys almost exclusively medium and short grain rice, which is primarily grown in California. Under the TPP, Japan agreed to set up a 50,000-ton duty-free quota for U.S. rice that would rise to 70,000 tons in 13 years.

Ted McKinney, USDA's trade undersecretary, declined to comment on timing for a deal with Japan, but stressed the importance of getting it done.

“We cannot get to a deal on Japan quick enough,” he said. “They are our longtime friends. Easily ... the most reliable market to us. Whatever we can do with Japan, we want to do so long as it's mutually beneficial.”

Six questions for Brian Leahy, former director of DPR

Brian Leahy directed the California Department of Pesticide Regulation (DPR) from 2012 to January 2019. DPR regulates pesticide sales and use, and creates rules that county agricultural commissioners are tasked with enforcing. Prior to DPR, he was assistant director for the Department of Conservation and executive director of the California Association of Resource Conservation Districts. He was also an organic rice farmer for 23 years and served as director of California Certified Organic Farmers.



Brian Leahy, former DPR Director

Now retired from his government service, Leahy spoke candidly with *Agri-Pulse* about activist scientists within CalEPA ruling on chlorpyrifos, the disconnect when viewing pesticides as evil and removing products without funding the research to replace them.

The conversation has been edited for brevity.

1. What do you see as the biggest milestones from your time at DPR?

When I got there, all the controversial stuff had been sitting there for a decade or more. We just did them. Boom, boom, boom. It didn't please anyone. But regulators are not in the like business.

The science around pesticides is changing. So, we started to do all that training. I had the National Science Academy take a hard look at our process. They said we were very conservative and risk adverse, which, of course, we're California. But we really looked at our process and have been working on improving it.

We really started to work on the non-agricultural side of pesticides. Which is most of the illnesses. Most pesticides sold in a state are non-ag. But those workers and those applicators don't have anywhere near the training that the ag people do. That was a really big deal.

2. What are the challenges for the next leadership in the department?

What's getting really challenging is society's attitudes towards pesticides.

When surveying Californians, they only think pesticides are used by farmers. They think pesticides are evil. They don't understand the role they play in their lives. The reality is if we don't do good pest management, we lose our food supply, we lose public health, we lose resource management.

There are a lot of institutions in place to benefit from that. The trial attorneys are really looking at glyphosate and things like that. There's this magnification of fear. I really felt we could do our job, which was to protect humans and help the environment — scientifically based — but can't protect against fear.

There's only a handful of companies and they're not bringing in new pesticides. Europe has gone totally nuts. Some of our best, most innovative pest control companies, like MarroneBio, can't even get their products into Europe because it's gotten so fear-based. If we don't acknowledge that pest management is essential to human life, we're really cutting ourselves into a deep hole.

DPR has been very pragmatic. They have made improvements by working with the applicators and the companies. We have a very science-based organization and can go toe-to-toe with any scientists from any industry. As a result, we have gotten these companies to make incredible improvements. But we still do effective pest management.

It feels like a lot of the attitude in the other agencies, and I think CalEPA is one, is that you want to find them, you want to beat them up. The right to regulate is not the right to destroy. I saw that as a disconnect from the regulated community. They felt like they shouldn't even talk to them. And so that's scary too. When you work with people, you make improvements.

3. Have you seen the perceptions from agriculture changing as well?

They're worried. DPR has been very pragmatic. They've been problem solvers. We just saw that with chlorpyrifos. DPR is tied by law to both OEHHA and the Scientific Review Panel (SRP). It went from what we felt like was defense of science to speculative.

The industry feels that and I think they're worried. Once we start taking these things out of science, we just don't know where we're going to go. So glyphosate: imagine what all these terrible fires that we had would have been like if Caltrans and other agencies hadn't been able to control all the weeds. But people are getting tied up in knots on glyphosate, and all herbicides.

Yet no one is putting money into research other than a handful of companies. Society is not finding replacement tools, but they're pushing the existing tools out of the marketplace. That's going to create real public health and public safety issues.

4. Could you talk about the challenges of working with SRP?

The SRP is interesting. They have been appointing activist scientists. The head for a long time had been one of the Chicago Seven. There are epidemiological studies, which point to something sometimes, but there's not very good protocol around them. And people can really use them to come up with the conclusion they want to see. It's hard to defend against the statements.

We saw that in chlorpyrifos. (SRP) was very activist. Anything to do with (President) Trump got crazy. It definitely was associated with Trump. There's reason to be concerned about chlorpyrifos and I think that our scientists came to a really good level of protection before it went to SRP.

SRP is (made up of) appointees. And then there's not a lot of accountability at OEHHA (Office of Environmental Health Hazard Assessment). It's not like they have to turn around and then

make people change their behavior, which is what a regulator does. They just throw these numbers out and then DPR would have to respond to it. There's no checks and balances. It was set up in the '70s, before we really understood how regulations work. I looked at them as an NGO (non-governmental agency) housed in a government agency. Then Prop 65 —how that has been administered... It sort of bashes small businesses more than anything. It is worrying.

5. What messages do you have for farmers?

Farmers need to engage, and need to talk about how essential pest management is. If society wants us to do pest management in a certain way, then society is going to have to start to invest in that approach. As an organic farmer, it seemed to me that a biological-based systems approach to pest management is what you want. But the amount of actual research that goes into that is miniscule.

Farmers are heavily regulated. If they follow the label, use common sense and listen to their local conditions here in California, everything should be fine. It's one of the most regulated items in commerce and it's one of the things that we know a lot about.

There's no kind and gentle way to kill things and that's why you use a pesticide. It's powerful stuff, but auto exhaust can kill you if it's too much.

Farmers need to learn how to engage in a conversation around the tools they need to grow our food. Somehow the people that grow our food have become evil. They become the target that some of these NGOs use. (Farmers) are going to have to learn how to push back on that.

6. What policies or regulations do you think should be closely watched this year?

The second generation of rodenticides have become very emotional... (Those trying to protect their processing plants, animal livestock and such) need to push back on science that's not necessarily defensible.

With the new administration, it's important for the wine grape growers to get in there and talk to the governor, because he's one of their clan.

Organic is still using pesticides and not getting the yields for the most part. If we're going to look at climate change, if you're using more resources to get less, that's not good. To me farming is biology and technology. You used to just plant a seed and maybe you got five back, if you got lucky. The reason why we can do such incredible agriculture now is because we've put a lot of money and effort into understanding the biology and technology. We've got to continue to do that.

If society is asking for a different approach, well, we have to get there. We have irrigation projects because society decided to put a lot of money into irrigation at one point. We have roads because society decided to put a lot of money into roads at one point.

Fungicides pulled from vineyards, alarming ag community

Does science matter anymore? That's what many asked after [an article](#) last month in *The New York Times* suggested that a deadly fungal outbreak in humans may have developed from a resistance to agricultural fungicides.

In response, one of the nation's largest winemakers, Constellation Brands, sent a blanket order to its vineyards to pull eight well-established fungicides. The Fortune 500 company, with brands like Robert Mondavi, Clos du Bois, and Franciscan Estates, made the decision despite any scientific evidence connecting the outbreak to agriculture. No regulatory agencies have acknowledged a link.

Pest control advisors (PCAs) now fear this type of action will have a chilling effect for winegrape growers in their management decisions and lead to an increase in fungicide resistance, while also seeding an outbreak of lawsuits, similar to the wave of cases related to glyphosate.

The *Times* article details the dramatic race to combat the drug-resistant fungal disease, known as *Candida auris*, which has popped up in hospital rooms in several countries over the last five years. It is a disease the medical community takes seriously. It kills vulnerable patients within 90 days and has a 50 percent success rate.



Grapes with powdery mildew

According to John Aguirre, president of the California Association of Winegrape growers, the agricultural community would also take this threat seriously.

“We absolutely will be the first to participate in protecting public health,” he said, “if there is a public health issue here.”

Causation vs. correlation

While the *Times* article notes the mystery over the source of the fungal resistance “remains unsolved,” it does advance a theory from epidemiologists that an over-reliance on agricultural fungicides has created environments favoring the resistant mutations.

The reporters refer to widespread antibiotic resistance found in livestock and cite a 2013 [paper](#) in Plos Pathogens that found a separate drug-resistant fungus, *Aspergillus fumigatus*, in soil samples across the Netherlands. While those soil samples were mostly taken from flower beds in and around infected hospitals, [another study](#) did find resistant *A. fumigatus* in compost from a nearby nursery and a garden center and associated that with widely-used azole fungicides in “grain-growing and grass-growing environments.” The Plos paper does recognize that “conclusive evidence linking agricultural triazole fungicides to the emergence” of resistant strains “in controlled field experiments is lacking.”

While the origin remains unproven, [the leading hypothesis](#) still points to resistance found in the natural environment prior to outbreaks in humans.

For both fungal varieties, human cases of resistance were discovered mostly in wetter European environments, where crops are more vulnerable to fungal diseases than Mediterranean climates like California. **Two cases of resistant *C. auris*, however, have been found in patients in California, out of a population of over 39 million people.**

“It appears that there is a lot more work that needs to be done to determine what's giving rise to drug resistant *Candida auris*,” said John Aguirre. “There's a very real difference between research that occurs in the lab versus what occurs outdoors.”

Resistance rises with fewer pesticides

Winegrape growers and pest control advisors (PCAs) are quick to point out that [FRAC rotations](#) already tackle this issue and have been doing so for almost 30 years.

CropLife International created the Fungicide Resistance Action Committee (FRAC) to provide management guidelines to growers. FRAC organizes technical working groups to determine best practices for growers and PCAs in order to reduce the risk of developing resistance. This extends the effectiveness of fungicides and limits crop losses if resistance does happen. The aim is to rotate the fungicides according to the specific cellular processes they inhibit, or mode of action (MOA), along with the available integrated pest management (IPM) strategies.

The USDA also set maximum residue levels for fungicides, not as much for combating resistance as for reducing levels for all pesticides that may be detected on foods. The California Department of Pesticide Regulation (DPR) also tracks all fungicide use through mandatory pesticide use reports.

Farmers have their own incentives for avoiding resistance as well.

“The foundation for this is good cultural practices,” said Aguirre. “You manage irrigation, fertilization. You prune. You shoot, thin and pull leaves—with this idea of having good fine balance, and allowing light and air circulation throughout the fine canopy.”

Aguirre said this gets “hammered in the head of growers all the time,” along with rotating chemical products. California winegrape growers are well aware of the threat of resistant pathogens. They are careful in managing powdery mildew, a fungal disease that can destroy grape quality and yield, along with the bacteria that causes Pierce’s disease, which has threatened

the state's entire industry. Economic pressures drive their decisions. Without the canopy management, Aguirre said, spraying would be less effective and "it's just money down the drain."

With the specific azole fungicide products Constellation listed (Elite, Viticure, Rally, Mettle, Luna Experience, Laguna, Inspire Super, Quandris Top), the economic impact on growers would be minimal, according to Paul Crout, a pest control advisor working in wine grapes. Alternatives are available without significantly higher costs.

Taking products from growers, however, leaves them fewer tools to rotate through in their resistance management and IPM programs and more vulnerable to fungicide problems.

"The whole idea behind resistance management is to have as many different modes of action as possible," he said, adding that resistance happens when using one MOA repeatedly, as with anti-biotic resistance in medicine.

The glyphosate effect

"We've seen this kind of knee-jerk response to headlines about active ingredients with materials like glyphosate," said Crout. "Companies are prohibiting the use of these materials without any sound scientific reasoning."

Crout was referring to the recent Monsanto court cases against the glyphosate product Roundup, which courts ruled against the company despite [the EPA determining](#) the herbicide is not carcinogenic.

Andy Wilson, a PCA for Grow West, said that growers and PCAs want to be a part of the solution but depend on research to back up their recommendations. "We want to base decisions of use or not use on sound science," he said. "But we need proper information on the products that we use in order to make those decisions."

When asked for comment, a spokesperson for Constellation Brands responded that it is common practice "to send communications to our vineyard teams to provide updates on approved and/or banned vineyard management methods and materials."

Dairy producers face prolonged price slump as farm bill signup nears

Dairy farmers considering whether to sign up for the new farm bill benefits should consider this: Milk prices are likely to remain relatively stagnant for several years due in part to consolidation that left large farms less responsive to market signals.

Scott Brown, an economist at the University of Missouri, told a House Agriculture subcommittee on Tuesday that farmers who decide not to sign up for the new Dairy Margin Coverage program in the 2018 farm bill could find themselves at a significant disadvantage to other producers.

“Dairy producers, regardless of size, must examine how the DMC program fits into their overall risk management plan,” he said.

Milk production slipped in March by 0.4 percent from the previous year, the first year-over-year decline since January 2016, excluding the leap year effects, Brown said. If the decline continues, milk prices could strengthen later in the year, but the industry consolidation increases the likelihood of “these longer periods of low profitability occurring in the future,” Brown said.

The economies of scale enjoyed by ever larger farms, plus the equity that farms built up when prices were high in 2014, “has left aggregate milk supplies very unresponsive in time periods that are financially stressed,” he said.

USDA’s Farm Service Agency on Tuesday announced a new online decision tool for DMC to



Scott Brown, University of Missouri

help producers estimate the payments they would receive under the program, an overhauled version of the relatively unpopular Margin Protection Program created by the 2014 farm bill.

FSA soon will begin notifying producers about the availability of partial refunds of fees they paid under MPP. Producers can get 75 percent of the fees refunded if they apply them toward fees for DMC. Producers who elect to get the refunds in cash can get half what they paid for MPP coverage.

DMC benefits are targeted to producers with up to 5 million pounds of production, or about 240 cows. The program is designed to ensure that producers are more likely to get payments and pay less in premiums than they did under MPP. Fees were lowered and the top coverage level was raised from \$8 per hundred pounds to \$9.50.

But House Agriculture Chairman Collin Peterson, D-Minn., expressed concern that using USDA’s decision tool could lead producers to buy coverage at levels lower than \$9.50.

“In my opinion there is no question about what to do,” Peterson said. “Unless you are wealthy ... you should take \$9.50, you should take it for five years, and lock it in. If you don’t, don’t complain to me.”

According to the FSA decision tool, there is a 100 percent probability a farmer covering 5 million pounds would get a net benefit from DMC in 2019 at the \$9 and \$9.50 coverage levels, given current price projections. The probability of a net benefit (total payments minus premiums) in 2019 drops to 9 percent at \$8.50 coverage.

Projecting out even further, Brown estimates producers will get DMC payments 56 percent of the time over the next 10 years if they sign up at the \$9.50 level.

Sign-up for the program is expected to start June 17 with the first payments to go out in July.

DMC “will help us mitigate risk and secure a profit going forward,” Sadie Frericks, a Minnesota producer who has 90 cows, told the lawmakers. “We will continue working together, with our children, to care for our cows and our land.”

She told Peterson she plans to enroll in DMC for the full five years at the \$9.50 coverage level. “You’re on the ball,” Peterson replied.



House Ag Chair Collin Peterson, D-Minn.

But Frericks said later that even though the coverage will be retroactive to Jan. 1, many producers will be hard-pressed to wait until July for payments,

Andrei Mikhalevsky, president and CEO of California Dairies Inc., one of the nation’s largest farmer-owned cooperatives, said DMC would provide limited benefit to his members, since their average farm size is 1,400 cows. **“It would be really nice at some point to open that up a little bit farther for the larger dairies,”** he said.

But he said his members were “highly enthusiastic” about the new dairy revenue protection insurance policies that went on sale last year with USDA’s approval.

He said that retaliatory tariffs imposed on U.S. milk products by Mexico and China last year stymied a much-needed rebound in milk prices.

Slow domestic demand for fluid milk also is weighing on prices, according to Brown. Per capita consumption of 2 percent low-fat milk declined by 33 pounds between 2010 and 2018 and hasn’t been offset by increases in whole milk consumption, he said.

Both USDA and the University of Missouri’s Food and Agriculture Policy Research Institute project milk prices won’t exceed \$18 per hundred pounds on an annual basis until after 2022, meaning there will only be a “slow recovery” in milk prices “over the next three to four years barring some external, unanticipated shock.”

Infrastructure package: More than just roads and bridges

Congressional Democrats were at the White House Tuesday to discuss a path forward for infrastructure legislation, and discussions appear to have yielded a broad framework for a bill. Senate Minority Leader Chuck Schumer, D-N.Y., told reporters after the meeting that President Donald Trump had agreed to explore a \$2 trillion infrastructure package.

The deal will not only address traditional infrastructure like roads and bridges, but also, as White House Press Secretary Sarah Sanders noted in a statement, expand broadband access “for our great farmers and rural America.”

Such a legislative bargain could prove difficult in the current political climate as House Democrats work to investigate various aspects of the Trump administration, but Schumer downplayed the oversight activities potentially sinking a bipartisan infrastructure package.

“The two are not mutually exclusive and we were glad (Trump) didn’t make it that way,” Schumer said.

Mike Steenhoek, executive director of the Soy Transportation Coalition, said he's happy to see the meeting conclude with both sides a little closer to a deal, and "we hope the bipartisanship on display during this initial meeting is not a fleeting moment but rather will start to build momentum toward a comprehensive infrastructure bill that will address the needs of both urban and rural America."

Such an effort, Steenhoek added, needs to also include **"the needs of our nation's roads and bridges, highways and interstates, inland waterways, rail infrastructure, and ports."** **"We look forward to continuing to promote an infrastructure that will be a facilitator of farmer profitability, not an obstacle to it," he said.**

The two sides have agreed to meet again in three weeks, when Schumer and House Speaker Nancy Pelosi say Trump is expected to offer funding suggestions for the initiative.

Supreme Court may address CWA's treatment of groundwater – or not

Agricultural groups seeking to limit EPA’s jurisdiction over groundwater under the Clean Water Act are looking to a Supreme Court case for relief, but new developments in Hawaii could nix that opportunity.

In February, the court granted a petition from Maui County seeking review of a 9th Circuit Court of Appeals decision concluding the CWA covers wastewater from the Lahaina Wastewater Reclamation Facility that is injected into underground wells, where it is carried via groundwater to the Pacific Ocean.

Last month, EPA issued an “interpretive statement” saying the CWA does not cover such releases under its National Pollutant Discharge Elimination System (NPDES) program. Indeed, the agency said, “the best, if not the only, reading of the CWA is that Congress intentionally chose to exclude all releases of pollutants to groundwater from the NPDES program, even where pollutants are conveyed to jurisdictional surface waters via groundwater.”

With five reliably conservative justices, the court could reasonably be expected to rule for EPA. But now Maui County wants to talk settlement with the four environmental groups that brought the original lawsuit, and their attorneys at Earthjustice.

A resolution introduced by Maui County Council Chairwoman Kelly King to have settlement proposals forwarded to the county council for approval was referred to a council committee last week, after King’s attempt to have the resolution considered by the full council failed.

King is concerned the Supreme Court could set an environmentally harmful precedent if it sides with the county. “The Supreme Court could issue an opinion that restricts the Clean Water Act’s protections throughout the nation, which is not a desirable outcome,” her resolution says.

At the meeting, she said, “Maui County should not be in that position to lead that charge,” according to a report in the Maui News.

Settling the case before the Supreme Court has a chance to hear arguments would end part of the controversy, keeping alive the thorny issue of whether discharges that travel through groundwater to a jurisdictional surface are regulated under the CWA.

Earthjustice attorney David Henkin would not discuss his clients' settlement proposal — “it's uncommon for folks to try and do settlement talks in the press” — but said he and his clients “really appreciate the new spirit” exhibited by newly elected Maui officials.

While “everyone would like to avoid a Supreme Court decision that sets bad precedent,” Henkin also said his clients, who include Hawaii Wildlife Fund, Sierra Club-Maui Group, Surfrider Foundation and West Maui Preservation Association, never wanted to go to court in the first place. They worked for four years to resolve the wastewater discharge issue before going to court in 2012.

The groups won in the district court, prompting the county to ask for settlement talks, which stalled as the case went to the 9th Circuit Court of Appeals, which upheld the decision. Now the Supreme Court has it, but that could change if the latest negotiations prove successful.

The April 15 “interpretive statement” — which EPA also has called “guidance” although it is not labeled as such — marks a reversal of the agency’s embrace of the “hydrological connection,” or “conduit,” theory, that NPDES requirements can apply when a pollutant released from a point source migrates to navigable waters through groundwater.

EPA took that position before the 9th Circuit, saying in an *amicus* brief written during the Obama administration, “Because Congress did not limit the term 'discharges of pollutants' to only direct discharges to navigable waters, discharges through groundwater may fall within the purview of the CWA.”

Now, however, under a new administration, EPA said, “Congress purposely structured the CWA to give states the responsibility to regulate such releases under state authorities. Other federal statutes contain explicit provisions that regulate the release of pollutants into groundwater to provide significant federal authority to address groundwater pollution not provided by the NPDES permitting program.”

The environmental and agricultural camps differ in their analysis of whether the Clean Water Act itself allows discharges like the one in Maui to be regulated.

“The interpretive statement is consistent with both the text and congressional intent of the Clean Water Act,” said Mary-Thomas Hart, deputy environmental counsel at the National Cattlemen’s Beef Association. “While there are sections in the Clean Water Act where Congress directs EPA to manage or fund groundwater projects within a specific context, these are all nonregulatory sections.”

Hart said some members of Congress “attempted to add ‘groundwater’ to the regulatory framework but those attempts were shot down. If there were legislative history that contradicted EPA’s interpretation, we would see it in the Act.”

U.S. cattle producers are happy with the interpretive statement, Hart said. “An adverse interpretation would’ve illegally blurred the line between point and nonpoint sources, potentially subjecting thousands of small cattle producers to unnecessary federal Clean Water Act regulation.”



Mary-Thomas Hart, NCBA

In comments on the issue submitted to EPA last year, dozens of farm groups, including the American Farm Bureau Federation, said “agriculture and many other industries rely on lagoons, basins, pits, and impoundments to support their operations. Many of those features do not currently require NPDES permits and are instead considered nonpoint sources of pollution. Under the ‘direct hydrological connection’ (or a comparable) theory, however, releases of pollutants from such structures could be regulated as point source discharges.”

But other CWA attorneys say the interpretation is a big break from the past.

Former longtime Justice Department attorney Stephen Samuels said it “represents a dramatic change in EPA’s historical position” on groundwater discharges that reach jurisdictional waters. It also is “contrary to the litigation position EPA has consistently taken in cases involving such discharges,” he said.

“They’re creating a gigantic loophole in the Clean Water Act,” former EPA environmental attorney Mark Ryan, now in private practice in Oregon, said. He added the interpretive statement “could end up creating the perverse incentive of digging pits next to rivers and discharging into the pits.”

National Wildlife Federation lawyer Jim Murphy surmised that the administration’s “real goal” in issuing the statement “may be to influence the (Supreme) Court and to give some states that don’t want to have a strong (NPDES) program a justification to roll back protections.”

Hart said the statement does not create a loophole. “The statement is limited to groundwater, and EPA clearly states that other subsurface discharges that make their way to jurisdictional surface water may be subject to CWA liability.”

EPA said because of the 9th Circuit’s Maui County decision and another decision in the Fourth Circuit that came to a similar conclusion on different facts, it would not apply the interpretive statement’s reasoning in those circuits, which include federal courts in 14 states.

Through selective application of its rationale, EPA said it is “simply choosing to maintain the status quo pending further clarification by the Supreme Court, after which time the agency intends to follow with notice and comment rulemaking.”

News Briefs:

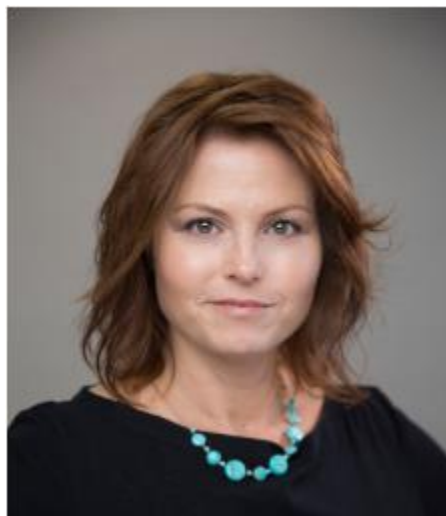
EPA reaffirms glyphosate safety. The Environmental Protection Agency says glyphosate is not “likely” a human carcinogen. EPA Administrator Andrew Wheeler said the agency found “no risks to public health from the current registered uses of glyphosate,” echoing a 2017 assessment showing no human health risks, but some ecological concerns. On Tuesday, EPA proposed a handful of measures to “help farmers target pesticide sprays on the intended pest, protect pollinators,” and reduce weed resistance issues. The safety of glyphosate, marketed by Bayer-owned Monsanto as Roundup, has been a point of contention in court cases where plaintiffs claim health issues were a result of Roundup use. Two such cases have ended in verdicts totaling more than \$150 million. For more on the EPA decision, click [here](#).

Five citrus fruits approved to be imported from China. USDA’s Animal and Plant Health Inspection Service will announce in a Federal Register [notice](#) today its assessment that adopting one or more of the five designated phytosanitary measures would make certain Chinese produce safe for import. Under the notice - should China's National Plant Protection Organization adopt the practices - pomelo, Nanfeng, honey mandarin, ponkan, sweet orange, and Satsuma mandarin, could be eligible for import. Some of the measures needed for import include: the places of production and packinghouses are registered with the NPPO of China, there is a certification by the NPPO that proves material used at places of production is free of quarantine pests, cutting a portion of the fruit from a sample to inspect for quarantine pests, during the post-harvest the fruit is washed, brushed, and treated with a surface disinfectant or the fruit can go through an inspection at the port of entry in order to be imported. To read more of the measures that can be taken to export the fruit to the United States click [here](#). The NPPO of China would have to enter into an operational workplan with APHIS that sets forth the daily procedures NPPO will take to implement the measures identified in the RMD. These measures are open for a 60-day public comment period.

FDA ushers in ‘New Era of Smarter Food Safety’. While noting that the Food and Drug Administration (FDA) has already made “great strides” in modernizing and further safeguarding the U.S. food supply chain with implementation of the Food Safety Modernization Act (FSMA), agency officials say it’s time to look at the future while leveraging the “use of new and emerging technologies to create a more digital, traceable and safer system.” That’s according to a [joint statement issued April 30](#) by Acting Commissioner of Food and Drugs Norman E. “Ned” Sharpless MD and Deputy Commissioner for Food Policy and Response Frank Yiannas. The duo announced a “New Era of Smarter Food Safety” with plans to develop a “Blueprint for a New Era of Smarter Food Safety.” The Blueprint will address several areas, including traceability, digital technologies and evolving food business models. We’ll also be holding a public meeting later this year to discuss smarter food safety, seek stakeholder input and share ideas on our overall strategy and the specific initiatives. The FDA also plans to conduct a new pilot that will leverage artificial intelligence and machine learning to explore new ways to enhance the agency’s review of imported foods at ports of entry to ensure they meet U.S. food safety standards. They noted that “the number of import food lines is increasing year after year and applying the best predictive and analytical tools will help ensure we’re targeting the greatest risks to protect consumers.”

Farm Hands on the Potomac...

Kate Greenberg, Colorado Department of Agriculture Commissioner, named **Mary Peck** to serve as the new director of communications and public awareness. She brings over 20 years of communications and media experience previously serving as communications coordinator for Tri-State G&T Cooperative, and most recently served as a writer for Colorado Country Life Magazine and consultant to the Colorado 4-H Foundation.



Mary Peck

USDA's Rural Development has announced new leadership changes and appointments. **Misty Ann Giles** has been appointed to chief of staff. Giles has been with USDA since 2007 and has been serving as acting chief of staff. Appointed to chief of staff for USDA Rural Development's Rural Business-Cooperative Service is **Stephanie Holderfield**. She has been serving in the role of senior adviser at the U.S. Department of Housing and Urban Development since 2017. **Justin Domer** has been tapped as chief of staff for Rural Development's Rural Housing Service. His experience includes being a regional representative for former Florida Gov. **Rick Scott**. Stepping into the role of chief of staff for Rural Development's Rural Utilities Service is **Curtis Anderson**. He served as chief of staff for Rural Development's Rural Housing Service since 2017 and previously served as deputy administrator for Rural Development's Rural Utilities Service in the **George W. Bush** administration. He has also held positions at Farm Credit, the National Association of State Departments of Agriculture and at telecommunications companies. Tapped to become Rural Development's chief operating officer is **Angilla Denton**, who previously served as the civil rights director. **Scott Williams** has been named Rural Development's deputy chief finance officer. **Sharese Paylor** has been promoted to civil rights director; she previously served as program compliance branch chief for Rural Development-Civil Rights. Before that, she was a senior equal opportunity specialist with the U.S. Department of Housing and Urban Development.

Krysta Harden, a deputy secretary of agriculture during the Obama administration, has been named executive vice president of global environmental strategy of Dairy Management Inc. (DMI). Harden is tasked with driving the dairy checkoff's environmental sustainability strategy and will report to **Barb O'Brien**, president of DMI and the Innovation Center. Harden most recently served as senior vice president of external affairs and chief sustainability officer for Corteva Agriscience, the agriculture division of DowDuPont. Before joining DuPont, Harden spent three years as deputy secretary of agriculture under Secretary **Tom Vilsack** after a stint as his chief of staff.



Krysta Harden

Rep. **Rick Crawford**, R-Ark., announced his intent to run for chairman of the House Agriculture Committee in the

117th Congress. Crawford has served on the Ag Committee since he was first elected in 2010, and has experience in the agriculture industry including working as a farm broadcaster and a marketing manager for a John Deere dealership.

Jan Berk, COO of San Miguel Produce Inc., will be honored and the featured speaker at the Women in Produce Breakfast General Session at the United Fresh 2019 Convention & Expo in Chicago. The event will take place Wednesday, June 12. The celebration of Women in Produce Breakfast, recognizes the contributions of all women working in the produce industry, and selects one individual to share her personal experience of service.



Jan Berk

Thomas Brunet has joined the Biotechnology Innovation Organization as the new director of federal government relations. He has already registered as a lobbyist underneath a variety of legislative issues. His latest position was serving Sen. **Ron Wyden**, D-Ore., as a senior counsel for domestic policy.

Thomas Woodburn has started as a legislative director covering foreign trade, telecommunications, and labor and employment for Rep. **Diana DeGette**, D-Co.

Sen. **Kamala Harris**'s, D-Calif. new deputy state director is **Daniel Chen**. He previously served as Harris's constituent services director and before that

Sen. **Dianne Feinstein**'s.

Yesterday, was **Will Boyington**'s last day in Rep. **Dan Newhouse**'s, R-Wash., office. Boyington served as communications director since 2015 for Newhouse. Before that, he served Rep. **Darrell Issa**, R-Calif., on the House Oversight and Government Reform Committee as deputy press secretary. **Liz Daniels** is the new communications director for Newhouse. She previously served as his legislative assistant and deputy press secretary.

John Insinger became the new chief of staff for Sen. **Jim Risch**, R-Idaho. He fills the shoes of longtime chief of staff **John Sandy**, who worked with Risch for over three decades, first serving as his chief of staff in the governor's office. Insinger is a lawyer in Risch's firm Risch Pisca, PLLC and has served on the board of commissioners for the Idaho Housing and Finance Association. ... **Kaylin Minton** has left the office of Sen. **Jim Risch**, R-Idaho, to begin a new role as communications director for Rep. **Michael McCaul**, R-Texas, for the House Foreign Affairs Committee.



John Insinger

Jenna Galper is the new digital director and press secretary for Rep. **Adam Schiff**, D-Calif.

Eva Cline has left the office of Rep. **John Moolenaar**, R-Mich., where she served as his legislative assistant. **Jayson Schimmenti**, legislative director, has taken over her portfolio. ... Settling in as the agriculture policy assistant for Moolenaar is **Noah Yantis**. He also serves as staff assistant.

Alec Bartishevich is promoted to legislative correspondent for Sen. **Dianne Feinstein**, D-Calif. He previously served as staff assistant.

Maggie Farry switched offices to Sen. **Krysten Sinema**, D-Ariz., as her new legislative aide. She previously served Rep. **Tom O'Halleran**, D-Ariz., as his legislative assistant.



Bart Chilton

Bart Chilton, a former Commodity Futures Trading Commissioner (CFTC) died over the weekend at the age of 58. Chilton began his career in 1985 working in the House of Representatives, serving as legislative director for three U.S. representatives. From 1995-2001, he worked at USDA and rose to deputy chief of staff for former Secretary of Agriculture **Dan Glickman**. After his time at USDA, he became senior adviser to South Dakota Democrat Sen. **Tom Daschle**. In 2005, he was appointed by **President George Bush** to serve as the executive assistant to the board of the Farm

Credit Administration and nominated again by Bush and confirmed by the Senate in 2007 to serve as a CFTC commissioner. He was reappointed in 2009 by **President Obama**. Before being confirmed as a commissioner, he served as chief of staff and vice president of government relations at the National Farmers Union. After CFTC, Chilton joined the law firm DLA Piper as a senior policy adviser for regulatory and public policy issues.

Indiana's longest serving senator, Republican **Richard Lugar**, died from complications related to CIPD; he was 87 years old. Lugar was known for being a foreign policy expert and fighter for America's farmers. He served as chair and ranking member of the Senate Agriculture Committee, and strongly supported the farm bill's locally-led and voluntary conservation title programs and encouraged bipartisan support for biofuels that led to the RFS. House Ag Committee Chairman **Collin Peterson**, D-Minn., said Lugar was "a problem solver who could work with anybody to get things done." He was a six-term senator who worked heavily on agricultural issues and later teamed up with Georgia Sen. **Sam Nunn** to work on control of nuclear, chemical and biological weapons. He ran for president in 1996, lead efforts to end apartheid in South Africa, and worked to secure weapons of mass destruction from the former Soviet Union.

Veteran agricultural trade negotiator **Charles J. (Joe) O'Mara** died April 27 of complications from a stroke suffered a week earlier. He was 75. He operated consulting firm O'Mara & Associates for 23 years following his retirement after a 28-year career at USDA. O'Mara retired from USDA in 1995 as career minister in the Foreign Agricultural Service (FAS) following three years as counsel to the secretary of agriculture for international affairs. He also was a USTR special trade negotiator for agriculture in the Uruguay Round of the General Agreements on Tariffs and Trade (GATT) and the North American Free Trade Agreement (NAFTA). He

previously was career minister-counselor at the U.S. mission to the GATT in Geneva, deputy administrator for international trade policy at FAS and agricultural counselor in U.S. embassies in Buenos Aires and Sao Paolo. O'Mara's expertise "almost single-handedly resulted in a successful conclusion to the Uruguay Round and creation of the WTO," said **Joseph Glauber**, a subsequent agricultural negotiator. A funeral mass will be held at Monday, May 6, at Annunciation Catholic Church in Washington, D.C.

Best regards,

Sara Wyant

Editor

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