THE MARCHING SEASON IN NORTHERN IRELAND

HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 11, 1997

Mrs. KELLY. Mr. Speaker, I rise today to speak out against the unfairness of Britain's decision to allow the Orange Order to march through Northern Ireland's Garvaghy Road area this past weekend. Thousands of residents were barricaded in their homes by 1,500 riot police and troops, which were reinforced by more than 100 armored cars. This choice was tragic, and today's headlines bear solemn witness to this fact.

This is the third year that British authorities have allowed the Orange Order to march through this predominantly Catholic neighborhood. In justifying this fatal decision, Northern Ireland Secretary Mo Mowlam said, ''Had the Orange Order not been permitted to march through the Garvaghy Road Community, the Protestants would have committed widespread mayhem.'' The mere fact that Secretary Mowlam, admitted that by allowing the Protestants to march through the Garvaghy Road area was her least worst option, to me is quite disturbing. In fact, her decision led to severe rioting, and has made the Irish Peace process that much more difficult to achieve. Clearly, this march should not have been allowed to take place in the first place. All marches in the future should be cancelled, until Ireland can reach a peace agreement.

I call upon the British and Irish Governments to work together, and encourage all parties to resume their efforts toward a just and lasting peace. Violence, under any circumstance, is not the answer.

TRIBUTE TO ILC DOVER FOR THEIR CONTRIBUTION TO THE PATHFINDER MISSION

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Friday, July 11, 1997

Mr. CASTLE. Mr. Speaker, I proudly rise today to call your attention to a great contribution to science, technology, and progress made by the people of ILC Dover in Dover, DE. I offer my appreciation to the hard work and dedication of this company which developed the airbag system that allowed Pathfinder to land on Mars and reduced the cost of the Mars mission.

ILC's success in aerospace technology dates back to their development of the Extra Vehicular Activity spacesuits used for space walks during the Apollo missions. ILC Dover's reputation as a cost-effective engineering firm with its core technology of developing high-tech inflatable systems, made them a logical contractor to team with NASA's Jet Propulsion Laboratory. ILC designed, tested, and produced the material development used in this highly visible project.

ILC Dover has proved themselves a leader and model in the aerospace industry by providing technology in accordance with NASA's new focus: better, faster, cheaper. I am confident that ILC Dover will continue to provide innovative and cost-effective aerospace technology necessary to continue important missions such as Pathfinder in exploring our world. I applaud the people of ILC Dover and wish them continued success in their endeavors.

THE MUNICIPAL BIOLOGICAL MONITORING USE ACT

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 11, 1997

Mr. HEFLEY. Mr. Speaker, I am pleased to join my colleague, Mr. PASTOR, in introducing H.R. 2138, the Municipal Biological Monitoring Use Act. The purpose of this legislation is to establish for the Environmental Protection Agency new criteria for biomonitoring or whole effluent toxicity tests at local government sewage treatment plants, also known as publicly owned treatment works, or POTW's.

Similar legislation applicable to POTW's was introduced in previous Congresses. In recent months, the EPA has also sought to apply WET test limitations to municipal separate storm sewer systems, combined sewer overflows and other wet weather discharges and control facilities. Therefore, this updated version of our bill is also applicable to these storm water-related discharges owned by local governments.

Enforcement of biomonitoring test failures is a concern of POTW's nationwide and particularly in the arid West because of the unique water quality characteristics of low flow and ephemeral streams located in that region.

The bill we introduce today would retain the use of biomonitoring tests as a management or screening tool for toxicity, while shifting fine and penalty liability for test failures to liability for failure to implement permit-required procedures for identifying and reducing the source of WET when detected.

BACKGROUND

The EPA regulates wastewater discharges from POTW's through the National Pollutant Discharge Elimination System, or NPDES, permit program. NPDES permits include narrative or numeric limitations on the discharge of specifically named chemicals. Treatment facilities for these named chemicals can be designed and built in order to assure compliance with such limitations before a violation occurs. Compliance is determined by conducting specific tests for these named chemicals.

NPDES permits may also include limits on the unspecified toxicity of the entire sewage plant effluent which is known as whole effluent toxicity. Compliance with these limitations is determined by the results of biomonitoring or whole effluent toxicity, or WET tests. The authority for biomonitoring tests was added to the Clean Water Act by the 1987 amendments. Since then, EPA has issued biomonitoring test methods, permit requirements, and enforcement policies for the use of WET tests as a monitoring requirement or as a permit effluent limitation at POTW's.

Biomonitoring or WET tests are conducted on treated plant effluent in laboratories using small aquatic species similar to shrimp or minnows. The death of these species or their failure to grow as expected in the laboratory is considered by EPA to be a test failure.

Where such tests are included in permits as effluent limits, these test failures are subject to administrative and civil penalties under the Clean Water Act of up to $25,000 per day of violation. Test failures also expose local governments to enforcement by third parties under the citizen suit provision of the act.

WET test failures can also trigger toxicity identification and reduction evaluations that include additional testing, thus exposing local governments to additional penalties if these additional tests also fail.

WET TEST ACCURACY CANNOT BE DETERMINED

The EPA recognizes that the accuracy of biomonitoring tests cannot be determined. An October 16, 1995, Federal Register preamble document issued by the agency in promulgating guidelines establishing test procedures for the analysis of pollutants determined that: ''Accuracy of toxicity test results cannot be ascertained, only the precision of toxicity can be estimated.'' (EPA, Guidelines for Establishing Test Procedures for the Analysis of Pollutants, 40 CFR part 136, 60 FR 53535, October 16, 1995.)

While the agency cannot determine the accuracy of such tests, the EPA still requires local governments to certify that WET test results are ''true, accurate and complete'' in discharge monitoring reports required by NPDES permits. This is a true catch-22 requirement.

Laboratory biomonitoring tests are known to be highly variable in performance and results. Aquatic species used as test controls often died during test performance. False positive tests occur frequently. Yet test failures are the basis for assessing administrative and civil penalties to enforce permit limitations for WET.

The EPA also recognized that WET is episodic and usually results from unknown sources until they are detected and located through WET tests. These unknown sources can include synergistic effects of chemicals, household products such as cleaning fluids or pesticides and illegal discharges to sewer systems. Even a well-managed municipal pretreatment program for municipal users cannot assure against WET test failures.

POTW's are designed to control specific chemical pollutants. Treatment facilities are not designed, however, to control WET before detection by biomonitoring test failures because POTW's cannot be assured of knowing the specific nature of sewage influent discharged to the treatment plant. To guarantee against these test failures before they occur, local governments would have to build sewage treatment facilities using reverse osmosis, micorfiltration, carbon filtration, ion exchange or ozone at great expense to citizen rate payers.

The Clean Water Act and EPA regulations (40 CFR 122.44(d)(1)(iv)) require that toxicity be determined based on actual stream conditions. An EPA administrative law judge decision issued in October 1996 confirmed this interpretation in ruling:

> Although some form of WET monitoring may be legally permissible, there must be a reasonable basis to believe the permittee discharge could be or become acutely toxic. In addition, the proposed tests must be reasonably related to determining whether the discharge could lead to real world toxic effects. The CWA objective to prohibit the discharge of ''toxic pollutants in toxic amounts'' concerns toxicity in the receiving waters of the United States, not the laboratory tanks.