PROTECTING AMERICAN TAXPAYERS FROM IRS SEIZURES

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 12, 1998

Mr. McKEON. Mr. Speaker, I rise today to introduce important legislation to protect American taxpayers from wrongful and unnecessary IRS seizures.

My bill creates an independent panel of tax attorneys, certified public accountants, and enrolled agents to review all proposed IRS seizures. This panel would determine whether there are more appropriate means of collecting the unpaid taxes and will ensure that IRS agents have complied with the regulations related to seizures. Without approval of a majority of the panelists, IRS agents will not have the ability to place levies on taxpayers' homes, salaries, or assets.

In January, I held IRS forums in my district and was shocked to hear the horror stories in the testimonies of my own constituents. One after the other, stories of unwarranted pressure and direct intimidation of IRS agents were told, many of which included cases of seizures. In several situations, the agents also failed to adhere to established rules and regulations. Clearly, greater oversight of this abusive IRS practice is critical, and I have introduced this bill in response to the disturbing experiences many of my constituents have endured.

We have all witnessed the alarming stories of our fellow Americans before the Senate Finance Committee this fall. It was evident that in many cases levies and seizures have favored devices used to measure employee performance for status and promotion purposes, not for the interest of the taxpayer. More often than not, IRS agents have been pushed by their superiors to initiate more seizures to achieve promotions within the agency. As a result of new IRS procedures, the same superiors are now responsible for directly approving seizures for unpaid federal taxes.

Nearly 80% of Americans feel that the IRS has too much power. And while taxpayer rights are beneficial in many ways, they often do not go far enough. Without the means of enforcing these rights, the IRS will retain much of its power and American taxpayers will be forced to tolerate more abuses by the IRS.

Mr. Speaker, with this bill, Congress can respond to the problems the IRS has with seizures and levies that have ruined the lives of a great number of American taxpayers. The independent panel created in this bill will make the IRS accountable by stopping questionable seizures before they occur.

INTRODUCTION OF THE FARM SUSTAINABILITY AND ANIMAL FEEDLOT ENFORCEMENT ACT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 12, 1998

Mr. MILLER of California. Mr. Speaker, today I introduce legislation to address the most important source of water pollution facing our country—polluted runoff. A major component of polluted runoff in many watersheds is surface and ground water pollution from concentrated animal feeding operations (CAFOs), such as large dairies, cattle feedlots, and hog and poultry farms. Under current Clean Water Act regulations, CAFOs are supposed to have no discharge of pollutants, but as a result of regulatory loopholes and lax enforcement at the state and federal levels, CAFOs are in reality major polluters in many watersheds. My bill, the Farm Sustainability and Animal Feedlot Enforcement (Farm SAFE) Act addresses these deficiencies. I hope my colleagues will join me in trying to address this significant threat to water quality and human health.

Included for the RECORD is an article from the San Francisco Chronicle describing water quality problems caused by dairies in the San Joaquin Valley of California. Contaminants associated with animal waste have also been linked to this summer's outbreak of Pfiesteria in Maryland and the death of more than 100 people from infection by cryptosoridium in Milwaukee. Although considered point sources of pollution under the Clean Water Act, little has been done at the federal or state levels to control water pollution from CAFOs.

In recent years, many family farms have been squeezed out by large, well capitalized factory farms. Even though there are far fewer livestock and poultry farms today than there were twenty years ago, animal production and the wastes that accompany it have increased dramatically during this period. And although farm animals annually produce 130 times more waste than human beings, its disposal goes virtually unregulated.

Farm SAFE will require large livestock operations to do their part to reduce water pollution. The bill will lower the size threshold for CAFOs, substantially increasing the number of facilities that will have to contain animal wastes. It will require all CAFOs to obtain and abide by a National Pollution Discharge Elimination System (NPDES) permit. The bill improves water quality monitoring, recordkeeping and reporting so that the public knows which CAFOs are polluting. Farm SAFE addresses loopholes in the current regulatory program by requiring CAFOs to adopt procedures to eliminate both surface and ground water pollution resulting from the storage and disposal of animal waste. The bill also directs EPA, working with USDA, to develop binding limits on the amount of animal waste that can be applied to land as fertilizer based on crop nutrient requirements.

This legislation will restore confidence that we can swim and fish in our streams and rivers without getting sick. It will do much to address our number one remaining water pollution problem—polluted runoff. I hope the House will join me in the effort to clean up factory farm pollution.

[From the San Francisco Chronicle, July 7, 1997]

PAGE ONE—IN CENTRAL VALLEY, DEFIANT DAIRIES FOUL THE WATER

(By Elliot Diringer, Chronicle Staff Writer)

Central Valley dairies routinely defy pollution laws—fouling rivers and groundwater with waste from their cows—and state regulators say there is little they can do about it.

California is now the nation's leading dairy state, and most of the cows are in the Central Valley, creating as much natural waste as a city of 21 million. Yet the state agency that is supposed to make sure they don't pollute the water has just one man on the job.

There is no telling how many miles of creek are being ruined, or how much drinking water could be lost to contaminants spreading silently underground. Regulators themselves are the first to admit that the situation is going from bad to worse.

While dairy herds keep growing, officials at the Central Valley Regional Water Quality Control Board say that most of the valley's 1,600 dairies have never been inspected and that probably fewer than half follow the law.

''Individually and cumulatively, (dairies) pose a significant threat to surface and groundwater,'' concluded a 1995 report to the board urging a sixfold increase in regulatory staff.

''We were barely scratching the surface,'' said Larry Glandon, a dairy inspector who has since retired, leaving just one. ''We knew it. Everybody knew it.''

The unchecked pollution attests to the considerable muscle of California's leading agribusiness.

Statewide, a million-plus cows churn out $3 billion worth of milk and cream a year, nearly twice the earnings of the state's No. 2 crop, grapes. In the past six years, dairy groups have contributed more than $700,000 to state election campaigns, most of it to incumbents in the Legislature.

''Dairies have been rather untouchable,'' said Glandon, who was with the board for 16 years. ''They have a lot of political significance in Sacramento. It's kind of understood.''

Some dairies do their best to contain their wastewater—a rich brine of manure, urine and water that is supposed to be stored in a leak-resistant lagoon, then used to irrigate crops.

The idea is to recycle the wastes right on the farm. As long as there is enough cropland, and not too many cows, potentially harmfull nutrients in the wastewater can be captured by the plants. In the right quantities, the nutrients don't harm the crops, but help them grow.

But all too often, regulators say, there are too many cows or not enough crops. Then, dairies simply let their wastes overflow—onto neighbors' fields, into roadside ditches, into creeks that feed rivers already degraded by other pollutants.

Perhaps a greater worry, they say, are findings not yet released suggesting a steady but invisible poisoning of water underground.

Industry spokesmen deny that violations are widespread.

''If they're saying they don't have the staff to go out and monitor, how can they make the statement that half are not in compliance? I question the accuracy of that statement,'' said Gary Conover of Western United Dairymen, the state's biggest dairy lobby.

''Over the last 20 years, the industry has come a long way to meeting its obligations under the law,'' Conover said. ''I think all in all, the dairy has done a very good job of controlling their wastes.''

Yet some dairy owners readily concede that in the grueling seven-day-a-week business of raising and milking cows, what's coming off the back end of the dairy is often little more than an afterthought.

''There's no way with the price of milk we get that we can afford to meet these rules,'' said one. ''If they made all dairymen in California do that, I think milk prices would skyrocket.''

The real problem, insist regulators, is power and money.

In 1988, when the Legislature set annual waste fees for factories, sewage plants and other dischargers, dairies were granted an

exemption. Instead, they pay a one-time fee of no more than $2,000. As a result, there is little in the budget for regulating them.

In the years since, the volume of waste has kept growing as dairies relocate from fast urbanizing Southern California or try to boost profits with bigger herds. Last year, there were 891,000 milk cows and heifers in the valley, up 42 percent from a decade before. A cow typically produces as much waste as 24 people.

Pollution authorities have concerns about other ''confined animal facilities'' raising beef, poultry and swine, but in the Central Valley they are far outnumbered by dairies.

Bill Crooks, former executive officer of the regional water board, said the agency has appealed regularly to its parent agency, the State Water Resources Control Board, for more money to monitor dairies.

''We've continually raised the issue on a number of fronts,'' Crooks said. ''But at the same time, we could see the handwriting on the wall. We could see it wasn't very popular, so we didn't push it very hard.''

A bill before the Legislature would authorize 18 new enforcement positions statewide, and the three or four going to the Central Valley could be assigned to dairies, said Craig Wilson, assistant chief counsel at the state board. But, he said, there are many other pressing needs.

''The dairy industry prevailed upon the Legislature to give them an exemption where they pay this one-shot deal,'' Wilson said. ''I don't think it's equitable. But we're stuck with the hand we're dealt.''

Day in and day out, the man trying to play that hand is Louis Pratt. All too often, he says, it's a loser.

Since Glandon's retirement, Pratt has been the one man in the field.

He is a pollution detective, tracking dairy wastes, in some cases many miles, to their source. Sometimes, particularly when winter rains overfill lagoons, he finds huge quantities have been deliberately released. Usually, it's just a small, steady overflow from a dairy that doesn't seem to care.

Pratt's is an exasperating routine. The violation notices he writes up are frequently ignored. Even in cases where he manages to win stiff fines, some dairies go on polluting.

One dairy he has hounded for 10 years was finally hauled into court by the San Joaquin County district attorney's office—the only one in the valley that seems inclined to prosecute dairies. The owners admitted illegal releases, paid nearly $10,000 in penalties and costs, and were ordered by the court to clean up.

Last winter, their waste ponds were overflowing again. Deputy District Attorney David Irey said that this time he will insist on tougher measures. ''But this case is the tip of the iceberg,'' said Irey. ''We think there could be hundreds of violations each winter.''

Cruising two-lane roads on the valley's east side one spring day, Pratt pointed to one dairy after another, casually noting violations and reciting his history of run-ins.

At one dairy near Elk Grove, a few dozen Holstein lazed in puddles of watery waste, which seeped from the muddy corral. ''They just arrogantly let it go, flood the neighbors, and tell the neighbors to go to hell,'' said Pratt.

At the next, the waste lagoon was too small for the number of cows. To keep it from spilling, the dairy had over-applied wastewater to a field, which in turn drained to a roadside ditch. ''Eventually, it ends up in the Cosumnes River,'' he said. ''I've talked to them, and they've done nothing.''

Farther south, near Escalon, Pratt pulled to the side of the road. With a long-handled scoop, he plucked a sample of a brownish liquid from a shallow canal, part of the vast grid of drainage ditches dug all across the valley floor to carry off used irrigation water.

Pratt poured the solution into a small meter that measures electrical conductivity, a crude indication of salts and solids. The needle jumped to 520, twice what it should be.

''I can come out here just about any day of the year and find dairy wastes going into that drain,'' he said dejectedly. ''All these little creeks and drains would support fish if there was no dairy waste going into them. But there's no fish, because they can't survive.''

Pratt used to get more help from the state Department of Fish and Game, which has suffered cuts of its own. Dennis DeAnda, a patrol lieutenant in Merced, said that as a field warden, he investigated several big dairy spills that left fish floating dead. But the subtler efforts of smaller, chronic releases, he said, are harder to gauge.

''We're dealing with probably several hundred dairies on the San Joaquin River alone,'' DeAnda said. ''Those impacts certainly are going to affect fish farther downstream.''

In the long run, the bigger worry may be what is happening underground, where no one can see.

When stored in a leaky lagoon, over-applied to crops or simply piled too deep in a corral, dairy wastes stand a good chance of seeping down into the ground. Eventually, the groundwater below can load up with nitrates, a form of nitrogen that in sufficient quantities can sicken or kill an infant.

Wells used by public water systems are periodically checked, and from 1984 to 1996, the number in the Central Valley with nitrates above the drinking water standard jumped fourfold. Private wells serving individual homes tend to be shallower—and more vulnerable to contamination—but there is no requirement they be routinely tested.

There are other obvious sources of nitrates—leaking septic systems and overuse of chemical fertilizers. Without sophisticated testing, it is usually impossible to trace contamination to any single source.

''Is it dairy X or is it dairy Y? Or is it the farmer who's using ammonia fertilizer between the two?'' said Cindy Forbes, Central Valley drinking water chief for the state Department of Health Services. ''That's the problem. There's no smoking gun.''

There is evidence suggesting that collectively, dairies pose a long-term threat to Central Valley groundwater—but the regional board has yet to release it.

In 1993, the agency dug 44 shallow monitoring wells at five dairies thought to be doing a reasonable job controlling their wastes. Groundwater samples taken over the next two years showed average nitrate levels five times the drinking water limit.

''The five dairies . . . share site characteristics and follow management practices common to hundreds of Central Valley dairies,'' notes a draft of the study, still under review three years later.

The ''standard approach,'' the report says, would be to stop the pollution and order cleanups. ''Despite the fact that significant pollution is apparently occurring, the standard response is not feasible . . . Current staffing levels are not adequate.''

No one can predict when the contaminants might reach the deeper aquifers that supply much of the valley with its tap water.

But with farmers perennially crying for more water, and some underground supplies already lost to pesticides, any drinkable reserves are certain to become more precious if the Central Valley keeps growing as projected.

''I expect there are plumes of high-salt, high-nitrate water under dozens, if not hundreds, of these sites . . . The nitrate is eventually going to get into the deeper stuff. It is just a matter of time,'' said Rudy Schnagl, who oversaw dairy regulation for 10 years as chief of the regional board's agricultural unit.

''What concerns me is there are a lot of rural residences that still have old wells that don't go down so deep.'' Schnagl said, ''I suspect a lot of those people are drinking water exceeding the nitrate standard.''

Some experts say the Central Valley need only look south, to the Chino basin east of Los Angeles, to see what it ultimately risks. With the highest concentration of dairies in the world, the Chino basin years ago was forced to write off vast quantities of tainted groundwater. But with subdivisions now displacing the dairies, water is in high demand. There is talk of building exorbitant desalination plants so cities can tap the dirty underground cache.

''It's so heavily loaded now with nitrates from dairy cows, it's just useless,'' said Bill Fairbank, an agricultural waste engineer who spent 30 years at the University of California. ''The Central Valley's headed in that direction, too, if they don't get their act together.''

DAYCARE FAIRNESS FOR STAY-AT-HOME PARENTS

SPEECH OF

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 1998

Ms. PELOSI. Mr. Speaker, the legislation before us rightly acknowledges the importance of parents who are fortunate enough to stay at home with their children. But this is only part of the story. Had this resolution actually gone through committee, we would also have addressed the importance of working parents who do not have the choice to stay at home.

All parents must be supported in their child care choices. While we all want to support parents who want to stay at home, we must acknowledge that many parents must work to keep their families out of poverty. More parents work than have ever before, and more families rely on the mother's income to make ends meet. Many mothers are essential in helping support their families financially. A national study found that 55% of employed women provide half or more of their household income.

In California, the average earning of a two-parent family with both parents working full time at the minimum wage is about $21,000. This is hardly enough to put food on the table, let alone afford quality child care.

Child care is a universal need. No parent must be discriminated against in our efforts to provide safe, quality child care for families who need it most. But we must work together to achieve this, not pit families with different needs against each other. I urge all my colleagues to work together on crafting a comprehensive child care proposal that addresses the needs of all families for safe, quality, affordable care for our most precious hope for the future—our children.