

Inside Washington Publishers

TUESDAY, MARCH 7, 2006

Republican Lawmaker's Retirement Means Uncertain Future For RRPI

Rep. Joel Hefley's (R-CO) decision not to seek reelection in 2006 signals an uncertain future for environmental exemptions legislation long sought by the Defense Department, according to several sources who have closely followed the legislation.

During his 20-year tenure, Hefley, who currently serves as chairman of the House Armed Services readiness subcommittee, has won praise from environmentalists for blocking controversial legislative exemptions sought by DOD as part of its Readiness and Range Preservation Initiative (RRPI) effort to change pollution control laws.

However, many environmentalists who praised Hefley for blocking DOD-sought amendments to environmental laws are unsure what positions Rep. John Hostettler (R-IN), who is next in line to succeed Hefley, will take on the exemptions, with some expressing concern that damage has already been done.

"It doesn't matter who's in [Hefley's] position," says a source with the Natural Resources Defense Council, a national environmental group. "DOD [already] got a lot of what it asked for. I don't know if Hefley retiring changes the political dynamic that much. It doesn't make a difference to us if he's there

or not."

While Hostettler is next in line to lead the readiness subcommittee should Republicans retain House control after the 2006 election, it was unclear whether Hostettler would take the slot over his role as chairman of the House Judiciary immigration subcommittee. Party rules prevent GOP lawmakers from chairing two subcommittees simultaneously, according to a Hostettler spokesperson. "It's a developing story, not cut and dry," says the source. "We don't know what the deal is at this point."

Overall, Hefley has had mixed views about DOD's RRPI package. He supported RRPI amendments to natural resource laws, calling changes to the Endangered Species Act (ESA) and Marine Mammal Protection Act "a rifle shot dealing with the problems that the Department of Defense has." He also oversaw hearings on the Migratory Bird Treaty Act and supported DOD's recommended changes to relax that law's requirements as they apply to military readiness activities, according to a spokesperson for his office.

But he opposed changes DOD sought to pollution control laws, such as the Resource Conservation and Recovery Act (RCRA), the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and the Clean Air Act (CAA).

Hefley's success in blocking changes to pollution control laws will still have

a long-term impact, several sources say, because it will be difficult for DOD to win changes in the future. "I think if they haven't passed it in the run-up to the Iraq invasion, the terrain won't get more favorable," says a source with Public Employees for Environmental Responsibility (PEER), a national environmental group opposed to RRPI.

A state assistant attorney general familiar with RRPI agrees that the future prospects for the package look dim. There is "always a risk out there" of DOD pushing again for changes, "especially with a Republican government. But they tried RCRA and CERCLA four years in a row and didn't get anywhere."

And an independent expert on DOD environmental issues says Hefley had "a tempered outlook," calling his chairmanship "one of the reasons changes to RCRA and CERCLA didn't go through" in previous attempts. "He may not always have been where the environmental community wanted, but when it came to stuff with a human health impact he was pretty strong in his stance," the source says.

Current evidence suggests these sources may be right. DOD in recent months has signaled it may abandon for now its long push to win exemptions from provisions of RCRA and CERCLA, but has been weighing whether to continue seeking a measure

that would temporarily relax CAA requirements for military readiness activities (Defense Environment Alert, Nov. 15, 2005, p3).

Philip Grone, DOD deputy under secretary for installations and environment, told Defense Environment Alert March 2 that DOD had not yet submitted any readiness-related regulatory changes for inclusion in fiscal year 2007 defense authorization legislation and that he would not comment on policy issues before Congress has reviewed DOD's proposals.

For years, Pentagon officials have argued the federal waste law amendments would help the military manage its ranges by excluding munitions and their constituents on operational ranges from the definition of "solid waste" under RCRA and from the definition of "release" under CERCLA. But opponents, including officials from Hefley's home state, countered DOD wanted to win the right to pollute without oversight from state or federal authorities.

While the natural resource amendments passed Congress, DOD has been unsuccessful in moving the RCRA, CERCLA and CAA provisions. Some activists say Hefley's opposition played a key role in blocking changes to the pollution control laws, and could spell trouble for DOD should the military push for the measure in the future.

Hefley "was a voice of moderation and reason," says the PEER source.

Although Hefley was sympathetic to some DOD arguments that laws were encroaching on training, the source credits the congressman primarily with preventing any changes that would affect human health, saying that he only supported those "narrowly justified" DOD arguments on which there was a solid subcommittee record established through extensive hearings.

The source says PEER "has been able to work with Hefley on issues

like perchlorate contamination, which cross party lines," saying Hefley "was thoughtful and had integrity."

Although some environmentalists praise Hefley for blocking RRPI changes to pollution control laws, other environmentalists say Hefley is no environmental advocate, pointing to his support of amendments relaxing natural resource law requirements on the military.

A source with the Center for Biological Diversity, which opposes RRPI, says Hefley is "not an ally from an environmental perspective. I think the GOP can do better than Hefley if they want." The source says the group hopes the next chair is "someone moderate who understands the natural resources DOD has," charging Hefley with not doing enough to block provisions such as changes to the application of ESA on military ranges.