

EPA cooked mercury rule, agency inspector reports

Staff ordered to work backward from goal to justify the proposal

Shankar Vedantam, Washington Post

in the S.F. Chronicle, Friday, February 4, 2005

Washington -- The Environmental Protection Agency ignored scientific evidence and agency protocols to set limits on mercury pollution that would line up with the Bush administration's free-market approaches to power plant pollution, a report released Thursday by the agency's inspector general showed.

EPA staff members were instructed by administrators to set modest limits on mercury pollution and then had to work backward from the goal to justify the proposal, Inspector General Nikki Tinsley's report said.

Mercury is a toxic metal released as a byproduct by coal-burning power plants and other industries, and it is known to have a range of harmful health effects, especially on young children and pregnant women. The proposal in contention was issued by the agency in December 2003 to clamp down on pollution by mercury, which also occurs naturally in the environment. Tinsley called for an unbiased overhaul of the plan, even if it meant delaying the rule beyond next month, when it was to be made final.

EPA officials said Tinsley did not understand the science and limitations of mercury control, disputing her charges that the proposal was politically biased or scientifically unsound.

Although industry scientists said Tinsley had exceeded both her mandate and her expertise, two staff members at the agency involved in the rule-making said the report accurately described the pressures placed on staff by political appointees.

"I don't think anyone has ever seen as much political influence in the development of a rule as we saw in this rule," said one EPA staff member, who attended meetings between administrators and staff. "Everything about this rule was decided at a political level."

The staff members, both of whom asked for anonymity, said that instead of considering a range of possibilities, staff members were told they had only one.

"Maybe we would have come to the same conclusion (anyway), but we didn't necessarily look at the other options," the second staff member said. "We were driven by one option."

The agency's plan made clear that the EPA preferred to regulate mercury in a manner similar to the proposals in President Bush's "Clear Skies" legislative initiative, which has been bogged down in Congress. This cap-and-trade approach calls for a system whereby polluters must meet collective pollution control targets but can trade credits so that not all plants must meet the same standard. The proposal intends to set overall reductions in mercury of about 29 percent by 2010 and a total reduction of 70 percent by 2018.

Industry welcomed the proposal, which involved lower costs and less burdensome regulations.

The only alternative to the plan was the more conventional approach to pollutants -- a cap on the pollution emitted at every plant. This proposal called on power plants to reduce mercury emissions from about 48 tons a year to 34 tons by 2008, a 25 percent reduction.

The inspector general's report criticized both ideas. It said the free-market approach did not fully account for "hot spots" -- regions that could end up with more pollutants under the cap-and-trade system -- and several specific health concerns, including the effect on American Indian tribes.

The 25 percent reduction target in the other option was smaller than it should have been, the report said, and was obtained only after scientists were given the number and told to find ways to justify it. The report said EPA staff members had discussed various scenarios to justify the "predetermined target."

"They didn't want to outperform their Clear Skies legislation," said John Walke, clean air director for the Natural Resources Defense Council, an environmental advocacy group.

He argued that the flat reduction approach was deliberately designed to look worse than the cap-and-trade solution. If the flat reduction seemed "better than Clear Skies, the public would see it was being shortchanged by a decade."

In a rebuttal at the end of the report, the EPA's assistant administrator for air and radiation, Jeffrey Holmstead, disagreed sharply with Tinsley's conclusions and described her report as inaccurate and flawed.

"The report characterizes the process as incomplete before it is even finished," EPA spokeswoman Cynthia Bergman said.

Bergman did not dispute that administrators had settled early on the 34-ton mercury limit, but she said the target had been chosen after considerable work had been done by the agency in developing the Clear Skies initiative.

"It's not biased," Bergman said. "It factors in the status of mercury control technologies, what works for specific coal types, and we don't want to trigger massive fuel switching. The Clean Air Act allows us to consider those things."

Scott Segal, a spokesman at the Electric Reliability Coordinating Council, said more ambitious targets would have prompted power plants to switch from coal to natural gas, "which is pretty hard on the elderly and those living on fixed incomes."

Environmentalists, EPA officials and industry scientists agreed that in the short run, the best way for Americans to protect their health would be to follow safety guidelines issued last year that call for reduced consumption of fish known to have high mercury levels. Women of childbearing age in particular should avoid shark, swordfish, king mackerel and tilefish, as well as larger tuna species such as albacore.

Scientists flay air regulators Report says not enough being done in Valley

The Associated Press
Visalia Times-Delta, Friday, Feb. 4, 2005

FRESNO - San Joaquin Valley air regulators are not doing enough to curb pollution in the region, which has seen more violations of the daylong smog standard than any place in the country over the past six years, according to a report released Thursday.

The report by the Union of Concerned Scientists calls for restructuring the local air pollution board so local districts can coordinate land use, transportation and planning through a regional authority.

The public interest group is critical of federal, state and local air regulators in the "Clearing the Air in the San Joaquin Valley" report, claiming agencies simply aren't doing enough to solve the problem.

The report notes that air pollution will only get worse as development continues in the Valley.

"Over the past several years, local, state and federal regulators have missed deadlines, prepared inadequate compliance plans and failed to act on plans to bring the region into compliance," according to the report. "This is a crucial moment in the region's development."

Federal, state and local officials are currently working on expanded cleanup efforts, in part because of environmental lawsuit settlements.

The Union of Concerned Scientists, working with the Steven and Michele Kirsch Foundation, a San Jose-based philanthropic advocacy group, urged local agencies to impose stringent rules and fees on development.

The report also recommends state regulators institute stricter rules on diesel pollution and automobiles.

Study suggests San Joaquin air getting worse

Region well on its way to being nation's worst

By Simon Read, staff writer

TriValley Herald, Saturday, Feb. 5, 2005

TRACY — Bob Sarvey said he worries about the long-term impact the San Joaquin Valley's air will have on his three children — all of whom are asthmatic.

"They're my little canaries. If they have trouble breathing, I jump on the Internet and check the day's air quality," said Sarvey, a Tracy resident and owner of a local shoe shop. "Invariably, the air quality comes up bad."

There have been days when his children — ages 11 to 14 — haven't been able to go outside, Sarvey said.

"The air quality has been so bad at times, the kids have had to get their ventilators out," he said. "Sometimes, there's a trip made to the hospital."

A report released Thursday will do nothing to ease Sarvey's concerns.

Not enough is being done to combat air pollution in the San Joaquin Valley — a region well on its way to having the poorest air quality in the nation, according to the report issued by the Union of Concerned Scientists.

"The San Joaquin Valley now officially shares the distinction of having the worst air quality in the nation (along) with the Los Angeles region," the report said. "Poor air quality is affecting the region's residents, public health, and the economy."

California's highest rates of asthma, childhood poverty and lack of insurance are centered in the eight-county San Joaquin Valley, according to the report. The region's economy is taking a hit as air pollution damages crops and reduces agricultural-based profits.

The report — titled "Cleaning the Air in the San Joaquin Valley" — indicates that past efforts undertaken by the Valley's air regulators are being overwhelmed by the highest population growth in the state.

By 2050, the San Joaquin Valleys population will have doubled, the report predicted. In the meantime, officials are not doing enough to combat the booms dire effects.

Over the past several years, local, state and federal regulators have missed deadlines, prepared inadequate compliance plans, and failed to act on plans to bring the region into compliance with air quality standards, the report said.

Decisions must be made at all levels of government and by residents of the valley to balance the necessity of clean air with the regions current climate and future growth.

The Union of Concerned Scientists — along with the Steven and Michele Kirsch Foundation, a San Jose-based advocacy group — suggest the state Legislature create seats on the San Joaquin Valley Air Pollution District for public representation.

Other recommendations include stricter regulations further limiting passenger vehicle emissions.

Meanwhile, Sarvey — who made a name for himself fighting the development of three new power plants in the Tracy area — said he should have moved his family out of the Valley 10 years ago.

The problem just keeps getting worse, said Sarvey, who sat in 2000 on the advisory board for the San Joaquin Air Pollution Control District. But I stuck around because Im stubborn and thought I could do something about it.

Sarvey said his 14-year-old daughter has told him she cant wait to leave the Valley.

She says she wants to go to college where the air is clean, he said. I dont think any of my kids are going to stay in the area.

Sarvey said a major concern of his is that the governing board of the air control district is too heavily influenced by area industry, ignoring recommendations made by district staff. Its an allegation that governing-board member and San Joaquin County Supervisor Jack Sieglock disputes.

The charges are flatly false, Sieglock said. Were trying to balance the needs of industry and people with jobs. I dont think shutting businesses down and causing massive poverty is a solution for the people.

Sieglock said improving the Valleys air quality has much to do with reducing the pollution coming from cars and trucks over which we have no jurisdiction.

State and federal governments are going to have to implement stricter rules for vehicle use, Sieglock said.

Were being asked to fix 100 percent of a problem over which we have 40 percent control, he said. Thats not an enviable position.

And contrary to what is reported in Thursdays study, Sieglock said air quality throughout the region is improving.

There is evidence of that in Bakersfield, where weve seen changes in the oil industry, Sieglock said. There has been a lot of regulation of industry, and weve reduced pollutants by several tons a day.

Over the past several years, the oil, gas and agriculture industries have been slapped with new regulations, said Sieglock, adding he has no qualms with any decision the districts governing board has made.

There are certainly a lot of days when pollution still exists, he said. But its a problem well continue to pursue and work on.

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Report on deadly Valley air calls for more controls

By Dana Nichols
Stockton Record, Friday, Feb. 4, 2005

San Joaquin Valley air pollution cops aren't doing enough to curb pollution even though nine times more Valley residents die from dirty air than from homicides, according to a report released Thursday by the Union of Concerned Scientists.

The report calls for an overhaul of the local air pollution board to give it authority over transportation, land use and planning. It also calls for the state Legislature to expand the board's powers to address "all sources of air pollution."

The San Joaquin Valley Air Pollution Control District, like all regional air districts, has no power over vehicle emissions that cause most of the Valley's air pollution.

"It's true that the majority of pollution comes from automobile and truck traffic," said San Joaquin County Supervisor Jack Sieglock, a member of the Valley air board.

"And it is true that there is a tremendous amount of frustration on our part for wanting to reduce pollution in those areas," he said.

But Sieglock balked at the idea that the board's power over land use planning should be expanded to prevent developments that would contribute to air pollution.

"Am I going to tell somebody in the southern part of the district that they can't build this kind of business?" Sieglock asked. "Nobody elected this board to make those kind of decisions."

The report harshly criticized the air board as well as state and federal air regulators for what it calls "a pattern of neglect and inaction."

The Valley has never met federal clean-air standards and has fallen years behind in crafting plans to control tiny air particles that can damage human lungs.

Meanwhile, Stockton on Thursday registered one of its worst air pollution days of the year, with an Air Quality Index of 126. At that level, the air district issues an orange alert, warning that young children, the elderly and those with lung ailments should not exercise outside.

The district forecasts an AQI of 116 for today, still in the orange alert range. The main culprits are so-called PM 2.5 particles, those measuring 2.5 microns or smaller, or one-fortieth the thickness of a human hair. They can lodge deeply in human lungs and have been linked to premature deaths and cancer.

Dr. David Pepper is a physician in the University of California, San Francisco, community medicine facility in Fresno. He was among those who spoke at Thursday's news conference in Fresno, where the report was released.

"There are things that can be done: investing in mass transportation; de-emphasizing the car; banning fireplaces," Pepper said.

The Union of Concerned Scientists collaborated with the Steven and Michele Kirsch Foundation to produce the report. Among its findings was that an estimated 2,200 people in the San Joaquin Valley's eight counties died of air pollution-related causes over two years, while only 241 were murdered.

Pepper said his research shows that hospital admissions for lung disorders in the Valley spike on the same winter days that the air is most polluted with soot and dust particles.

Pepper wants to see clean-air rules based on what the pollution does to people rather than on other measures such as the how much pollution reduces visibility.

Although air districts do not now have the power to regulate vehicles directly, the report urged creation of a fee for so-called indirect pollution sources. Such a fee is a way to have developers pay to compensate for the increased traffic and pollution developments bring.

"We are working on an indirect-source rule right now," said Anthony Presto, a spokesman for the air district. It will take several years, however, before any such rule could go into effect, he said.

Gross polluters in lawmaker's sights Clean up or junk problem cars, says Valley assemblyman

By Hank Shaw
Stockton Record, Monday, February 7, 2005

SACRAMENTO -- The San Joaquin Valley has some of the foulest air in America, and smog-belching cars and trucks are a big reason for it. Assemblyman Dave Cogdill wants to do something about the problem with legislation that would give vehicle owners an incentive to take the worse offenders off the road.

Cogdill, a Modesto Republican whose district includes Calaveras County, says the drumbeat of clean-air tests the Valley fails on an almost monthly basis sparked him into action.

Experts say pollution in the San Joaquin Valley contributes to more than 1,000 deaths every year. Yet, stringent clean-air standards that new businesses must meet before opening has stunted economic growth in one of California's poorest regions.

"We have a lot of things to attract business here, but we run into this wall with the air-quality issue," Cogdill said.

While the legislator is still developing a specific program or law, Cogdill's goal is to provide an incentive for owners to permanently clean up or junk their "gross-polluting vehicles," defined as those that emit at least twice as much pollution allowed under the law.

The dirtiest 5 percent of California's cars and trucks account for about 85 percent of vehicular pollution, Cogdill said. According to the state Bureau of Automotive Repair, a car built in 1985 emits 30 times more pollutants than one built in 2000.

"When I found that out, it was eye-opening," Cogdill said. "To me, it's kind of a bang-for-the-buck situation. Can we solve the whole problem? Probably not, but we can make a dent."

Vehicle buy-back programs aren't new.

The state already gives low-income car owners up to \$500 to repair or junk clunkers that fail to pass a smog check. Called CAP, the program helped clean up 60,636 vehicles from 2000 to 2003 -- including 26,118 gross-polluting vehicles -- at a cost of \$21 million.

The state Air Resources Board also runs a similar project funded by the Carl Moyer Program -- a foundation dedicated to cleaning America's air -- and money from the fee drivers pay to scrap old tires.

Cogdill's idea would be to focus on the Valley, confine the program to gross-polluting vehicles and not raise taxes or fees to fund it.

Grants would be the best way to go, he said, but where to find the money? One option would be to offer a tax write-off or a credit. But that doesn't help low-income car owners who are unlikely to need a write-off and can't afford to replace their vehicles without financial help.

Kevin Hall of the Sierra Club's Fresno branch said the Valley might, in fact, have a higher proportion of dirty vehicles than the rest of California.

"The Valley is a used-car haven," he said. "Our economy is so depressed that people are buying whatever they can afford because they have to drive."

Hall said another funding possibility would be to assess a pollution fee on new housing development in the Valley, which is one of the major sources of air pollution not already paying such a fee. That money could then go into grants to retire gross-polluting vehicles, he said.

Hall admits that the powerful real estate and construction industries would not welcome any new fees.

"I know they're not going to like it," he said. "No one has voluntarily stepped up and said, 'Yeah, we'll do it.' "

Cogdill readily admits his proposal is a work in progress and might take time to flesh out.

"It's going to take some work, because the devil will be in the details," he said.

The bill, AB 184, can be accessed on the Internet at www.leginfo.ca.gov/bilinfo.html

Idling big rigs, buses are targeted

State looks to cut down on pollution by enforcing rule that drivers call unfair

by Melanie Turner

Modesto Bee, Monday, Feb. 7, 2005

Standing in the fog outside the Flying J truck stop in Ripon, Sherry Uresti of Arkansas chose an adjective for a California rule that aims to keep trucks and buses from idling too long.

"Stupid," she said.

Uresti and her husband, Randy, are on the road for three weeks at a time in their 18-wheeler, traveling with three dogs: two Chihuahuas and a Corgi.

"This is my home away from home," she said. When she and Randy are eating breakfast on cold mornings, the dogs are comfortable in the warm truck. The engine must run to keep the heater going.

"State troopers leave their cars idling. The trains idle," she said. "I think we're really discriminated against."

"We don't have anybody lobbying for us," said Randy Uresti, holding a Styrofoam container of leftovers from breakfast. "We're not the biggest polluters in the world."

The California Air Resources Board decided last week to enforce the state's idling rule. The new regulation applies to about 409,000 publicly and privately owned diesel vehicles over 10,000 pounds.

Officials say parked trucks and buses with running engines put out needless pollution that threatens public health.

Under the rule, dogs or no dogs, any truck idling for more than five minutes and any bus idling for more than 10 minutes - when either is not engaged in work activity - can bring citations.

For example, a garbage truck can be left idling when the truck's hydraulic lift is in operation. A trucker could not leave his or her rig running when filling out paperwork.

Tickets start at \$100, and there's no maximum, said Jerry Martin, a spokesman for the Air Resources Board.

Most often, Air Resources Board diesel truck inspectors will enforce the rule by responding to complaints. However, the California Highway Patrol and other law enforcement agencies also can issue citations.

As of late Friday, the state had not issued any tickets. As with most new rules, inspectors are working to educate drivers first.

Under a similar rule, enacted in 2003, the state requires engine shutdown on buses and other heavy-duty vehicles within 100 feet of schools.

The idling restrictions are part of a series of rules designed to cut diesel emissions by 75 percent by 2010.

According to state data, the average heavy-duty diesel engine burns about 1 gallon of fuel per hour while idling.

Air quality officials said they're not sure how much pollution comes from idling engines, particularly since they don't monitor every truck stop and restaurant in the state.

"There's been speculation that idling trucks may be roughly 5 to 10 percent of total pollution from diesel trucks," Martin said, adding that the figure is based on anecdotal information.

'Communist state'

Plenty of truckers, meanwhile, say the rule is an unnecessary burden.

"I think California is basically going to make it so people will not want to run here," said Rob Westgeest, a truck driver from Canada. "It's called the communist state. It's getting to the point where you can't do anything without the government saying yes or no."

Westgeest said he invested \$5,000 in a small, diesel-powered heater so he wouldn't have to keep his engine running to heat his truck cab. He said he worries that his diesel heater will be banned, too.

Spokeswoman Gennet Paauwe said the air board has no plan to ban the small heaters.

"They're usually more efficient than a huge truck engine trying to heat or cool a cab," she said.

California is not breaking any new ground with the idling rule. Twenty other states already have such rules, Martin said.

Trucker Thomas Warren of Oklahoma said that in the northeastern states, particularly when the temperature is below freezing, "they don't enforce it."

Warren characterized the law as, well ...

"I think it's stupid," Warren said. "It ain't going to work, if you know what I mean. California's got the highest dag gum fines in the country."

Exceptions to the rule

Supporters of the rule say it makes reasonable exceptions. For hydraulics, for example. And refrigerator trucks, which can be left idling so their cargo won't melt.

Idling to warm a vehicle in the morning also is allowed. And idling during federally mandated rest periods is OK, too, said Paauwe.

But just because you use a truck for work all day doesn't mean you can leave it running.

"Many diesel truck drivers just don't turn their trucks off from the time they leave in the morning to the time they come home in the evening," Martin said.

That might have been excusable in an earlier era, Martin said, but modern engines don't have startup problems when they're cold, and modern fuels no longer tend to gel in cold weather.

"It's a matter of educating the public," he said.

To file a complaint about an idling truck or bus, call 800-363-7664, the CHP or any other law enforcement agency.

Counties go solar to save

Not Stanislaus, because low cost provides no incentive, experts say

by Hoel Hood

Modesto Bee, Monday, Feb. 7, 2005

Two years after California's electricity crisis rekindled interest in renewable energy sources, counties around the state are shifting to solar power to cut costs and strike a blow for conservation.

Stanislaus County is not one of them, despite near ideal weather conditions and acres of available land.

The reason, officials say, is that the county's energy bill already is lower than those in neighboring counties, thanks to the Modesto and Turlock irrigation districts.

Without the incentive to lower costs, solar power has been a tough sell to the county Board of Supervisors, experts say. And it will continue to be, as long as it's cheaper to get energy through traditional fossil fuels than invest in new technology.

"The county is in such a precarious position, the cost-benefit will have to be the driving factor," county Chief Executive Officer Rick Robinson said. "We certainly want to be good stewards of the environment, but the determining factor is whether we can support it financially."

Meanwhile, other counties are harnessing solar energy to power buildings and finding creative ways to pay for such projects.

About 150 miles to the north, in Butte County, the county's administration building and two jails in Oroville are powered primarily by solar energy. The 1.18-megawatt system is one of the most powerful solar energy projects in the country and was built with virtually no cost to the county.

Contra Costa County's administration building and neighboring detention center in Martinez are powered by a 312-kilowatt, on-site solar system. The savings on electrical costs help pay for the equipment.

In Fresno, where officials have made reducing air pollution a priority, the city recently installed a solar panel system to power the Municipal Service Center. A 15-year loan from the California Energy Commission paid for the project.

It would take that kind of financial assistance from either the state or federal government to foster serious talks about solar power in Stanislaus County, Board of Supervisors Chairman Jeff Grover said.

Stanislaus County's energy bill in 2003-04 was nearly \$4 million, compared with San Joaquin County's \$7.4 million. Officials attributed the difference to San Joaquin County's higher population, but also higher rates charged by that county's primary power source, Pacific Gas & Electric Co.

On average, PG&E charges about 3 cents more per kilowatt hour than MID or TID, according to statistics released in November.

County's past efforts

Stanislaus County's past efforts to develop alternative energy have focused on altering county vehicles to run on cleaner-burning, compressed natural gas, and converting methane gas - trapped at landfills - into power.

In 1992, county officials tested a methanol-burning car and announced plans to convert its fleet into alternative-powered vehicles. Thirteen years later, less than 10 percent of the county's nearly 600 vehicles are capable of being powered by methanol gas, former county Supervisor Paul Caruso said.

Solar power was an idea that never got off the ground, he said.

"We've been blessed with reasonable power rates over the years, but that shouldn't keep us from coming to the table with other ideas," Caruso said.

Some say that conversation is long overdue.

"The conditions here are ideal," said J.P. Bastmale, renewable energy program manager for the Modesto-based Great Valley Center. "Better than Butte County."

Todd Lindstrom, finance director for San Rafael-based Sun Power, which helped get Butte County's solar power system off the ground, called the Central Valley "about as good as it gets" in regard to tapping into solar power.

The Sacramento Municipal Utility District has incorporated solar power to cut costs, and talks are under way to bring similar systems to San Joaquin County, Lindstrom said. Now there is growing interest to get Stanislaus County and Modesto on board, he said.

But he acknowledged that the price has to be right.

"It has to make economic sense to do it; it has to be a safe investment," Lindstrom said. "If you have that, then it takes significant leadership to see it through."

Butte County's effort began in earnest in 1996 after county supervisors commissioned a study of how to reduce energy costs. The process of converting some of the county's buildings to solar power accelerated in 2002 when Paul McIntosh became the county's chief administrative officer.

McIntosh, a longtime champion of alternative energy, helped the county negotiate a deal at a time when the federal and state governments offered financial incentives to entice local governments to convert to solar power.

Butte County's solar power grid consists of 6,000 photovoltaic panels on four acres outside downtown Oroville, the county seat. The unit produces enough electricity to power three buildings at an annual savings of about \$320,000, Lindstrom said.

The solar power system was built in 2002 and 2003 at a cost of \$8.4 million. Half the cost was covered by a grant from the California Public Utilities Commission. The remainder was paid by a \$4.1 million loan through the California Energy Commission and a \$100,000 loan from the county's investment pool.

The savings on energy costs cover the loan payments, McIntosh said. In 12 years, the system will be paid off, he said.

Power day and night

Most government agencies with solar systems feed the electricity into the state's power grid; this provides constant power at night and on overcast days.

The Butte County system produces more power than the county needs during peak hours, enough to energize 353 homes, so the surplus is sent to the state's grid. When that occurs, the county's energy meters run backward and the county gets a credit.

Stanislaus County's solar efforts to date are on a much smaller scale. The county recently purchased solar panels to operate four flashing traffic signals. The cost is about half the cost of traditional electricity, Public Works Director George Stillman said.

County officials remain skeptical that solar power can work here on a larger scale.

"I think solar (energy) has not yet reached the payback that people want," Stillman said. "But it's getting closer. The technology is there; it's just about getting the costs down."

Lindstrom offered a different view.

"If it's done right, (solar energy) can be structured to significantly reduce your energy bill or completely eliminate it," he said. "I would think there would be interest in that."

Burn advisory

Modesto Bee, Sunday, Feb. 6, 2005

A no-burn advisory continues today in San Joaquin and Stanislaus counties. The advisory, based on forecasts for unhealthy air, asks people to refrain from using fireplaces and older wood stoves. The advisory comes from the San Joaquin Valley Air Pollution Control District, which has a two-step policy. Today's advisory is the first step: a request. The next is a prohibition.

Burn advisory

Modesto Bee, Saturday, Feb. 5, 2005

A no-burn advisory continues today in San Joaquin, Stanislaus, Merced, Madera and Kern counties. The advisory, based on forecasts for unhealthy air, asks people to refrain from using fireplaces and older wood stoves. The "wood burning discouraged" advisory comes from the San Joaquin Valley Air Pollution Control District, which has a two-step policy on burning. Today's advisory is the first step: a voluntary request. The next step is a mandatory prohibition.

Burn advisory

Modesto Bee, Friday, Feb. 4, 2005

Unhealthy air is in the forecast today from San Joaquin County to Kings County, with the air over Stanislaus County expected to be the worst: 130 on the Air Quality Index. To help alleviate the problem, people in Stanislaus and the other counties are being asked to refrain from using fireplaces and older wood stoves. The "wood burning discouraged" advisory comes from the San Joaquin Valley Air Pollution Control District, which has a two-step policy on burning. Today's advisory is the first step: a voluntary request. The next step is a mandatory prohibition.

Firms OK pollution fines

By Jon Ortiz

Sacramento Bee, Friday, Feb. 4, 2005

Three California businesses agreed to pay a total of \$112,000 in a settlement with the state Air Resources Board for violating clear air regulations.

Home improvement retailer Lowe's Cos. Inc. will pay \$41,600 for selling string trimmers, leaf blowers and chain saws equipped with non-California certified engines in its retail stores in California. The company issued a recall of the non-compliant products and promised to avoid selling uncertified items in the future.

Sam's West Inc., a unit of Wal-Mart Stores Inc., paid a \$55,500 fine for selling go-carts with uncertified engines in 2003 at its California Sam's Club discount stores. The company has recalled 32 units sold to customers and another 158 stocked in stores throughout the state.

Pleasanton-based construction materials manufacturer RMC Pacific Materials told state officials that it had violated the terms of a previous settlement with the Air Resources Board by not inspecting some diesel trucks in its statewide fleet during 2003-04. The company paid \$15,000 in penalties.

The money will go to a state fund to mitigate pollution through education and the use of cleaner technology.

Restaurants to warn diners about mercury Lawsuits say public must be informed of risk of some fish

Bob Egelko, Chronicle Staff Writer

S.F. Chronicle, Saturday, February 5, 2005

Major restaurant chains in California have agreed to warn their customers about the dangers of mercury in fish as part of a settlement of lawsuits by the state, Attorney General Bill Lockyer said Friday.

The warning will advise pregnant and nursing women, women who may become pregnant and young children not to eat swordfish, shark, king mackerel or tilefish, and to limit their consumption of tuna and other fish.

"We're not trying to discourage people from eating fish, which is an important source of protein and an important part of a balanced, healthy diet," Lockyer said in a statement announcing the settlement. "But people have a right to know when they are being exposed to substances that cause cancer, birth defects or reproductive harm, and businesses have a legal duty to provide that notice."

Lockyer filed the suits in April 2003, accusing the restaurants of violating Proposition 65, a California law that requires warnings about public exposure to chemicals at levels that may cause cancer or birth defects.

Another suit in 2003 resulted in an agreement by major supermarkets to post warnings at fish counters. It was the first time that warnings had been applied to food products since voters approved Prop. 65 in 1986.

In June, Lockyer filed a suit seeking similar warnings on cans of albacore and chunk light tuna, drawing an indignant response from canners, who said their products were safe.

Mercury can damage the nervous system, affecting intelligence, memory and behavior. Pregnant women, nursing mothers and children are particularly vulnerable. Compounds of methyl mercury, an organic form of the metal, are listed by the state as cancer-causing substances.

Mercury enters water or air as waste from mines, power plants and solid-waste incinerators and works its way up the food chain. The highest concentrations are found in large predatory ocean fish, including ahi tuna, albacore tuna, swordfish and shark.

Besides posting warning signs in a prominent area of each restaurant, the companies agreed to share a payment of \$132,000 to finance programs to educate consumers about mercury and fish, and an equal amount in civil penalties.

The companies are Benihana, Bennigans, Brinker International, Cheesecake Factory, Claim Jumper Restaurants, Darden Restaurants, Kimpton Hotel & Restaurant Group, Landry's Restaurants, McCormick & Schmick Management Group, Morton's Restaurant Group, Outback Steakhouse, P.F. Chang's China Bistro, Ruth's Chris Steakhouse, TS Restaurants and Yard House Restaurants.

Trade Group Joins Car Suit

From Bloomberg News

L.A. Times, Saturday, Feb. 5, 2005

A group representing Honda Motor Co. and Nissan Motor Co. joined a lawsuit meant to halt California's plan to curb car and truck emissions of gases linked to global warming, uniting every major automaker in opposition to the program.

The Assn. of International Automakers, which lobbies on behalf of Honda, Nissan, Hyundai Motor Co., Kia Motors Corp. and Mitsubishi Motors Corp., said Thursday that it was joining a suit filed

Dec. 7 by 13 automobile dealers and the Alliance of Automobile Manufacturers, which represents General Motors Corp., Ford Motor Co., Toyota Motor Corp., DaimlerChrysler and Volkswagen.

Timothy MacCarthy, chief executive of the international automakers' group, based in Arlington, Va., said the state has overstepped its authority by trying to regulate fuel economy.

"We believe this is a fuel-economy program, and that can only be regulated at the federal level," MacCarthy said.

California, which buys more than 10% of all new cars and trucks sold in the U.S., is the first state to pass rules that limit emissions of heat-trapping gases tied to global warming, including carbon dioxide and methane. The program, adopted last year, requires manufacturers to sell vehicles in the state that cut greenhouse gas emissions by at least 22% in the 2009 model year.

Automakers contend that reducing emissions of carbon dioxide can be achieved only by burning less fuel. Under federal law, California can set pollution rules that exceed national standards, owing to poor air quality. There are no federal guidelines covering emissions of gases linked to global warming.

The legislation's only purpose is to cut emissions of gases that contribute to global warming, said a spokesman for California's Air Resources Board, which designed the state program.

An Idyllic Scene Polluted With Controversy

A 6,000-acre refuge set to open in two years faces protest from critics who say nuclear weapons production has left the site contaminated.

By David Kelly, Times Staff Writer

L.A. Times, Sat., Feb. 5, 2005

ROCKY FLATS NATIONAL WILDLIFE REFUGE, Colo. — These rolling grasslands and foothills would seem a hiker's dream. The valleys are deep, the deer docile and the snowy mountain backdrop dazzling.

"The wildlife is really abundant here," said Mark Sattelberg, a U.S. Fish and Wildlife Service biologist. "It's been pretty much undisturbed for 40 or 50 years."

But critics say the Rocky Flats National Wildlife Refuge site has been disturbed plenty.

To them, the land is synonymous with government secrecy, widespread environmental violations and pollution from nuclear weapons production done here throughout the Cold War.

They say the soil and water on the 6,000-acre refuge, scheduled to open in two years, remain contaminated and that recent tests found plutonium and uranium in deer living there. Federal officials said the levels were acceptable.

"Are you going to eat a deer from out there?" asked Wes McKinley, a Democratic state legislator and former foreman of a grand jury that investigated pollution violations at Rocky Flats. "What if you read a label on your hamburger that said it had an acceptable amount of E. coli bacteria?"

McKinley, who held a news conference last month to protest going ahead with the refuge, has proposed legislation requiring visitors to be warned of the risks of entering the sanctuary.

"I wouldn't go there. What if you breathe in a particle of plutonium or are exposed to gamma radiation and get cancer later?" he said. "I think the whole thing is irresponsible."

Congress has ordered the refuge be opened after the cleanup is completed in 2006. Federal wildlife and Energy Department officials noted that the refuge was not on the actual site where weapons had been made and that critics hadn't visited to learn about the testing being done to ensure the place was safe.

"We are trying to separate fact from legend," said John Rampe, an Energy Department environmental scientist. "We have done a million environmental samples on the refuge."

Some have turned up problems.

"We find occasional plutonium or other contaminants that don't meet state standards," Rampe said. "When we find it, we remove it. We have removed dozens of miles of soil, scraped off the top layers and sent them to waste facilities."

From 1952 to 1989, Rocky Flats made plutonium triggers for hydrogen bombs — leaving behind polluted water, earth and air.

The plant, 16 miles northwest of Denver, once housed 14.2 tons of plutonium and 7.3 tons of uranium. Much of the waste was buried in barrels that rusted out, allowing contaminants to leach into the soil.

At least one building here was dubbed the most dangerous structure in the country by the Energy Department.

Most of the plant was shut down in 1989, and the remaining metalworking operations closed in 1992, officials said. Rocky Flats was owned by the federal government and operated by Rockwell International Corp., which eventually was fined \$18.5 million for environmental violations.

Jon Lipsky, the FBI agent who led a raid on the facility in 1989, said recently that the investigation ended prematurely, leaving questions about the extent of pollution at Rocky Flats.

"How can they let children go to that site when they know they haven't cleaned it up?" he asked. "The less people know, the less they are required to clean up."

The Rocky Mountain Peace and Justice Center, an activist group in Boulder, Colo., plans to sue to keep the refuge from opening.

"I don't think a plutonium-contaminated site is a good place for people to engage in recreation," said LeRoy Moore, one of the organization's founders. "I don't believe there is an acceptable level of plutonium; it remains dangerous in even minuscule quantities. The whole thing is a risky concept."

None of the controversy surrounding the refuge site surprises Steve Gunderson of the state Department of Public Health and Environment.

As coordinator of the Rocky Flats cleanup operation, Gunderson spends most of his waking moments dealing with the site.

"Rocky Flats hits all of the quintessential hot buttons — radioactivity, nuclear weapons, hazardous waste," he said. "It has all the buzzwords, and it's hard to separate emotion from objectivity. This was a place where the government did things in a whole lot of secrecy for many, many years, but the cleanup is basically being done in a fishbowl. Rocky Flats has had more environmental sampling than any other place in the country."

The presence of radioactive elements in the soil and in the deer at the refuge, Gunderson said, unfortunately was normal.

"There has been plutonium in the environment ever since atmospheric nuclear testing was conducted," he said. "What you are seeing is consistent with background levels of radiation."

The refuge, scheduled to partially open in 2007 and be in full operation about 2012, will have hiking trails, interpretive signs and limited hunting. It surrounds the area where the actual nuclear production went on, which will remain closed. Hundreds of workers carrying out cleanup operations are in easy view of the refuge. Radioactive waste is trucked out in stainless steel vats measuring 8 feet around and 10 feet high; it is being disposed of in Carlsbad, N.M.

Yet a few hundred yards away, herds of deer graze in tall prairie grass. Kestrels soar overhead, scanning the frozen ground for rodents. Elk wander through the meadows, and the occasional mountain lion slinks in for the ample venison.

Sattelberg, of the Fish and Wildlife Service, gunned his sport utility vehicle up the steep snowy hills, past an abandoned homestead, stopping to look at a few deer that stared back but didn't budge.

An expert on how contaminants affect wildlife, Sattelberg said he had seen no evidence of animals being hurt by pollution here.

"There is absolutely no reason to warn people about this place. The refuge is safe; it would only scare people," he said. "But if the law requires it, we will follow the law. We want to tell people what went on here, the history of the place."

Rampe said the odds of getting cancer from visiting the refuge was about 5 in 1 million.

"That would be if they made 100 visits a year, spending 2.5 hours per visit for 30 years," he said. "There is a calculable risk, but it's so small that it makes you wonder if there is any risk at all."

[Modesto Bee editorial, Sunday, Feb. 6, 2005](#)

A valley - or inland bay - by any other name

Always thought a home in the Bay Area was out of reach? Sit tight. The Bay Area is coming to us - in more ways than one.

Perhaps fearing the word "valley" lacks enough cachet to convince home shoppers to spend half a million dollars for a four-bedroom tract home, out-of-town developers have started using a new geographic designation to entice customers across the Altamont: "Inland Bay Area."

The Bee's J.N. Sbranti talked to marketing representatives of Texas-based Centex Homes about this linguistic revision of California's map. It's just the next logical step, they said. You have the original Bay Area, the East Bay and now the Inland Bay Area.

Goodbye, arch; hello, Golden Gate. Maybe they think we will be grateful.

Actually, these builders are trying to bring us more neighbors; lots of them. Their customers are folks who currently reside in one of the other Bay Areas - North, South or East - but want more home for their money, or want to be able to buy a home in the first place.

But creating an expectation that your customer is moving to "the Inland Bay Area" is very different from selling a move to "the valley." It's not the same over here; not everyone likes the heat, the fog or even the smells that accompany so many farms.

With our new neighbors will come cars for commuting and greater incomes for pushing up the prices of homes - often beyond the reach of folks who have lived and worked in the valley for years.

This isn't new. Yet this dichotomy - with all the resentments, worries and problems it entails - represents the real danger in such a new designation. Our region is rapidly becoming two very different places existing in the same place. That's not healthy.

Those who have lived in the Northern San Joaquin Valley for years haven't gone anywhere. We most often live in tract homes built over the past three generations, send our kids to schools that, in some cases, our parents attended. We love the fresh fruits and nuts, friendly neighbors and ready access to outdoor recreation (to name but a few of the wonders of being here). We worry that folks moving to the "Inland Bay Area" won't understand or embrace such things.

Those seeking a life in the "Inland Bay Area" will have different expectations, different goals and different demands. If their new home is nothing more than an extension of the Bay Area, their focus will be on issues two mountain passes away. For instance, the price of tolls on the Bay Bridge might be more important than the number of cars creeping along McHenry Avenue.

Truthfully, Bay Area transplants bring many positives. Their presence creates jobs and opportunities. We have far better amenities - especially shopping and dining - than we've had before. We are beginning to get better educational options, in part because there are more people living here.

There is another upside. The official Bay Area is made up of the nine counties that touch San Francisco Bay. While we blame them for the noxious fumes that blow across the Altamont into the valley, they blame us for clogging their roads with commuters. People living in the "Inland

Bay" might help foster a regional approach, perhaps getting the other (and richer) Bay Areas to join in. Only regional approaches can solve such issues.

We've got room for more neighbors in this great valley. At the same time, we must come to grips with problems exacerbated by increased population - [air pollution](#), urgent demands on our water, double-digit joblessness and a growing gap between the haves and have-nots.

No one will solve these problems until we take ownership of them. These are valley problems; valley people must solve them.

After all, the valley is our home.

[Fresno Bee columnist, Thursday, Feb. 3, 2005:](#)

Valley rush now on for liquid gold

By Bill McEwen

I've always been fascinated by water. On family trips as a kid, I was on the lookout for river and creeks, and few things were better than traveling on a road alongside a mighty river like the Columbia or the Rhine.

Now when I see the San Joaquin River or even a creek tumbling stone to stone in the Sierra, I see something else: liquid gold.

Whoever came up with "follow the money" as the key to understanding politics and business got it half right. In the San Joaquin Valley, you have to follow the water, too.

And if you follow the water, you'll run smack into a fight that makes the Royal Rumble look like a friendly game of tag. What used to be a battle between farmers and environmentalists has been joined by developers hoping to cash in on the Valley's building boom.

Today's reality is that politicians, government planners and civic watchdogs can try to direct growth, but water trumps everything else. A developer with water is king. And while he might have to raise the rent to mitigate concerns about air pollution, traffic congestion and the ability of local governments to pay for police and fire services, he's going to build.

Another reality is that farmers with San Joaquin River water rights are hoping to take water now designated for growing crops and use it to build upscale housing tracts along the river.

As Fresno County Supervisor Phil Larson says, "If you dig deep enough into a farmer, you'll find a developer."

Events of this week illustrate how important water has become as people flock to a desert turned agricultural empire by the construction of an amazing network of dams, pumps and canals.

On Tuesday, proponents of a 161-lot subdivision in Millerton New Town tabled their request for approval from the Fresno County Board of Supervisors.

The reason for the delay?

A Los Angeles Times investigation revealed that water the developers planned to use for the project was restricted to farm use. That sent Ben Ewell, who has worked on Millerton New Town for more than 20 years, scrambling to obtain permits needed to divert the water to development.

The same day, the Board of Supervisors approved a 91-home gated subdivision on the other side of the ridge at Auberry and Millerton roads. The 3-2 vote reflected the political maelstrom created by a clash of developer interests, water scarcity and concerns about the public costs of growth.

Homes in the tract will be on 2-acre lots, and the developers -- a company controlled by Granville Homes -- have agreed to set aside 75 acres of open space to be managed by the Sierra Foothill Conservancy. The board also approved a requirement that homeowners pay \$350 a year for extra sheriff's patrols.

Even though the subdivision will bring more people, traffic and air pollution to the foothills, it got a green light because it has water -- three big wells that passed county testing.

Supervisor Henry Perea voted for the project but then called for a moratorium on development until plans for the area from Friant to Shaver Lake are reviewed and updated.

A moratorium makes sense, but it has little chance.

Water, now more than ever, is king.

Say a prayer for anyone that stands in its way.

[Letter to the Bakersfield Californian, Monday, Feb. 7, 2005](#)

Dairies not the enemy

Recent times have seen activist lawyers, politicians and editorialists lambasting the dairy industry as irresponsible mass polluters, despicable, the worst of the worst.

The feeding frenzy reached a ridiculous high point. This hysteria was ill-conceived, ill-advised, lacking any base in scientific facts (or relying on ancient pre-World War II data), but it was there just the same, and supported every step of the way by readers and writers at *The Californian*, as well.

For what? More bureaucracy, more fees, more regulation, more litigation. More, more, more.

In the end, the truth has a way of raining on these leftist parades, and this march, led by the likes of Sen. Dean Florez and hordes of greedy lawyers and environmentalists ready to pounce, just got a serious drenching. It was discovered that not only do dairy cows produce drastically less polluting gases than thought, but that even the main source of these gases was misunderstood. Wrong 100 percent all the way, what a surprise.

I guess the leeches might move on now, ready to victimize yet another important industry, ready to make more exaggerations and uneducated proclamations, ready for another flavor of the month.

I wish the general public would grow wise to this, rather than follow along blindly!

-- FRANK COSTA, Bakersfield