

## **Tallow plant's closure urged**

### **District wants action now, before trial in order lawsuit**

By GARTH STAPLEY - BEE STAFF WRITER

Thursday, Sept. 29, 2005, Modesto Bee

The valley's air pollution control district went to court on Wednesday to demand the immediate shutdown of Modesto Tallow Co., pending a trial on a lawsuit over odors from the plant.

The closure, if ordered, will not come before Nov. 3, the date of a hearing on the San Joaquin Valley Air Pollution Control District's motion.

The company "has made it clear that its profits and 'the bottom line' are far more important to it than complying with its air pollution permits and district rules," attorneys wrote in the motion filed in Stanislaus County Superior Court.

John Olson, Modesto Tallow vice president and general manager, refused to comment on the motion for a preliminary injunction, but said the company had "made a lot of improvements in our operations."

"I know the odor has been reduced," Olson said. "I feel very good about what we've done. I know it has made a big difference for the community."

The air district has logged more than 2,200 odor complaints from tallow plant neighbors since March 1994, according to court documents. The complaints include phrases such as "horrendous," "burning the nostrils," "atrocious" and "smelling so bad you feel like throwing up," the documents state.

Students at nearby Shackelford Elementary School often hide their noses in their shirts because of the stench, Principal John Campopiano wrote in a court declaration. One student transferred to another school, Campopiano wrote.

"The smell wafting from the facility can only be described as putrid, rotting flesh, or what I would call the smell of death," Campopiano wrote. "I often feel guilty sending the students outside for recess when the odor is pungent, because it is often nauseating."

Attorneys for the air pollution control district contend that the 88-year-old rendering plant continues to create a public nuisance because its operators refuse to comply with air district rules, even when cited.

District inspector Dillon Collins issued a citation after photographing "large amounts of blood coating the concrete ramp to the receiving area" in violation of hygiene regulations, he wrote in a court document. Collins returned a week later, saw little difference and cited the company again, he wrote.

Though regulations require the tallow works to unload carcasses for processing within four hours after arrival, Collins' many citations included one for allowing dead animals to sit unrefrigerated for more than 48 hours, according to court documents.

On April 12, Collins wrote, he drove behind an abandoned building a few hundred yards from the plant and saw "tons of meat and bone meal product stored in piles inside and outside (a) building. A large amount of horribly putrid grease was running onto the ground from the uncovered, outdoor piles."

Regulations mandate that the company shut down the plant when its odor-control equipment malfunctions, but operators routinely ignore the rule, Collins wrote.

The district's lawsuit asks a judge to force the plant to clean up its act and seeks civil penalties in the millions of dollars.

"We filed (the lawsuit) a month ago, they're still operating and they're still not in compliance" despite near-daily inspections, Catherine Tognazzini, assistant district counsel, said Wednesday. Her office sought the immediate shutdown, she said, because "we thought we needed court intervention."

## **Air regulators put halt to sending waste up in smoke**

by Bob Brownne

Thursday, Sept. 29, 2005, Tracy Press and Lodi News Sentinel

It's walnut harvest time at the Vink brothers' farm on Banta Road, and on Wednesday Pete Vink supervised another shipment of fresh walnuts.

The next step after the harvest is to prune all of the trees in the orchard; then, he and his brother Bart have to get rid of all the twigs and branches they've cut down.

One typical way is to burn it, but Vink said he gave that up years ago. He now shreds branches and mixes them back into the soil.

"It's something everyone has to go through, and it's good for your soil," he said. "It's a good thing, but it's more costly."

Local farmer Keith Robertson also stopped burning waste long ago and uses it as mulch or plows it back into the fields.

"We got a little funding from the government to get a chipper for our prunings," he said. "Every time we prune we try to chip it all."

Robertson said his chipper, an inexpensive model, hooks up to a tractor, which pulls it between the trees and leaves behind a blanket of mulch.

That puts the local farmers a step ahead of the San Joaquin Valley Air Pollution Control District, which has told farmers in June that they are not allowed to burn most agricultural waste anymore.

If they have a permit, farmers can still burn branches from vineyards and some trees, such as walnut, almond, pecan, apple and pear trees, for the next five years. But just about everything else can no longer be burned.

The California Air Resources Board lists waste fires as a major producer of carbon monoxide and "particulate matter," dust and smoke that can be inhaled deeply into the lungs.

The new rule also is a source of frustration for farmers who see yet another layer of regulation put on their business.

"We're being blamed for a lot of pollution where we clean the air better than anyone else," said local farmer Jim McLeod, referring to the respiration of trees, which consume carbon dioxide and produce oxygen.

"The fallacy of the whole thing is we take a lot more carbon dioxide out of the air than we put into it by far," he said. "All these rules and regulations, they cost us money."

Farm waste can also end up as fuel for the Tracy Biomass Plant on Schulte Road west of town. Mark Kehoe, director of environmental safety for GWF Energy, owner of the plant, said wood chips from orchards, such as fields of trees pulled out this week on Banta Road, make up about half of what the plant burns. Kehoe said the plant does not typically take pruned branches, straw or other farm waste.

Anthony Presto, spokesman for the air district's Modesto office, said this is the time of year when the new rule counts.

Prior to this year, farmers were allowed to burn waste year-round if they did it on a "burn day" when there wasn't heavy smog in the air.

Typically the ideal conditions would be in fall and winter right after trees were pruned.

"When there were decent conditions, everyone would burn at the same time and there was a great deal of smoke," he said.

## **Deal clears way for growth**

### **Plan to sell land to developer may push city limit to I-5 faster than thought**

By SARAH RUBY, Californian staff writer  
Bakersfield Californian, Thursday, Sept. 29, 2005

Among the dozens of properties seeking to join Bakersfield's urban footprint, James Borba's is the first to hit Interstate 5.

Borba's land was in line for development back in 1998, when he and his cousin, George Jr., arrived in Kern with plans for 14,000 milk cows apiece. The county welcomed the Chino dairymen despite objections from the city of Bakersfield, whose vision for the southwest did not include twin mega-dairies.

The city might get its way, now that home-builder D.R. Horton is making plans to someday construct some 8,500 houses where 14,000 dairy cows stand surrounded by crops.

"If you would have asked me five years ago, I just wouldn't have anticipated the city growing that far for probably 20 years," said Jim Ellis, a top county planner. "Now it's feasible for the city to say in another five, six years we're going to be there. It's not the rural hinterland that it used to be."

James Borba and D.R. Horton are staying mum about the potential sale. George Borba Jr., who operates a 14,000-cow dairy next door to his cousin and has no apparent plans to uproot it, did not return calls for comment.

Together, the Borba operations occupy some 4,700 acres between Taft Highway, Interstate 5 and Bear Mountain Boulevard. It's unclear how many acres James Borba is willing to sell, though he applied to remove more than 2,000 acres from development protection earlier this year.

That land is protected by the Williamson Act until 2014, giving Borba a break on his property taxes until then. Property owners can sometimes cancel their Williamson Act status, but not without seeking local government approval and paying a penalty -- 12.5 percent of the value of the property.

Land in the remote southwest was worth roughly \$30,000 per acre two years ago, according to Michael Burger, a local appraiser. He's seen smaller parcels on the market for \$100,000 per acre in that neighborhood.

Borba's asking price is anybody's guess, and will remain so until he and D.R. Horton close escrow. Some land developers write deals that don't close until they have building permits in hand, which in this case could take at least several years.

That James Borba might sell the land he spent years fighting to occupy came as a surprise to planners, developers and other farmers.

City of Bakersfield officials and state Sen. Dean Florez, D-Shafter, welcome James Borba's move, though Florez is rankled by the \$8 million in low-interest, tax-exempt, state authorized bond money Borba received in 2003. Borba also was awarded as much as \$250,000 meant to assist small businesses.

"Our thought is good riddance -- we're happy (Borba's) cows aren't going to be located in smell distance from Bakersfield," Florez said.

But if Borba abandons the dairy he helped build with tax-exempt state bond money, he might have broken the terms of his deal with taxpayers, Florez said.

"It's an unfair advantage for them" to get a tax break on a loan meant to help farmers cut pollution, he said. "We're going to be asking for some dollars back."

But if Borba used the bond money to build what he said he would, he couldn't have broken his word to the state, said David Albers, a dairyman and local attorney who has represented James Borba in the past, but has nothing to do with the deal with D.R. Horton.

"Borba paid high fees up front for (the) loan," Albers wrote in an e-mail. "It is his business decision whether he will pay off the loans early because he is selling out, or whether he stays in business at that location for the term of the loan."

The loan's advantage is realized over time, Albers said. If Borba had known he'd be cashing out in five years he would have had better financial options, he said.

The Borba cousins fought environmentalists for four years before a judge ruled in October 2002 that the dairymen could come to Kern. Their operations were under way two years later.

"What I'm concerned about now is James' stated intent to develop the property and George's intent to operate his dairy," said the county's Ellis. "It's not to say George may not have some designs down the road, but nothing immediate. I think he's committed to the dairy operation."

Dairies typically try to locate 20 years [sic] from development -- close enough to be part of the community and have the option of cashing out someday, but far enough away to operate their dairies in peace.

## **New Harbor Panel Aims to Cut Pollution While Expanding Port**

By Deborah Schoch, Times Staff Writer  
LA Times, September 29, 2005

Los Angeles harbor commissioners zeroed in Wednesday on what promises to be one of the toughest challenges facing Mayor Antonio Villaraigosa: how to expand the nation's largest seaport while slashing air pollution that threatens the health of residents who live near the port.

The panel's new president, S. David Freeman, sternly told port managers to accelerate efforts to pinpoint new ways to cut emissions from ships, trains and trucks serving the port.

"Start acting like our lives are depending on it, because our lives do depend on it," he said.

Commissioners are grappling with a Pandora's box left by former Mayor James K. Hahn: a report concluding that 2,200 premature deaths from port-related air pollution could be avoided by 2025 through technological fixes and other measures to reduce pollution.

But those improvements could cost more than \$11 billion, and shippers fear that they would bear much of the cost. Hahn, who set up a task force to craft the report, left office before acting on its recommendations.

The new commission asked the port staff at its first meeting Sept. 14 to report back Wednesday night on which measures in the Hahn plan could be put in place now.

In response, port environmental director Ralph Appy promised that the staff would start looking at all new technology - including fuel cells on ships and biofuel-powered trucks - to achieve dramatic emissions reductions.

The port also may be able to speed up current plans with more conventional technology, such as using cooler-burning dock tractors and powering ships with electricity while at shore, Appy said. The port could increase its spending from \$17.3 million to \$23 million this year and budget an additional \$53.4 million for next year to move those plans forward, he said.

This was only the second meeting of the five commissioners picked by the new mayor and headed by Freeman, a former general manager of the city Department of Water and Power.

In the last decade, emissions have transformed the Los Angeles-Long Beach port complex into the single largest air polluter in the Los Angeles Basin. People who live near the ports and related transportation corridors - especially the Long Beach Freeway and rail hubs in the Inland Empire - have grown increasingly angry about pollution, which many blame for cancer, asthma and other illnesses in their neighborhoods. Recent scientific studies have found evidence that pollution near freeways may be linked to higher levels of asthma and stunted lung growth in children.

Some shippers, skittish about a possible repeat of a major 2004 cargo logjam, have rerouted freight to Seattle and other ports. Others warn that they are increasingly troubled by recent turnover among port senior staff and by the prospect that environmental concerns have trumped the port's commitment to cargo growth. That situation alarms business leaders who call the port an integral economic engine for the region.

Freeman has promised a "green-green" agenda for the port, reducing pollutants and simultaneously promoting new business.

Hahn charged a 28-member task force with crafting a blueprint to make good on his 2001 promise to hold the line on port pollution. That plan, completed in June, is designed to reduce emissions to 2001 levels.

But with the boom in Asian imports, port emissions have soared 60% since 2001, a point that Freeman has raised repeatedly as commission president. He said the city should insist on further rollbacks.

A detailed study prepared by the state Air Resources Board to determine the public health benefits of reducing Port of Los Angeles pollution to 2001 levels found that in the next 20 years the proposed "no net increase" plan would curb particulate matter pollution enough to prevent 2,200 premature deaths.

Particulate matter from diesel fumes is a carcinogen and has been tied to exacerbating respiratory illnesses.

## **Rejected air board boss gets new post**

**After being nixed by Senate, Tuck is named EPA adviser.**

By Gary Delsohn -- Bee Capitol Bureau

Thursday, Sept. 29, 2005, Sacramento Bee

Democrats in the state Senate rejected his choice to head the California Air Resources Board, so Gov. Arnold Schwarzenegger found a new job Wednesday for controversial appointee Cindy Tuck that doesn't require Senate confirmation.

Tuck, rejected on a party-line vote earlier this month by Senate Democrats who said she was more concerned with protecting business interests than the environment, was appointed assistant secretary for policy at the California Environmental Protection Agency.

The agency, where Tuck will advise the secretary on a variety of policy issues, can influence the air board and the position denied to her by Senate Democrats.

"She is well-qualified and the state will be well-served by using her expertise in the environmental area," said Margita Thompson, the Republican governor's press secretary.

Senate President Pro Tem Don Perata, D-Oakland, who voted against Tuck for the air board position, was more encouraging about her new job.

"While she wasn't the right person for the air quality chair, I've always said she is a very impressive individual," he said in a statement released by his office. "I hope this offers her the opportunity to demonstrate her expressed commitment to improving California's environment."

Tuck, a Sacramento lawyer, spent 13 years working as a consultant for the California Council for Environmental and Economic Balance. The group is a coalition of business, labor and public officials, but her critics said the organization also represents business interests that have worked to relax air quality rules.

In a statement opposing her appointment to the air board, the Los Angeles Physicians for Social Responsibility called Tuck "a longtime professional lobbyist for polluting industries (who) has consistently opposed legislative and other regulatory efforts to clean California's air."

Tuck, 45, couldn't be reached for comment Wednesday, but when she testified at a Senate Rules Committee hearing three weeks ago she said she didn't intend to represent the business community as chairwoman of the Air Resources Board. She was in the job six weeks before her appointment was rejected by the Senate on a 24-14 vote.

"That would be the wrong thing to do," she testified. "I pursued this because I'm at a point in my life where the right thing to do was to go into public service and I thought that working on air quality issues was an area where I could serve the public well."

The EPA job, which she assumes today, pays \$123,708 annually.

She declines to state a party preference on her voter registration form.

[Thursday, Sept. 29, 2005, Modesto Bee, Community Column](#)

## **Coalition should focus on why we're selling our farms**

By MARCIA BOER

Here we go again. The Farmland Coalition wants to save "our" farmland. I would like to know why are we saving it, and for whom.

Are we saving the land for the city planners to drive through and see the open space?

Are we saving the land for future generations to farm?

I understand that this valley is home to some of the richest soil around, but it isn't the only soil that can produce crops anymore. What with the increased production per acre and the newest technology in irrigation, previously less-productive farmland has been turned into prime crop-growing farmland. By less productive, I mean dry grazing land for cattle, or alkali soils, or marginal land which has never been converted to irrigated cropland. That doesn't mean it isn't valuable, just not as valuable as irrigated cropland.

As full-time farmers, reliant only on farm income, true farmers are having a harder and harder time making ends meet. Not only are there more and more regulations, but nonfarm income-dependent people have developed farm properties into major farm factories, and this has impacted those of us who depend on our farm income for a living.

Sure, our properties have increased in value, but we would like to continue farming — not sell to a developer or some investor who doesn't depend on the income from the farm. Even if we did sell our property, we would likely just purchase some land farther away from a city and continue farming.

We have enjoyed record farm income in the past couple of years, but at the same time, our expenses have increased; for some items, they have even doubled. The price of any petroleum-based product has skyrocketed, as most people know.

This brings me to another thought, since most fertilizer is petroleum-based or produced at plants that use fossil fuels: Maybe we should use more natural manures to enhance our soil. But no, this isn't possible because of perceived contamination issues. Too much cow, chicken or turkey manure might contaminate water, aquifers, crops or even the air — but I won't get into that at the moment.

This coalition of nonfarmers wants to save us from being swallowed up by more houses. Yet they don't address the problems created by trying to farm in close proximity to housing, by a lack of workers who want to work, or by receiving prices for some farm products at lower levels than the cost of production.

California has the strictest regulations of any state on most agricultural operations, yet also has the only climate that is conducive to growing some of those crops. How can farmers continue to

farm if we are regulated out of business and forced to compete with countries who have little or no regulation at all and are subsidized by their own government (and sometimes ours!)?

[Thursday, Sept. 29, 2005, Letter to the Editor, Sacramento Bee](#)

**Climate leadership by example**

Re "State's climate goals praised," Sept. 18: Well, praise to Gov. Arnold Schwarzenegger! He has set a goal to reduce greenhouse gases 80 percent by 2050. So, when will he be trading in his Hummer for possibly a Prius or Civic hybrid? Will he start riding his bicycle from his hotel to the Capitol?

Tina Borgman, Pleasant Grove