

Ethanol plant secures council approval

By Eiji Yamashita

Hanford Sentinel, Monday, December 24, 2007

All necessary approvals are in for an ethanol plant proposed in south Hanford. Last week, after a long debate over pros and cons of the new corn ethanol plant, the city planning commission gave the project a thumbs up.

On Tuesday, members of the City Council unanimously ratified a required annexation and certified an environmental review document. They had little to say as they heard much of the same pollution concerns during the hearing.

Bakersfield-based Great Valley Ethanol plans to build a plant -- capable of producing 43 million gallons a year of ethanol out of corn and grain sorghum -- on a 112-acre parcel at the southwest corner of Iona and 10th avenues in the Kings Industrial Park. A conditional use permit for the project was approved by the planning commission last week.

Unless appealed, the commission decision is final.

Groundbreaking for the project is expected in April. Construction will take about 15 to 18 months, according to Edward Settle, president/CEO of Great Valley Ethanol.

The project puts Hanford on the ethanol map that is sprawling -- with bipartisan support -- in California, where the industry claims a 1 billion-gallon demand is barely filled by a current 70 million-gallon supply. Corn ethanol is used as a gasoline additive replacing MTBE, which has caused groundwater pollution in the past.

There are currently four ethanol plants operating in California, including one in Madera, and three under construction. The Hanford plant was one of three in the permitting process. A virtually identical plant by Great Valley Ethanol is also in the works in Wasco.

The environmental impact report indicates the plant would cause unavoidable significant amounts of nitrogen oxide, a smog precursor, and greenhouse gas.

The plant also uses 1 million gallons of water a day, which is one-eleventh of the average amount of water pumped by the city each day. That's enough water to serve 4,651 residents in Hanford.

John Westermier, a consultant who worked on the environmental impact report for the project, said this water use exceeds the citywide water use projected by the 2005 Urban Water Management Plan by 3.3 percent.

Company officials said they are mitigating these issues.

For example, the company will pay the Kings County Water District for any water usage exceeding the historical use of water by agriculture in the area, that is three acre-feet per acre. The money will pay for water banking to replenish groundwater.

The company will also implement a truck traffic plan to minimize inner-city traffic impact, said Brian Pellens, the company's chief operating officer. Odor will also be controlled by combustion, he said.

Approval by city decision-making bodies was given to the project with statements of overriding concerns with respect to air pollution and greenhouse gas emission because of the project's long-term benefits, such as reduction of the state's dependence on petroleum and greenhouse gas emission by cars.

The reporter can be reached at 583-2429.

PG&E opposes power group

Valley cities, county try to form state's first public electricity cooperative.

By Marc Benjamin / The Fresno Bee

Monday, Dec. 24, 2007

The state's first public electricity cooperative, poised to provide power to more than 115,000 customers across the Valley, has found itself under attack by the big guy on the block -- Pacific Gas & Electric Co.

PG&E is fighting the fledgling competitor with full-page newspaper ads and lobbying at city and county meetings, where the for-profit behemoth challenges the San Joaquin Valley Power Authority and its claim that customers will save money.

The utility has persuaded Tulare County and the city of Fresno to withdraw from the cooperative, leaving it with 12 members.

The authority has cried foul, accusing PG&E of breaking state rules by using customer funds to fight the effort. The state Public Utilities Commission is expected to consider the complaint next year.

"It's a fear-and-confusion campaign, rather than a constructive debate over issues we need to address," said David Orth, general manager of the Kings River Conservation District. The power authority says PG&E has used 5,000 employee hours to fight its cooperative.

PG&E counters that it is using only shareholder money in its campaign -- and that its goal is merely to educate the public about the issues.

"To ask questions is not marketing. It's helping to understand their proposal," said John Nelson, government relations director for PG&E in San Francisco.

With similar cooperatives budding elsewhere in the state -- in San Francisco, Marin County, Alameda County, Sonoma County and San Luis Obispo County -- the Public Utilities Commission is watching the Valley.

"We want to keep our fingers on the pulse of the process," Drew Cheney, an outreach officer with the commission, told the Selma City Council in October. "What happens here will ultimately be affecting the entire state."

The San Joaquin Valley Power Authority is the first in California to develop a local power program under 2002 legislation that enables communities to band together to buy and produce electricity to sell, presumably at lower rates than what PG&E charges.

The Fresno-based Kings River Conservation District oversees the power authority.

Electric transmission and distribution would remain the responsibility of PG&E and Southern California Edison. Electricity that the district buys from suppliers and sells to the authority would be sent through the utilities' transmission and distribution lines.

Southern California Edison, which has about 21,000 Kings County customers moving to the power authority, has taken no position on the cooperative, said Charley Wilson, public affairs manager for the Rosemead-based utility.

The authority is to begin operating sometime in 2008. A key agreement with an energy supplier is expected to be discussed in the coming months. The Kings River Conservation District will consider a proposed seven-year energy services agreement with CitiGroup Energy Inc. of Houston.

Another part of the Valley plan includes building a natural-gas-fired power plant between Selma and Parlier. An application for the plant is under review by the state Energy Commission.

That plant has played a key role in the debate.

Fresno City Council Members Henry T. Perea and Jerry Duncan oppose the power plant because of concerns about air quality. That contributed to the council's decision in July to pull out of the authority.

In October, the Selma City Council voted 3-2 to stay in the authority so that it would have a say in the power plant if the Energy Commission approves it next year.

But there are other issues as well. For example, the utility has accused the cooperative of not doing enough to keep the public informed about its plans. Cooperative organizers counter, however, that they have held dozens of public meetings.

The utility also has raised concerns about how difficult it would be for people to make a choice about who will serve as their energy supplier.

All residents and businesses in the communities that have joined the authority are automatically enrolled as authority customers. Customers will receive four notices -- two before the program starts and two after it begins -- allowing them to opt out without penalty.

Once they receive power through the authority, they can opt out every three years. If they opt out in between, there is a penalty.

Amounts will vary and have not been determined. Utilities did not oppose those rules when they were adopted in 2002.

Duncan said one reason he voted in July not to be part of the authority was because he thought customers should have a chance to vote to be in the program, rather than being included automatically.

"I didn't believe there was any choice for people," Duncan said. PG&E officials also support so-called "opt-in" rules, requiring customers to vote to be in the authority.

The cost of energy for authority customers also was a consideration, Duncan said.

"I didn't think they could produce electrical power any cheaper" than PG&E, he said.

Under its proposed agreement with CitiGroup Energy, the authority anticipates reducing the generation portion of electric bills by 5%, an average of about \$3.50 monthly per household.

In addition, authority officials want to cap electricity generation hikes at 2% a year, about half the jump PG&E has reported in recent years, they said. PG&E officials say their rates have risen between 1% and 1.9% each year over the last decade.

A key to the authority's success would be cost savings by industry, said Robert Ford, Clovis' power authority representative.

"For large users, the savings would be greater because they use more electricity than homeowners," he said.

This would enable Clovis to promote those rates to lure economic development, Ford said.

But PG&E officials doubt the authority can get lower rates.

"We are getting the best prices that the market can offer, and there is no reason to think CitiGroup can get a better price," PG&E's Nelson said.

But he said utility officials have not had a chance to fully evaluate CitiGroup Energy's proposal.

There are reasons to believe the authority would be able to charge less, however, one expert said.

By law, the authority would have some advantages over PG&E, said Howard Golub, a San Francisco-based attorney with the international law firm Nixon, Peabody.

For example, Golub said, rate structures would be set locally, and the authority could have lower financing costs for generation projects because public agencies do not need a shareholder return and do not pay high salaries for top brass.

"PG&E is not about to give up its return for shareholders," said Golub, who retired as PG&E's general counsel in 1994. "And executive compensation for PG&E is significantly higher than would be paid to a public official."

The authority also would have access to lower government financing interest rates, he said.

Yet electricity pricing in the coming years will not be predictable, Golub said.

"When both sides say they can read the future with perfect clarity, they are getting carried away," he said

Ag waste fosters burn concern

Problems at Valley biomass plants cut capacity.

By Mark Grossi / The Fresno Bee

Friday, Dec. 21, 2007

Some fruit growers may ask for permission to burn 2,500 acres of orchard waste, even though agricultural burning has nearly been phased out of the San Joaquin Valley.

The growers usually send woody waste from orchard removals to biomass plants, which efficiently burn the wood to minimize pollution and create electricity. But the Valley's biomass plants have little capacity to take waste after a series of problems, such as a fire that shut down a plant in Madera this year.

If the wood debris isn't removed, farmers say, the land might become infested with insects. And, though 2,500 acres is only a small fraction of the Valley's orchards, growers could lose money if they can't replant with the new tree stock they have purchased.

"Those farmers could lose a full year of growth," said Rick McVaigh, deputy air pollution control officer at the San Joaquin Valley Air Pollution Control District.

The problem came to light Thursday at the monthly meeting of the San Joaquin Valley Air Pollution Control District governing board. No action was taken because the board does not grant exceptions for such problems.

A special hearing board -- consisting of a lawyer, a medical professional, an engineer and two public members -- would hear the request. No timetable was announced.

If an exception is granted, growers wouldn't be allowed to burn on bad-air days.

Farm burning for many types of crop waste has been dramatically reduced, thanks to a 2003 law by state Sen. Dean Florez, D-Shafter. The latest phase of the law triggered in June, wiping out nearly 90% of open-field burning for orchard removals.

One more phase of farm burning reductions will take place in June 2010.

Many growers now break up their wood waste in chippers and send the remains to biomass plants, which have the capacity to process all the wood waste in the Valley. But many biomass plants are operating at or near capacity -- taking up the slack after the fire in Madera and mechanical difficulties in other facilities.

"The operators could use this wood, but they just can't use it now," said board chairman Steve Worthley, a Tulare County supervisor.

So growers can't get the wood off of their land, which needs to be prepared for the next planting. Air officials said they've looked but haven't found anywhere to move and store the wood waste.

Board member Henry T. Perea, a Fresno City Council member, said his city may have 40 to 100 acres available to store the waste temporarily.

He said, "If every city and county in this area checked, I bet we could find 2,500 acres for this wood."

More buyers pick out green gifts

By Blanca Torres
Tri-Valley Herald, Sunday, December 23, 2007

REBECCA MOYLE wants to avoid giving holiday gifts that might end up in a landfill.

This year she cleaned out all the unused vases in her basement and filled them with decorative pebbles and flower bulbs that will bloom in about a month. She also searched numerous retailers to find toys free of toxic materials and organic clothing for her infant nephew.

"I had to pay more for some gifts, especially for the baby," Moyle said. "But he's a blank slate. I don't want to put any toxins in him."

Green gift-givers like Moyle are common in places like Berkeley, but experts say the trend has taken hold nationwide, and eco-friendliness is now a top priority for millions of shoppers.

The movement toward more environmentally friendly living -

GREENIBusiness 3dubbed "green" - has been gaining traction for the past several years, but this is the first year green gifting has become a strong trend, said Erin Carlson, senior manager of Yahoo for Good, a division of the Sunnyvale-based search-engine company.

"What we've noticed is that those green searches have gone from awareness in 2006 to action in 2007," Carlson said. "There are a lot more options that are green, interesting, relevant and cheaper than the year before."

About 18 percent of Americans plan to buy more green gifts this year than they did in 2006, and 17 percent will head to retailers to make their purchases, according to a survey of more than 14,000 consumers commissioned by accounting and consulting firm Deloitte and Touche.

"More green information is being pushed out to the consumer," said Ellen Basilico, a San Francisco-based partner specializing in consumer business at Deloitte. "As there's more focus on climate change and the environment, (green) is one of the factors that is becoming more relevant when the consumer is making buying decisions."

Yahoo has a separate portal called Yahoo Green, which this year features a green gift guide that includes items such as a bowl made out of a recycled vinyl record for \$25, soy candles for \$15 that produce less air pollution than petroleum-based candles and a solar phone or PDA charger for \$28.

Green gift guides have popped up on numerous Web sites, including Barney's, a high-end department store; Slifter, a mobile shopping search provider; and Climate Counts, a nonprofit organization.

The approach at Slifter is to offer ideas and items that help consumers make small changes in their daily lives, said Alex Muller, the company's chief executive.

Slifter's guide includes a household electricity-use monitor, a DVD set about the planet and light-emitting diode, or LED, white solar lights.

Gifts such as LED lights, which are purported to use less energy than other types, reusable shopping bags, towels made of organic materials, reusable batteries and recycled paper products are everyday products that have become popular as holiday gifts this year, Carlson said.

"This is a time when we are consuming a lot and buying a lot of products, and green giving is a way to feel better about the products we are buying," she said. "Green gifts are a way to start noticing green products, and it acts as a steppingstone to the other eco-friendly actions."

Berkeley-based Elephant Pharm, a Bay Area chain of four natural food and drugstores, carries a wide selection of gifts that have green features such as being energy efficient, produced locally, made of sustainable materials or free of toxic materials.

The retailer's gift offerings include purses made of recycled soda can tabs for \$80, natural aromatic soaps for \$5.99, a diaper bag made of recycled plastic bottles for \$69.99, a 2008

calendar with 365 tips for green living for \$11.99 and a soy candle gift set from Santa Rosa-based Sonoma Lavender for \$24.99.

Moyle said she doesn't go for functional type of green gifts, but she does want her gifts to send a message.

"It's depressing how much money and resources we spend on things that people aren't going to enjoy," she said. "I use this as a way to talk to people about reducing their impact. People are becoming much more aware of where things come from."

Moyle also likes what she calls "experience gifts," such as stained-glass-making lessons or kayaking trips.

"You end up having a great experience you can talk about later, and it doesn't go in the closet," she said.

For other consumers, such as Julie Newman of Castro Valley, it's not just about what's good for the Earth, but what's better for the recipient.

Newman was shopping recently in the Elephant Pharm in Walnut Creek for organic skin-care kits that she believes are more beneficial than conventionally made products.

"I look up products and companies to find out what's in them, how they affect people and how they affect the environment," she said.

Berkeley resident Tripp Borstel said he is taking a similar route this year. His family agreed to opt out of exchanging gifts in lieu of spending more time together.

"Everyone was really happy about that decision," he said. "At least for me, buying gifts can be the most stressful part of Christmas."

Borstel has bought one gift, an ecological calendar printed with soy-based ink on recycled paper made by a Sausalito-based company, for his sister.

"I think about the environmental impact of the things I buy," he said. "The other piece is meaning. It's about finding something that is meaningful. It's hard because you buy so much."

Blanca Torres covers retail and consumer issues. Reach her at 925-943-8263 or btorres@bayareanewsgroup.com. Read her blog, Shop Talk, at <http://www.ibabuzz.com/shoptalk>.

'Spare air' conditions should lift for holiday

Erin Allday

S.F. Chronicle, Sunday, December 23, 2007

Air quality officials are poised to ask Bay Area residents to avoid burning wood and driving their cars today if the weather remains cold, wind-free and ripe for pollution.

Saturday was a "spare the air" day - the fourth so far this winter - and officials with the Bay Area Air Quality Management District expected pollution to reach unhealthy levels again today.

But not to worry, said Mark Ross, the district chairman. Air quality is expected to improve and residents should be able to enjoy a guilt-free, wood-burning fire for Christmas.

Pollution can be a problem in the winter when residents burn wood in fireplaces. On cold nights when there's no breeze to carry away the tiny particulate matter, the soot can settle over a neighborhood and sicken people who are vulnerable to pollution, including children, the elderly and people with respiratory illnesses like asthma, Ross said.

State's dairy farms face competition

Ranchers across the West are milking the same methods that put California on top

By Jacob Adelman, Associated Press

In the Contra Costa Times, Sunday, Dec. 23, 2007

LOS ANGELES -- Frank Teunissen helped California become the nation's leading dairy state before he left his family's ranch outside Los Angeles and bought his own 600-acre spread in Idaho.

Now, he is part of a growing trend in which ranchers across the West are using those same methods to challenge California's dominance of the U.S. dairy market.

"Idaho and New Mexico are looking at California and saying we can do that, too," said Leslie Butler, an agricultural economist at UC Davis.

U.S. Department of Agriculture figures show California produced 3.3 billion gallons of milk in 2006 -- a 17 percent increase from five years earlier, but a growth rate that lags several competing states.

During that same period, Idaho increased production by 40 percent to 937.4 million gallons, and New Mexico posted a 37 percent jump to 653.6 million gallons.

Arizona pumped up output 28 percent to 344 million gallons, and Colorado saw a 29 percent jump to 215 million gallons.

"California is still the largest, but the question is, are they going to be able to maintain growth?" Purdue University agricultural economist Joseph Balagtas said.

Ranchers in Idaho, New Mexico and other states are copying many of the same high-yield dairy methods that fueled rapid expansion in California in the mid-1990s.

The strategy, which Butler calls "the California model," includes taking cows off pastures -- where they graze in thinly spread herds -- and concentrating them together in massive dairies. Feed is shipped into operations, and manure is hauled out, rather than relying on naturally occurring processes in pastures.

Teunissen said his bottom line in Idaho has also benefited from cheaper feed and from utilities that cost one-third as much as his family paid in California.

"It was a great opportunity for my wife and I," he said about his move.

Cheap land, lower taxes and less stringent regulations have also aided the production push in other states, said Gary Genske, a dairy industry consultant. In addition, dairy ranchers outside California don't face the state's strict air and water quality regulations.

California, the nation's leading agricultural state, has a lot riding on its dairy industry. Milk and cream were the state's top agricultural commodities in 2006, raking in \$5.22 billion of the \$32 billion in total sales generated by the industry, according to the state Food and Agriculture Department.

But since 2004, when California ranchers lost their exemptions to federal air quality regulations, they have had to make costly adjustments to curtail emissions.

Among other things, they must cover roads on their farms with asphalt to keep down dust and build structures to enclose waste lagoons, said Michael Marsh, chief executive of the Western United Dairymen trade group.

Many California ranchers also must turn to expensive consultants and lawyers to see them through the state's lengthy, complex permitting procedures.

Depending on the size of a ranch and its location, permit-related fees in California can reach \$700,000, with the process taking as long as five years, Marsh said.

In Idaho, permit fees can cost as little as \$15,000, with the process taking just 90 days, said Bob Naerebout, director of the group United Dairymen of Idaho.

Even though more milk is being produced throughout the West, the increased supply has yet to translate into lower prices for consumers.

Much of the milk and other products are being siphoned off by emerging industrial powers such as India and China, where consumers have more money to spend on healthy diets, Butler said.

Butler said it's only natural for milk production to migrate from California to states where it can be done more cheaply and efficiently.

New York and Wisconsin took their turns as the nation's dominant milk state before California, he noted.

"I have no doubt that other states that are expanding will continue to expand, and that simply becomes a competitive element that dairy producers have to face," Butler said.

Keep the home fires burning - but go for the green

By Nzong Xiong

Tri-Valley Herald, Saturday, December 22, 2007

BRRR! It's cold outside. What better time to make use of the wood-burning fireplace or pellet stove in the living room?

You'll need to first check with your local government to see if you can light up wood, pellets or manufactured logs.

If all systems are go, all you need is fuel for the fire. Whatever you use, "you should burn as cleanly as possible," says Janelle Schneider, a spokeswoman with the San Joaquin Valley Air Pollution Control District.

There are generally two types of logs used in wood-burning fireplaces: real wood logs and manufactured logs. Real wood logs should be hardwood, such as oak or maple.

Boxes of split hardwood, from 0.8 to 1.55 cubic feet, cost \$7.49 to \$13.19. Wrapped bundles, six to eight pieces, cost \$5.69 at Orchard Supply Hardware in Fresno.

Wood from fruit trees also can be used. Bella Frutta in Clovis sells peach, apple and almond in various quantities. For example, they cost between \$38.50 and \$49.95 for a 4-by-4-by-4-foot bin.

With wood logs, be sure they are dry and have time to cure, Schneider says.

"The higher water content (a piece of wood) has, the more smoke it produces," she says. "The worst wood you can burn is raw wood that's not dry and seasoned."

Alternatives to real firewood are manufactured logs, of which there are two main types.

The popular, more commonly found manufactured logs are made of about 50 percent wood or agricultural fibers, such as ground nut shells, and about

50 percent wax, says Chris Caron, vice president of brand development at Duraflame in Stockton.

"The wax may be petroleum, although newer formulations contain natural waxes from plant and vegetable oils," he says. "The wax component of the logs helps bind the materials together, and makes the logs easy to light. The wood wax logs are normally wrapped in a paper wrapper, making them clean to handle."

Duraflame, Pine Mountain and Java-Log products are some that fall in this category. They're sold by the case or by individual logs.

The logs are typically individually wrapped with paper, which you don't have to remove and can light to ignite your fire, says Amber Smith, associate brand manager for Pine Mountain and Java-Log products in Muncie, Ind. At OSH, the cost of individual logs starts at \$1.89 or \$10.99 for a case of six. The Home Depot in Fresno sells cases with nine logs for \$12.98.

The other kind of manufactured log is made of 100 percent compressed wood chips and includes no wax, Caron says.

"The compressed wood logs, often referred to as 'Presto' logs, also burn very cleanly - particularly when burned in a wood stove - but are very dense and difficult to light," he says. "And like wood, you have to burn multiple logs to sustain a fire."

At OSH, a 21-pound box of compressed bricks costs \$5.99.

"They burn a long time and burn clean," says Tim Wilson, the store manager at OSH.

If what helps keep you warm at night is a pellet stove, then bags of pellets are readily available.

"There are some quality differences" with pellet fuel manufacturers, says Dianne Cloyd, co-owner of Ponderosa Hearth and Home in Clovis. "Most of the difference is in the density and the level of moisture" in the pellets. "The more dense and drier, the better the quality. You'll find less sawdust in the bag."

Pellets are sold by 40-pound bags or by the pallet or ton, which consists of fifty 40-pound bags. Cost of individual bags is \$5.99 and a ton costs \$269 at OSH; at Home Depot, it's \$4.89 for individual bags and \$234 for the pallet.

If you're using your pellet stove as your main source of heat, buy by the ton, Cloyd says. Keep bags of pellets out of the rain as much as possible.

Fiscalini Cheese to turn manure into methane for electricity plants

By JOHN HOLLAND

Modesto Bee, Saturday December 22, 2007

The cows at Fiscalini Cheese Co. just munch at their feed, little knowing that they are pioneers in renewable energy.

Rising near the stalls at the Kiernan Avenue business is the first of two large tanks that will turn the animals' manure into methane gas that in turn will be burned for electricity.

Fiscalini, well-known for its farmstead cheese, will have the first manure-to-energy operation in the Modesto Irrigation District, which is negotiating to buy the power.

The manure digester, as it is called, is part of an overall project that includes a tenfold increase in cheese-making capacity and a visitor center.

The latter two have been delayed and likely will not be completed until early 2009, owner John Fiscalini said this week.

The digester, on the other hand, is well on its way and could be feeding power to the MID grid by June.

"They are extremely interested in purchasing it, and we are extremely interested in selling it," Fiscalini said.

Prices and other terms still have to be set, said Roger VanHoy, assistant general manager for electric resources at the MID.

Fiscalini in January got a grant of about \$720,000 from the California Energy Commission for the digester. The systems use bacteria to break down the manure, producing methane, which is similar to the natural gas that heats homes and supplies many electricity plants.

Digesters help dairy farmers meet increasingly strict rules aimed at keeping manure out of waterways.

They also could help fight climate change. Methane wafting from manure is believed to be even more potent than carbon dioxide in trapping heat in the atmosphere. Burning methane to make power renders it relatively harmless.

The MID is under a state mandate to get 20 percent of its energy from renewable sources, other than hydroelectric plants, by 2017. It is at 11 percent, all from wind; the Fiscalini system would bring it to 11.2 percent.

"One of the goals is to get some diversity in the green power," VanHoy said.

The MID board plans to hold a workshop early in 2008 on its options for renewable sources, including solar, wind, animal waste and crop residue.

Fiscalini's overall project, including the cheese-making expansion and visitor center, won approval from the Stanislaus County Planning Commission in April.

Fiscalini said it took a while to get a permit for the digester from the San Joaquin Valley Air Pollution Control District because it was the first such project under new air-quality rules.

He submitted detailed plans for the cheese-making and visitor building to the county this week and said he hopes to start building in the spring.

The new plant will have the capacity to use all of the milk from the site's 3,000 or so cows, compared with 10 percent now, but Fiscalini said production might not go that high.

The visitor center will have a cheese store, a demonstration kitchen and displays about cheese-making. Tours will be available.

The entire project will cost \$3 million to \$3.5 million, Fiscalini said.

Bee staff writer John Holland can be reached at jholland@modbee.com or 578-2385.

L.A. port officials set truck cargo fee to cut air pollution

By Alex Veiga, AP Business Writer
Contra Costa Times, Friday, Dec. 21, 2007

LOS ANGELES-Los Angeles Harbor Commission voted on Thursday to charge a fee on cargo containers moving through the Port of Los Angeles, part of a plan to reduce air pollution by replacing thousands of older diesel trucks with cleaner-burning models.

The commission approved a plan last month to require thousands of trucks hauling cargo to the port be replaced or upgraded to meet 2007 diesel truck emission standards by 2012.

The panel voted to charge a \$35 fee for every loaded container beginning June 1. The fee does not apply to containers that are loaded onto rail.

"This container fee is a fundamental step to ensuring we have the momentum and money to make the most aggressive plan to green the Ports' truck fleet a reality," Los Angeles Mayor Antonio Villaraigosa said in a statement. "With the financial groundwork laid, it's now time to push forward on the rest."

On Monday, the Long Beach Harbor Commission voted to charge fees on cargo containers moving through the Port of Long Beach.

The two ports combined account for more than 40 percent of all containerized cargo entering the U.S. annually.

The ports' growth has raised concerns over the impact pollution from trucks, ships and other vehicles at the ports is having on surrounding communities.

Cargo container fees from both ports are expected to generate around \$1.6 billion to help pay to replace nearly 17,000 older-model trucks with ones that spew fewer harmful emissions.

The plan forecasts an 80 percent reduction in air pollution from port trucks in the next five years.

E.P.A. Ruling Puts California in a Bind

By Felicity Barringer
NY Times, Friday, Dec. 21, 2007

SAN FRANCISCO - The decision by the Environmental Protection Agency to block California's air quality standards for motor vehicles evoked angry responses from state officials on Thursday and the threat of a court battle.

But it also left California in a bind.

Officials here must now look elsewhere for millions of tons of carbon-dioxide reductions to meet its self-imposed mandate for curbing heat-trapping gases like carbon dioxide. And by law, the motor vehicle industry is where they must look.

The state enacted legislation last year requiring a cutback of 173 million tons of carbon dioxide by 2020, and officials had counted on the cutbacks in vehicle emissions for 18 percent, or about 31 million tons, of the total.

Even when the emission reductions associated with the new federal gasoline-mileage standards are taken into account, the state is about several million tons short, thanks to the E.P.A.'s decision, according to a spokesman for the California Air Resources Board. But the Legislature had prepared for the possibility when it passed last year's Global Warming Solutions Act.

Mary Nichols, the chairwoman of the Air Resources Board, which writes the state's air pollution regulations, said in an interview: "We are going to get them from motor vehicles one way or another. I expect we will win our lawsuit and get them from" the regulations that the Bush administration just blocked.

"If not," Ms. Nichols said, "we will pursue other ways to get these tons in ways that don't derive from the Clean Air Act," and therefore do not require a federal waiver.

But none of those ways are likely to be easy, cheap or popular.

No decisions have been made, Ms. Nichols emphasized, but she said some options being considered included imposing fees or penalties to be paid by auto manufacturers selling cars that fail to meet specified requirements. Alternatively, she said, the state might fall back on the authority the federal government granted it more than a decade ago to create electric cars. Perhaps that authority could be used to wring emission cuts from new cars.

Ms. Nichols said Gov. Arnold Schwarzenegger told her in conversations on Thursday that "we should applaud" Congress and the president for the fuel-economy standard that just became law. "But," she added, "it has nothing to do with the problem of global warming. The two things are in different worlds."

Others spoke even more sharply.

"Californians will realize again that maybe it's time to secede from the Union," said Hal Harvey, environment director for the William and Flora Hewlett Foundation.

"This is the first time that federal government has attacked California rather than agreeing with it" on air pollution standards, said V. John White, a longtime clean-energy lobbyist in Sacramento. "They have become a hostile force as opposed to a partner. They are an enemy, and they prefer the interests of the auto industry over the interests of the health of our people and state."

If the E.P.A. denies the waiver, California has three options, said Barton H. Thompson Jr., the co-director of the Woods Institute for the Environment at Stanford University.

"One, you sue," Mr. Thompson said. "Two, you look for a legislative fix that would require Congress to clarify" that the Clean Air Act allows the state to regulate greenhouse-gas emissions from tailpipes. "Three, you wait for the next administration."

"You are not going to get any relief from the courts any faster than that," he added.

A lag of a year or two in carrying out the California standards represents a significant saving for the automobile industry, Mr. White, the clean-energy advocate, said. "This is fundamentally about delaying investment," he said.

Jim Marston, a climate policy expert with Environmental Defense, said the industry might have second thoughts. "The automobile manufacturers may have violated the rule about be careful what you wish for," Mr. Marston said. "California is serious about its numbers. You can't get there if the biggest single source is exempted."

Agency has home-court edge in next round

California's backers are confident, though the D.C. circuit leans right

By David G. Savage, Los Angeles Times Staff Writer
Los Angeles Times, Friday, December 21, 2007

WASHINGTON -- Environmentalists voiced confidence Thursday that California's bid to strictly limit greenhouse gases will survive a regulatory veto from the Bush administration, but the state's legal challenge first will have to go through an appeals court that tilts in favor of the federal government and industry.

Often, those who want to sue can choose where to file their claims. But the Clean Air Act, like many federal regulatory measures, says that challenges to the Environmental Protection Agency's decisions must be filed with the U.S. Court of Appeals for the District of Columbia.

Aides to California Atty. Gen. Jerry Brown confirmed Thursday that the state plans to sue the EPA in Washington. "Regardless of the venue, we believe our case is very strong," said Gareth Lacy, a spokesman for Brown. "There is no legal justification for denying this waiver request."

But the state will not be fighting on its home court. Unlike the California-based 9th Circuit Court of Appeals, which leans to the left, the D.C. circuit leans right. Nine of its 13 judges are Republican appointees. They usually uphold the decisions of the administration and its regulatory agencies.

For example, the D.C. circuit has rejected a series of challenges brought on behalf of prisoners at Guantanamo Bay, Cuba. Two years ago, the court, in a 2-1 decision, rejected California's challenge of an EPA order holding that carbon dioxide and other greenhouse gases were not air pollutants under the Clean Air Act.

The D.C. circuit does not have the final word, however. If they lose there, proponents of California's law would have to hope for another Supreme Court decision in their favor. Last April, in a different case, the high court took up an appeal filed by Massachusetts, California and a dozen other states and ruled 5 to 4 that greenhouse gases were indeed air pollutants.

That decision set the stage for Wednesday's move by the EPA. Because California's fight against smog predated the federal Clean Air Act, Congress has said California can go further than the federal limits on air pollution, so long as it obtains a waiver from the EPA.

Until recently, those waivers were routine. Two years ago, the California Air Resources Board asked EPA for permission to go ahead with its new rules limiting greenhouse emissions from motor vehicles. Along the way, 17 other states signed on to follow California's lead.

On Wednesday, however, hours after President Bush signed into law a measure that will require more fuel-efficient cars by 2020, EPA Administrator Stephen L. Johnson rejected California's bid to move ahead faster to limit greenhouse-gas emissions.

Bush defended the EPA decision, saying that the law's increase in corporate average fuel economy, or CAFE, standards to 35 miles per gallon would significantly reduce greenhouse gases.

"Director Johnson made a decision based upon the fact that we passed a piece of legislation that enables us to have a national strategy . . . ," Bush said.

Johnson reasoned that global warming is not a problem "exclusive or unique" to California. In the past, the state has been allowed to press ahead with anti-pollution rules because of its smog problem.

"Unlike other air pollutants . . . greenhouse gases are fundamentally global in nature," he said in a letter to Gov. Arnold Schwarzenegger.

Johnson pointed to an obscure passage in the Clean Air Act that said California's request for a waiver should be rejected if the state cannot show its regulations are needed to "meet compelling and extraordinary conditions."

On Thursday, environmental activists derided that reasoning.

"California is attacking the most serious environmental problem of all time. If that is not 'compelling and extraordinary,' I don't know what those words could mean," said Jim Marston, a lawyer for Environmental Defense.

David Bookbinder, a Sierra Club lawyer, called Johnson's rationale "nonsensical."

"One way or another, this decision will have a very short shelf-life, although it may delay things for another year or 18 months," he said. "That will be the pathetic legacy of this administration. They thwarted any regulation of greenhouse gases for seven or eight years."

Not surprisingly, industry lawyers viewed Johnson's decision more favorably.

Auto industry lawyers argue that the nation should have one, and only one, set of fuel-efficiency standards for cars and trucks. This has made for a confusing series of legal challenges by the industry.

In one law, Congress said that the fuel economy standards are national in scope and that states may not impose their own rules.

However, under the Clean Air Act, California can strictly limit air pollution, which has the effect of requiring that cars and trucks burn less fuel.

Andrew Clubok, a lawyer for several automakers who oppose California's greenhouse gas limits, said the state does not have the legal authority to force new fuel-efficiency standards, even indirectly.

"California would not provide the lead time to retool vehicles to meet its standards," he said. "We hope the EPA's decision is upheld, because it is based on sound and sensible reasoning."

In the end, the court battle may turn on whether Johnson's decision was based on sound science. The law says technical judgment by agency officials should be upheld by courts if they are based on sound reasons.

Two Democratic California lawmakers, Rep. Henry Waxman of Beverly Hills, who chairs a House oversight committee, and Sen. Barbara Boxer, indicated that they would challenge the soundness of Johnson's reasoning.

"Your decision appears to have ignored the evidence before the agency," Waxman said in a letter to the EPA chief.

In past, states were permitted to set own pollution rules

Bob Egelko, Chronicle Staff Writer

S.F. Chronicle, Friday, December 21, 2007

During President Ronald Reagan's administration, when California was trying to enforce its own tough standards for pollution from diesel engines, the trucking industry argued that the state didn't qualify for a waiver under federal law because the problem wasn't unique to California.

William Ruckelshaus, administrator of the Environmental Protection Agency, sided with the state and let its law take effect. California didn't have to prove its diesel pollution was unique or worse than in any other state, he said in his 1984 decision, as long as it was an important problem because of conditions in the state.

The EPA's current administrator, Stephen Johnson, an appointee of President Bush, spoke in different terms Wednesday when he denied a waiver needed by California - and 16 other states - to allow enforcement of the nation's first limits on vehicles' emissions of greenhouse gases, which scientists consider a major cause of global warming.

The state doesn't meet the federal law's test for a more stringent pollution standard, Johnson said, because "California is not exclusive in facing this challenge." As a result, he said, California

can't meet the test of the federal Clean Air Act, which allows the state to enforce its own air pollution standards if it demonstrates "compelling and extraordinary circumstances."

Johnson also said the energy bill Bush had just signed, which includes an increase in fuel economy standards, offers "a clear national solution, not a confusing patchwork of state rules" for emissions that contribute to climate change.

When the state and environmental groups sue next month in a federal appeals court in Washington, D.C., they plan to argue that the Bush administration contradicted consistent interpretations of the Clean Air Act by Ruckelshaus and other EPA administrators of both parties dating back more than 30 years.

"They've never said before that California conditions have to be unique" to justify enforcement of state air pollution standards, Deputy Attorney General Marc Melnick, a lawyer for California in the case, said Thursday. He said Johnson "ignored the clear intention of the (federal) law" that allows California to act as a pace-setter in combatting air pollution.

"EPA has given previous waivers for problems not unique to California," said David Doniger, a lawyer with the Natural Resources Defense Council, which has joined the defense of the state law.

Despite Johnson's reference to a "confusing patchwork of state rules," Doniger said, only two standards exist - one set by California and the 16 states that followed its lead, the other set by the federal government - and that was the arrangement Congress intended when it created the waiver system 37 years ago.

A different view came from Jeff Holmstead, formerly the Bush administration's top EPA official on air-quality issues and now a Washington, D.C., attorney. He said the federal agency has a strong legal position.

"EPA's best argument is that the Clean Air Act was intended to allow California to deal with local air pollution problems," Holmstead said. "It was not intended to allow California to deal in any way it wants with a problem that's global in nature."

Ruckelshaus' 1984 decision on diesel emissions, and other EPA approvals of California waivers, were based on local conditions that the state could improve by tightening its emissions standards, Holmstead said. "It's not as though California can do anything about climate change in California by regulating emissions in California," he said.

The argument over whether the EPA is contradicting its previous position could be the crucial issue in the suit to revive California's law. The U.S. Supreme Court has ruled that courts should normally defer to a federal agency's reasonable interpretation of a disputed law - but that they don't have to follow a position that has been changed abruptly.

In this case, Johnson's reading of a section of the Clean Air Act, which entitles California to a waiver based on "compelling and extraordinary circumstances," seems at odds with interpretations by Ruckelshaus and other EPA administrators. The question before the courts is whether the new interpretation is an unjustified about-face or a reasonable adaptation of an old law to a new situation.

"When courts believe that, for political or other reasons, a federal agency has shifted a long-standing interpretation of federal law, courts seem to be a lot less willing to give deference," said Richard Frank, executive director of the California Center for Law and Environmental Policy at UC Berkeley. Frank was a high-ranking aide to former state Attorney General Bill Lockyer and worked on California's waiver application.

Frank said the Bush administration has engaged in "radical shifts of interpretation" of a variety of environmental laws and has drawn an increasingly skeptical response from the courts. He cited the Supreme Court ruling in April that found greenhouse gases to be pollutants covered by the Clean Air Act, rejecting the EPA's contrary view of the law.

But conservative scholar John Eastman, dean of Chapman University School of Law in Orange County, said a federal agency's views are entitled to respect from the courts even if they represent a change of course.

"Administrations are part of the political process," Eastman said.

He argued that the EPA is entitled to interpret the law differently for local and global problems. When an agency's view of the law is reasonable, regardless of previous interpretations, he said, "courts are obligated to give the same level of deference."

Asbestos worries raised at school

Officials reacted slowly to initial complaint, speech therapist says

By Neil Gonzales

Tri-Valley Herald, Friday, December 21, 2007

SAN MATEO - A speech therapist at Highlands Elementary School in San Mateo has complained that she and students she works with had recently been exposed to high levels of asbestos in a room and that the school did not act quickly enough to warn them.

The district confirmed surface asbestos was found in the room used by speech therapist Victoria DeLuca.

However, testing before and after abatement actions were taken indicated no airborne asbestos, said Joan Rosas, San Mateo-Foster City School District assistant superintendent of student services.

Asbestos in the air poses a health risk because people exposed can inhale cancer-causing fibers.

DeLuca has taken issue with the district's testing methods, and at least one asbestos expert familiar with the case recommends the room undergo a more involved follow-up examination.

DeLuca has also lodged a complaint with the state Division of Occupational Safety and Health.

Cal-OSHA spokesman Dean Fryer said an investigation started Nov. 6 and could take up to several months.

"At this point, since we have an open investigation, we can't discuss it," he said.

DeLuca, who joined Highlands this school year but has served the district for 21 years, said she first spotted what appeared to be asbestos on a cut pipe along the ceiling in her room on Aug. 28 and reported it to the principal.

She said a nearby vent was blowing air on the pipe, sending dust particles "all over the room." An Oct. 26 analysis report ordered by the district confirmed the substance in the room to be asbestos.

But DeLuca said she was not notified of that result until Nov. 6.

"In the meantime, I was still using the room, seeing kids there," she said. "It was 11 more days the kids and I were there working, even though (the district) knew it was asbestos."

DeLuca works with about 30 kindergartners to fifth-graders, she said. On average, she meets with a student twice a week in the room.

Rosas said she was not aware of a delay in notifying DeLuca. "There might (have been) a communication gap, I don't know," Rosas said.

The room has not been used since Nov. 6. DeLuca now uses another room.

In a Nov. 14 letter, Highlands Principal Mary Pat O'Connell told parents asbestos was found in the insulation surrounding a ceiling pipe.

The "insulation was removed by a licensed contractor using all appropriate techniques for asbestos abatement," O'Connell said in the letter. "An air quality test was ordered by the district to be done prior to the removal of the insulation and following the removal."

Rosas added: "Bottom line, any school or any district is responsible for creating a safe environment for staff and students. When we learned there was asbestos in the speech room, we followed (Cal-OSHA) process to do air testing and abatement. The air samples taken of the room prior and after abatement showed there was no airborne asbestos."

But DeLuca argued that a more aggressive type of testing should have been done to measure potential airborne asbestos.

Arnold Den, a senior science adviser for the U.S. Environmental Protection Agency who specializes in asbestos issues, said that kind of testing requires stirring up the air with a leaf-blower and fans to mimic people's movements in a room and then taking samples.

"From my standpoint, we would want an aggressive sampling to double-check if (the air) is clear," said Den, who became familiar with the case through media inquiries.

He recommended that strategy based on results that DeLuca got after she independently sent samples to Asbestos TEM Laboratories Inc. in Berkeley.

DeLuca said she got her own samples by wiping a printer and shelf. She also got samples from a foil cap she used to cover the pipe.

According to the results from the Berkeley lab, DeLuca's samples revealed 610,000 asbestos particles per square centimeter.

Den described wiped samples showing 10,000 particles per square centimeter as a "warning flag."

However, he said, the district's air-quality test showing no airborne asbestos is "good news."

Still, "We want a better test, because the surface contamination" appeared to have a high amount of asbestos, he said.

But Rosas said the district "followed guidelines.... We followed our instructions."

That doesn't give DeLuca much comfort.

"I feel like it's Russian roulette," she said of her chances now of getting cancer. "Will I get it or not?"

Air-quality board names new boss

Staff Writer

The Record, December 21, 2007

STOCKTON - The governing board of the agency overseeing air quality in the region named a San Joaquin County supervisor as its chairman. Fifth District Supervisor Leroy Ornellas will head the San Joaquin Valley Air Pollution Control District board.

Founded in 1991, the air district is charged with creating programs to improve the quality of air in the Valley, which is low compared with the rest of the country.

The district includes San Joaquin, Stanislaus, Merced, Madera, Fresno, Kings, Tulare and Kern counties. The governing board is made up of elected officials from city and county governments. Recent legislation expanded the board to include more city council members, a lung doctor and an air-quality expert.

"One of the board's primary goals is to establish the cleanest air status possible in the Valley without turning it into an economic Beirut," Ornellas said.

The board meets on the third Thursday of each month at its regional office in Fresno. For more information about the district, visit www.valleyair.org

Pleasanton won't sue over airport issue

By Meera Pal,
Tri-Valley Herald, Friday, December 21, 2007

PLEASANTON - A recent letter from the Livermore mayor has convinced Pleasanton city officials to hold off on plans for a lawsuit against that city for approving increased traffic at the airport.

In June, after Livermore's City Council approved a lease with a private operator to manage fuel sales and 65 new hangars at Livermore Municipal Airport, Pleasanton officials feared their neighbor was not going to adequately consider the impacts to surrounding residents and business, as well as the environment.

In response to an October letter from Pleasanton Mayor Jennifer Hosterman, Livermore Mayor Marshall Kamena explained that the terms of the lease will require the private operator to complete all required environmental reviews before a lease takes effect.

Pleasanton City Manager Nelson Fialho reported at a council meeting this week that the council had decided not to file a lawsuit.

"Livermore has provided written assurances that before that lease is implemented, (it) will conduct appropriate environmental review," Nelson said at the meeting Tuesday.

"If that review is inadequate, the council may consider this matter further and up to litigation."

Livermore officials had been saying that the environmental review would be completed once a final and specific plan is submitted by the new operator, Livermore Air Center LLC.

Pleasanton officials had until late December, or 180 days from the date the lease was approved, to file a lawsuit in Superior Court alleging a violation of the California Environmental Quality Act.

"We got advice from legal counsel stating that the lease on any future (fixed base operator) necessarily includes an environmental impact review process," Hosterman said.

"Consequently, we can hang our hat on that."

News that Pleasanton was considering litigation had come as a welcome respite to a large group of vocal Livermore and Pleasanton residents who have complained that more hangars and a private operator will bring more jets to the airport, increasing noise and air pollution.

City officials have said that airport improvement plans will not appreciably increase the number of flights.

Many are hoping there will be a clearer picture on what the impacts could be from the proposed airport changes once the final plan is analyzed through a proper environmental study.

"I think (the review) will speak to all of the issues that we are concerned about," Hosterman said.

Reach Meera Pal at 925-847-2120 or mpal@bayareanewsgroup.com

Staff writer Eric Kurhi contributed to this story.

Md. Will Challenge Rejection Of Air Rules

'Battle Brewing' Over EPA Move

By David A. Farenthold
Washington Post, Friday, December 21, 2007

Maryland intends to sue the U.S. Environmental Protection Agency over its rejection of a California policy limiting emissions from vehicles, hoping to save a parallel law in Maryland, the state Attorney General said yesterday.

Attorney General Douglas F. Gansler (D) said that Maryland's Clean Cars Act, which would require cars and trucks in Maryland to meet California's standards for greenhouse-gas pollution starting in 2011, would be put on hold by the EPA's ruling.

Because of that, Gansler said, Maryland officials want to join any litigation filed by officials in California, who have said they are preparing a lawsuit.

"We feel like we're on strong legal ground to bring this suit," Gansler said in a telephone interview yesterday. "There's no legal justification for them [the EPA] to deny the request."

The EPA's decision, announced Wednesday night by agency Administrator Stephen L. Johnson, is likely to face legal challenges from across the country.

William Becker, executive director of the National Association of Clean Air Agencies, said that 13 states have adopted the California standards, and five others have expressed interest in following them. Some or all of them might file suit, he said.

"There's a battle brewing, I can tell you that," Becker said. His group is made up of state and local government air pollution control agencies.

The rule in California called for reducing vehicle greenhouse-gas emissions by 30 percent from 2009 to 2016. Transportation-related emissions, including those from cars, trucks and airplanes, accounted for 33 percent of U.S. greenhouse gases in 2005.

Under the federal Clean Air Act, California's rule required permission from the EPA.

Johnson denied it, saying that the federal government was working to reduce emissions nationwide. He cited the energy bill signed this week by President Bush, which requires cars to become more efficient and burn less gasoline.

In court, the key issue could be whether California's plan is justified by "compelling and extraordinary conditions." California says it is, citing the pressing threat of climate change. The EPA says it isn't, since climate change is not a problem limited to California.

"The question is how to have an effective strategy," Bush said at a news conference. "Is it more effective to let each state make a decision as to how to proceed in curbing greenhouse gases? Or is it more effective to have a national strategy?"

Officials at the Maryland Department of the Environment said yesterday that they would continue preparing to implement the Clean Cars Act in 2011.

In the District, the D.C. Council is considering its own clean-cars bill, which could also peg the District's auto-emissions standards to those in California.

One of the bill's sponsors, council member Phil Mendelson (D-At Large), said yesterday that he did not intend to change the text of the bill. Mendelson said he thinks that a court will reverse the EPA's decision before the D.C. bill would take effect in 2011.

[Porterville Recorder Editorial, Sunday, Dec. 23, 2007:](#)

A bad route to a decent destination

State wrong to seek tougher pollution standards, but feds wrong to stand in the way

We hardly have been big fans of the effort by Gov. Schwarzenegger and the Democratic-led Legislature to restrict auto emissions of carbon dioxide and other greenhouse gases in California by 30 percent from 2009-16. Whatever one might believe about the contribution of human activities to global warming - and, despite alarmism from Al Gore, there is nothing approaching a scientific consensus - California's proposed rules would be expensive and burdensome for all Californians while contributing nothing or next to nothing to reducing climate change.

Nonetheless, Environmental Protection Agency administrator Stephen Johnson's denial of California's petition to permit the state - and 16 or 17 other states that have already enacted or promised to enact similar standards - to impose stricter limits on such emissions than the federal government does, was wrong on a number of levels.

The founders of this country gave Americans a Constitution that embodied the principles of federalism, a system in which a great deal of power is lodged at the state and local levels of

government rather than being centralized in an all-powerful national government. This system was created not only because the framers sought a government of limited powers, one that could not run roughshod over state governments except in a few key areas, but because they saw a positive good in having state governments with a great deal of independent discretion.

A federalist system provides what some have called living laboratories of democracy. State governments can try different policies and approaches to issues and problems rather than having a single solution imposed monolithically from the center.

With such a decentralized system states can learn from one another's experiments. Policy experiments that don't work can be abandoned or reversed more quickly than by a lumbering national government - although truth to tell, the record of state governments giving up on policies that don't work is hardly awe-inspiring. Still, imperfect as state governments are, they can be somewhat more flexible than the national government.

The notion that an assertion that "[t]he Bush administration is moving forward with a clear national solution, not a confusing patchwork of state rules," as Mr. Johnson put it, trumps state laws and turns our constitutional system on its head. It declares that the mere promise of a "clear" national policy sometime in the future trumps policies already put into place by officials duly elected by and accountable to the people.

That highlights yet another perverse aspect of this decision - that legislation already passed by democratically elected officials must give way before the wisdom of unelected bureaucrats.

It's not as if the request for permission to enact air-quality standards stricter than those imposed by the federal government was unprecedented. California has had stricter emission standards than those set by the feds almost since Californians first became aware of the existence of smog.

Perhaps we should be pleased at the result, which is to nullify a set of California restrictions we view as onerous and unnecessary. To arrive at that result by subverting our constitutional order, however, is unacceptable.

[Fresno Bee Editorial, Friday, Dec. 21, 2007:](#)

EPA to California: Stuff this waiver in your tailpipe Federal agency turns down request that would have allowed aggressive steps to reduce greenhouse gas emissions.

The chief of the federal Environmental Protection Agency has denied a waiver that would have allowed California to limit greenhouse gas emissions from vehicles. In one respect, it's no surprise. Politics and ideology have consistently trumped science and the law in the Bush administration, especially when it comes to environmental issues.

To reach his decision, all that EPA Administrator Stephen Johnson had to do was ignore unanimous recommendations from his staff on both legal and scientific grounds, 37 years of precedent in granting such waivers and the desire of millions of Americans to begin reducing the production of the greenhouse gases associated with global climate change.

That's an exercise in bureaucratic gymnastics remarkable for its agility even for the Bush administration's EPA.

Johnson and the administration argued that the recently passed energy bill, with its higher fuel efficiency standards, will accomplish the same goals California sought to achieve with its landmark legislation on greenhouse gases. That's simply not true. California's measure goes farther and faster than the federal law, something the state is permitted to do under the Clean Air Act -- so long as it gets a waiver from the EPA. And the EPA has never flatly rejected such a waiver, not in more than 50 instances in the past.

Other states are permitted to adopt California's higher standards, or stick with federal rules, as they wish, and 12 have already done so in this case. Several more are contemplating such a move.

California's senators were quick to respond to Johnson's locution:

"It's a phony argument and ridiculous on its face," said Sen. Barbara Boxer.

"I find this disgraceful," said Sen. Dianne Feinstein. "The passage of the energy bill does not give the EPA a green light to shirk its responsibility to protect the health and safety of the American people from air pollution."

They're right. The new energy bill, signed with great fanfare by President Bush, sets minimum standards, expressly permitting tighter rules. And it preserves California's unique authority to set those higher standards.

House Oversight and Government Reform Committee Chairman Henry Waxman, D-Los Angeles, has already ordered Johnson to produce documents related to the decision for his committee's investigation. Good for him.

California will now pursue a lawsuit to overturn the EPA action, a course many believe will be successful. "I have no doubt that we will prevail because the law, science and the public's demand for leadership are on our side. Anything less than aggressive action is inexcusable," Gov. Arnold Schwarzenegger said Thursday. State Attorney General Jerry Brown said he and the governor would sue to overturn the ruling "at the earliest possible moment." Good for them, too.

We should have known this was coming -- and many did -- when the Bush administration used its Transportation Department to lobby members of Congress, urging them to contact the EPA and oppose the California waiver. And when Vice President Dick Cheney and others in the administration met regularly with automakers to plot their strategy.

Johnson never had a chance -- presuming he ever wanted one -- even with his own lawyers and scientists telling him the waiver was a good idea.

California's rules would have greatly accelerated the battle against greenhouse gas emissions. The new federal fuel efficiency standards won't be fully in effect until 2020, four years after California's rules. The new California rules were set to kick in with the 2009 model year for vehicles -- a date now jeopardized by the EPA action, regardless of the outcome of attempts to overturn it.

And the new energy bill addresses fuel efficiency standards, not tailpipe emissions. There's a difference, and it's an important one.

The EPA heard from a host of people -- engineers, scientists and even former EPA administrators -- supporting California's waiver request, including a record-setting number of comments from the public.

The only opposition came from the auto industry. And yet the auto industry prevailed, thanks to its friends in the White House.

The argument from the industry, echoed by the White House, is that the nation would be better off with a single standard, rather than different sets of state rules. On its face that makes a certain sense, but in this real world case it's as specious as it can be.

For one thing, California and the 16 other states that wanted California's rules represent about half of the nation's population. That's as effective a national standard as you'll ever see.

For another, we'll never see a national standard for greenhouse gas emissions from the Bush administration. President Bush has steadfastly refused to even contemplate such rules.

So now the whole thing heads for the courts -- where the auto industry and the administration have lost at every turn. We hope that's how it turns out again, but it's a shame that it has to happen that way.

[Letter to the Editor, Fresno Bee, Friday, Dec. 21, 2007](#)

What about sugar?

I was wondering about how to reduce the dependence on foreign oil. Ethanol provides a way to reduce pollution of the air and fuel for electricity as well as a substitute for gasoline.

Would it be more effective to eliminate the tariff on low-cost cane sugar from tropical countries and import more sugar for ethanol production in the U.S.? Also, I was wondering why we are not using sugar beets for ethanol production in our country? We used to produce massive tons here in California.

*James E. Lindegren, Research entomologist
USDA (retired)
Fresno*

[Letters to the LA Times, Friday, Dec. 21, 2007:](#)

What EPA's stance means for the state

Re "California emissions law rejected," Dec. 20

The Bush administration's refusal to engage meaningfully at the recent climate summit in Bali, followed by its refusal Wednesday to allow California and at least 16 other states to establish effective carbon emission standards, is like a crowded lifeboat sinking in a threatening sea. While nearly everyone frantically bails water out of the boat, the fattest person on board refuses to help, noting that others are not bailing fast enough. The effects of global warming are upon us and worsening, and only concerted action can lessen the impact. I doubt that our children and grandchildren will forgive the arrogant inaction of the United States.

Mark Hixon, Corvallis, Ore.

The federal government was right to override the governor's and his cronies' plan to combat global warming. Why should California taxpayers foot the bill for an experiment that would have little effect on this cyclical phenomena and possibly send more residents out of the state? First let's balance our budget without raising taxes and encourage businesses, which create jobs, to remain.

R.J. Mendelson, Playa del Rey

Environmental Protection Agency standards are national minimum standards, or so I thought. Individual states should have the right to exceed those standards according to their environmental conditions. California's air pollution levels demand that we act to lower vehicle emissions even more than we already have. Under the Bush administration, auto and oil industry interests have definitely taken priority over the needs of the environment and the people. Under this irresponsible administration, the EPA should be renamed the EDA -- the Environmental Destruction Agency.

Robert C. Lutes, Temple City

[Letters to the NY Times, Saturday, Dec. 22, 2007:](#)

Just What Is the E.P.A. Protecting?

To the Editor:

Re "E.P.A. Says 17 States Can't Set Greenhouse Gas Rules for Cars" (front page, Dec. 20):

By denying California and 16 other states the right to set their own carbon dioxide emission standards, the Environmental Protection Agency has shown its disregard for public safety and its unabated allegiance to some of the largest polluters in the world.

The E.P.A. and the auto industry are sharing identical talking points. Both the auto industry and the E.P.A. speak of the ineffectiveness of a "patchwork" of regulations. But more than half of all

automobiles would have fallen under these tailpipe emission regulations. If anything, it would have been a “patchwork” of states that were not taking bold steps to curb climate change.

The E.P.A. and the Bush administration are pandering to auto industry interests while the quality of our air and the health of our communities hang in the balance. The E.P.A. would rather play politics than provide pathways to healthy communities.

It's time that the E.P.A. live up to the P in its name and protect our future, not corporate interests.

Nick Magel, San Francisco

The writer is the director of Global Exchange's Freedom From Oil Campaign.

To the Editor:

In response to the Environmental Protection Agency's rejection of California's and 16 other states' requests for Clean Air Act waivers, David McCurdy, president of the Alliance of Automobile Manufacturers, said, “A patchwork quilt of inconsistent and competing fuel economy programs at the state level would only have created confusion, inefficiency and uncertainty for automakers and consumers.”

As someone in her 20s, I have to say that I'm a lot more concerned about the “confusion” and “uncertainty” that will be caused by drought, rising sea levels and other adverse effects of global warming that my generation will have to deal with long after Mr. McCurdy is gone.

While I appreciate that Mr. McCurdy is looking out for my needs as a consumer, I wish he and the automakers would look out for my needs as a human being on planet Earth by producing vehicles that don't pollute the environment.

Christine R. Fry, San Francisco

To the Editor:

The objections of the Environmental Protection Agency and the automobile industry to allowing states to set their own emission standards can be summed up as a desire to avoid “a confusing patchwork” of individual state standards instead of one national one.

There is an obvious solution that would address these objections. If the E.P.A. were to adopt the California standard, there would be one national standard and no “confusing patchwork” of individual state rules.

If the E.P.A. and the automobile industry don't like this simple solution, then perhaps they should state with more care and accuracy their real objections to the state emission standards.

Stewart Palmer, New York

To the Editor:

If we've learned nothing else during the last seven years of the Bush presidency, we should at least know that we can count on this administration's reflexive support for shortsighted business interests above all.

Even the beloved states' rights fall behind the corporate goal of delaying greenhouse gas emission standards as long as possible.

One hopes that consumers will force the issue by purchasing vehicles that meet the rejected standards, if not for the environment's sake, then for the fact that that such vehicles save money by burning less fuel.

David Schwartz, Baltimore

[This is a sampling of transportation writer Erik N. Nelson's Capricious Commuter blog on getting around the Bay Area.](#)

Air district staffers told: No bike on job

By, Erik N. Nelson

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Speaking for those of us who toil away in the real world, where employers don't much care how you get to work as long as you get there on time, it was with no small amount of glee that I discovered the memo from the Bay Area Air Quality Management District.

Regular commentator Murphstahoe provided the following link: bikescape.blogspot.com/2007/11/what-were-up-against.html. It provides a copy of a human resources memo to the employees of the air district, which is in the business of promoting alternatives to the automobile in the name of clean air, to wit:

"It has come to the attention of the human resources office that some employees may be riding their bicycles in the course of their work duties. While biking to work is an option that the district supports, employees are not to ride their bikes in the course of their work duties.

"The potential for serious injury is much greater riding a bicycle than driving a car in the event of an accident. Until further notice, employees are not to ride their bikes in the course of their work duties."

I could comment here, but nothing I could come up would match one of the comments on the blog:

"By the grace of God, tell me this was a prank. A sick joke perhaps? A late April Fool's joke?"

I had similar thoughts, especially considering that this very morning I was on my bike, staring down tractor-trailer rigs on the West Grand Avenue viaduct over the Port of Oakland rail yard on my way to the Caltrans Bay Bridge public information office.

Knowing there must be a logical explanation, I called Karen Schkolnick, spokeswoman for the air district.

Basically, it boils down to a lack of insurance for someone getting hit on a bike in the course of their air district duties.

"Our office is committed to green practices and we are a green-certified business," she explained, but I knew all that stuff.

I knew the district lavishes its employees with free BART tickets, generous Commuter Check subsidies (did I mention that I've lost mine?) and a fleet of off-road Segways with the boss mudder tires.

OK, so I made up the last bit, but Schkolnick said they have hydrogen fuel-cell vehicles and a bunch of other alt-fuel vehicles for their inspectors to run around saving the world in.

"We have an insurance policy for when employees drive vehicles at work, but we don't have one for employees who ride bicycles at work," she told me, promising that within a month or so, such a policy would be in place.

Part of the problem is that the air district office sits between two freeways in San Francisco, which can be a dodgy place to pedal around in.

"We're not in Santa Cruz, we're not in Berkeley," she said.

I must say that there are some scary places to bike in Berkeley, too.

As part of the more bike-friendly effort, the district is retaining a company that will maintain a fleet of company bikes for the district, so proper bike maintenance is assured, she added.

The funniest part of this was that I called Robert Raburn, executive director of the East Bay Bicycle Coalition, and he was neither outraged nor terribly surprised. As a journalist, I really hate it when people aren't outraged or surprised.

Turns out, the Bay Area Bicycle Coalition, which runs Bike-to-Work Day in the fall for the Metropolitan Transportation Commission, recently had to secure a \$20,000 insurance policy for its Team Bike Challenge. The Challenge pits teams from various companies and other entities against each other to see how many days their members bike to work.

"To have an agency like that come up with a policy that's the antithesis of what the district should be doing is ludicrous," Raburn said. "It's disturbing and certainly is costly and it adds a real hurdle to the promotion and the utility of bicycling."

He wasn't just talking about the air district. His concern is that putting an extra insurance requirement on employers could spawn similar policies throughout the working world.

"Let's look under the carpet here," Raburn urged. "Is somebody's relative in the insurance business?"

[Note: The following clip in Spanish discusses the investigation of EPA's ruling against California's emissions law. For more information, contact Claudia Encinas at \(559\) 230-5851.](#)

Investiga Comité del Congreso negativa de la EPA para California

Noticiero Latino

Radio Bilingüe, Friday, December 21, 2007

El Comité de Vigilancia y Reforma Gubernamental del Congreso inició una investigación sobre la negativa de la Agencia federal de Protección Ambiental (EPA, por sus siglas en inglés) a California, para que este estado ponga en vigor su ley contra el sobrecalentamiento terrestre.

El presidente del referido Comité, el demócrata, Henry Waxman, dijo que esa decisión de la EPA "no sólo tiene serias consecuencias para nuestra nación, sino que despierta inquietud sobre el proceso en la toma del gobierno federal para tomar decisiones".

Esta semana la EPA negó por primera vez a California, y con una respuesta retrasada, el permiso para aplicar una ley estatal, considerada la más estricta contra la contaminación vehicular.

[Note: The following clip in Spanish discusses Bush's EPA refusal of California's plan to reduce emissions. For more information, contact Claudia Encinas at \(559\) 230-5851.](#)

Niega Bush permiso a California para activar ley contra sobrecalentamiento

Noticiero Latino

Radio Bilingüe, Thursday, December 20, 2007

La administración del presidente, George Bush negó ayer a California permiso para aplicar su ley estatal contra el sobrecalentamiento terrestre.

El administrador de la Agencia federal de Protección Ambiental, EPA, por sus siglas en inglés), Stephen Johnson dijo en conferencia que si los estados aplican leyes propias para controlar la contaminación, serían como parches en Estados Unidos, y que el país necesita un reglamento uniforme.

La presidenta de la Oficina de Administración de la Calidad del aire en California, Mary Nichols recordó en respuesta que la Suprema Corte de Justicia del país ordenó a la EPA, actuar contra el sobrecalentamiento terrestre porque afecta la salud humana. La corte falló en favor de California.

El gobernador de California, Arnold Schwarzenegger ordenó a su administración pelear esa decisión de la EPA.

[Note: The following clip in Spanish discusses the denunciation from Latino Legislators on the disparity of pollution; an estimated 80% of Latinos live in areas where the levels of healthy air do](#)

not meet the standards of EPA. For more information, contact Claudia Encinas at (559) 230-5851.

Legisladores latinos denuncian grave disparidad en los efectos de la contaminación

Noticiero Latino

Radio Bilingüe, Monday, December 24, 2007

Legisladores y académicos de California denunciaron que el 80 por ciento de los latinos vive en el país en zonas que fallan en alcanzar niveles de aire saludable que establece la Agencia federal de Protección Ambiental.

Comparativamente el 57 por ciento de los residentes blancos o caucásicos viven en zonas con esas condiciones.

Una senadora de California, Jenny Oropeza, formó el fin de semana un panel de 27 miembros latinos que abordará esa disparidad e informará a la bancada latina de California sobre posibles ajustes.

El presidente de esa bancada, José Coto dijo que se puede partir de cambios en escuelas de vecindarios de bajos ingresos ubicadas cerca de carreteras, para proyectar soluciones para próximas generaciones.