

Builder pollution rule clears hurdle

Stockton Record, Friday, Jan. 22, 2010

A controversial rule that holds builders accountable for air pollution generated by their developments has cleared the latest in a series of legal hurdles, air regulators said Wednesday.

The state Supreme Court has declined to consider a petition by the California Building Industry Association, which claimed the San Joaquin Valley Air Pollution Control District had no authority to regulate development and to impose fees, the district said.

The unique rule, approved in 2005, requires developers to offset pollution generated by their projects. For example, the builder of a development might locate homes close to bus stops or include neighborhood bike paths. Or the developer might pay fees that the district uses to reduce pollution elsewhere.

The building association sued after the rule was passed, but the rule has twice been upheld. The National Association of Home Builders has a pending challenge in federal court.

Company to pay \$644K to offset pollution from plant

By Jaclyn Hirsch, staff writer

Tracy Press, Friday, Jan. 22, 2010

Mariposa Energy will pay air regulators \$644,503 to offset roughly 27 tons of expected air pollution from a proposed 10-acre power plant just west of Mountain House.

The money will be used to counteract anticipated air pollution by replacing or "retrofitting" diesel engines to run with cleaner fuels, said Dave Warner of the San Joaquin Valley Air Pollution Control District.

He said a majority of the expected pollutants are gases like nitrous oxides, which would add to the smog already affecting the area.

Warner said the plant would be a peaker plant, which on average only operates about 600 hours per year to fill in power needs during highest demand, usually in the summer time.

The site is seven miles northeast of Tracy and 2.5 miles west of Mountain House, just over the county line in Alameda County. Mariposa Energy hopes to win permission to start construction in April 2011.

Fight over Kettleman landfill headed to court

By The Associated Press

In the San Diego Union-Tribune, Contra Costa Times and other papers, Friday, Jan. 22, 2010

KETTLEMAN CITY, Calif. — The fate of expansion plans for California's largest hazardous-waste landfill in Kettleman City that some blame for causing birth defects is headed to court.

A group of residents, along with two environmental groups, sued Kings County on Thursday, saying its environmental review of Chemical Waste Management's expansion plan was flawed. They say the county failed to consider impacts on air quality and public health when they approved it last month.

The project's opponents note that five babies in Kettleman City were born with cleft palates during a 15-month period beginning in 2007, and three of them died.

Kings County administrative officer Deb West maintains "all the proper steps" were taken during the permitting process.

The dump's owners say there's no evidence linking the facility to the birth defects.

Air quality forecast and woodburning rules

Merced Sun-Star, Thursday, Jan. 21, 2010

MERCED

AQI Forecast for 1/21/2010: 16 Good (O3)

AQI Forecast for 1/22/2010: 14 Good (O3)

School Flag color for 1/22/2010: Green

Fireplace/Wood Stove Burning Status for 1/21/2010: Please burn cleanly

Fireplace/Wood Stove Burning Status for 1/22/2010: Please burn cleanly

San Joaquin Valley Air Pollution Control District

Daily Air Quality Forecast

More information about the Daily Air Quality Forecast can be found at:

<http://www.valleyair.org/aqinfo/forecast.htm>.

More information about the Fireplace/Wood Stove Burning Status can be found at:

<http://www.valleyair.org/aqinfo/WoodBurnPage.htm>.

County willing to negotiate in disputed dairy expansion

By Seth Nidever

Hanford Sentinel, Friday, Jan. 22, 2010

Earlier this month, after a heated dispute erupted over a dairy expansion Kings County officials said was unauthorized, it looked like a major confrontation was brewing between the struggling dairy industry and county officials worried that the law is being ignored.

Things have simmered down now, with county planning staff agreeing to try to work it out with the J.D. Mello Dairy on Grangeville Boulevard.

But at the Kings County Planning Commission meeting on Jan. 4, it looked like a battle was imminent.

County staff had asserted that Mello added structures and animals not authorized under his permit. Jason Mello disputed that, saying his family thought the expansions were authorized. Officials at the Kings County Community Development Agency didn't budge. After the dairy missed a deadline to come into compliance, officials said the operation would have to file for a conditional use permit, a lengthy and more costly process with no guarantee of approval.

That drew a heated response from Mello attorney Mike LaSalle, who threatened to take the county to court over its decision-making process. LaSalle went further and challenged the dairy element, a huge document in the Kings County general plan that lays down environmental compliance rules for new and expanding dairies.

The 2002 dairy element has been hailed as a model for bringing dairies into compliance with environmental law, saving them from lawsuits and freeing them from doing expensive individual environmental reviews.

LaSalle and Mello put heavy emphasis on dairy economic woes. Milk producers have lost money for months and are struggling to remain profitable amid consistently weak prices.

With a potential showdown looming, county leaders apparently decided to take a less confrontational approach, according to planning commission chairman Mark Cartwright.

"The county got together and decided the way the dairy industry is going, and the way things are going, they didn't want to try to be penalizing to the dairy industry," Cartwright said.

The county will allow Mello to get his expansions approved through a site plan review process, which is less burdensome than the conditional use permit application, according to Greg Gatzka, community development agency director.

"Especially right now, with the economic situation, we just have to work as best we can with the dairy industry," Gatzka said.

Some, like planning commissioner Louise Draxler, have expressed concern that dairies are going to start ignoring the rules. But others don't think the Mello case is an example of that.

"I think that maybe there was a misunderstanding there. I think that was the main point," County Supervisor Tony Barba said.

Gatzka said Mello "is willing to move to get his operation into compliance."

The whole episode has triggered a review of the dairy element. In particular, officials are looking at air and water regulations that LaSalle and others think have been pre-empted by separate permits dairies now have to get from the California Regional Water Quality Control Board and the San Joaquin Valley Air Pollution Control District.

"We're all going to have to decide what to do there," Cartwright said.

Cement, glass companies agree to add pollution controls

By Renee Schoof, McClatchy Newspapers
Modesto Bee, Friday, Jan. 22, 2010

WASHINGTON -- For the first time in the history of the Clean Air Act, the federal government has reached settlements that will require a glassmaker and a cement company to add pollution controls at all their plants across the country.

Lafarge, the nation's second largest maker of Portland cement, and Saint-Gobain Containers, the second largest manufacturer of glass containers for beverages and foods in the U.S., agreed to add up-to-date pollution control devices, accept emissions limits and pay penalties to settle complaints that they violated the law.

There have been similar company-wide settlements for air pollution violations for coal-fired power plants, the largest source of air pollution, but this was the first such settlement in the cement and glass sectors, which also rank near the top as big pollution sources.

The settlement will require the companies to reduce emissions of sulfur dioxide, nitrogen oxides and particulate matter. The pollutants are known to trigger asthma and other respiratory problems, contribute to heart disease, cause acid rain and damage water quality.

The Environmental Protection Agency has targeted coal plants, oil refiners, and cement and glassmakers for enforcement of air pollution rules known as "new source review," which require companies to add modern pollution controls when they expand or upgrade.

Lafarge agreed to pay a \$5 million civil penalty to resolve the alleged violations. Saint-Gobain Containers also will pay a \$2.25 million penalty. Spokesmen from both companies couldn't be reached to comment.

The settlements will reduce pollution that threatens the health of millions of Americans, said Cynthia Giles, assistant administrator for the EPA's Office of Enforcement and Compliance Assurance.

"It's time for the other cement and glass manufacturers to step up and comply with the law," she said.

Disputes about new source review have been settled in the courts, and the law is clear, said Ignacia S. Moreno, Assistant Attorney General for the Environment and Natural Resources Division at the Department of Justice.

"We are prepared to litigate aggressively. Nonetheless, we believe the far better course for all concerned is to negotiate effective settlements," she said.

She said she couldn't discuss other pending cases.

Keri Powell, an attorney for the environmental law firm Earthjustice who has worked on pollution issues in the cement industry, said the settlement was "hugely significant because up until now cement plants have largely escaped serious air pollution requirements."

Cement plants also are one of the largest sources of mercury pollution. The pollutant settles in water and accumulates in fish at levels toxic to humans. The settlement didn't address mercury pollution. The EPA, however, is working on a stronger rule for mercury and other air toxics.

Powell said U.S. cement plants tend to be old facilities with very little pollution control equipment. The settlement covers 13 of the largest plants.

Lafarge North America, part of a company headquartered in France, has facilities in Seattle; Atlanta; Whitehall, Pa.; Ravana, N.Y.; Calera, Ala.; Harleyville, S.C.; Paulding, Ohio; Alpena, Mich.; Tulsa, Okla.; Sugar Creek, Mo.; Buffalo, Iowa; Fredonia, Kan.; and Grand Chain, Ill.

The EPA said in a statement that Lafarge and two subsidiaries would install the pollution controls at a cost of about \$170 million.

Among the types of pollution controls the two companies agreed to install were selective catalytic reduction systems. This will be the first time that this type of control will be installed at a U.S. cement or container glass plant. Giles said it was "a very important first for each of these industries" because the equipment is 90 percent effective in removing nitrogen oxide pollution.

Saint-Gobain Containers, whose parent company also is based in France, will install equipment expected to cost \$112 million at 13 plants in 13 states.

The 13 plants are in Burlington, Wis.; Dolton and Lincoln, Ill.; Dunkirk, Ind.; Henderson, N.C.; Madera, Calif.; Milford, Mass.; Pevely, Mo.; Port Allegany, Pa.; Ruston, La.; Sapulpa, Okla.; Seattle; and Wilson, N.C.

Two firms reach pollution control settlements

The Associated Press

Contra Costa Times & Tri-Valley Herald, Friday, Jan. 22, 2010

WASHINGTON—A container glass-maker and a cement manufacturer could end up paying \$282 million to cut emissions at 28 plants around the country under Clean Air Act settlements with the government, the Justice Department announced Thursday.

The agreements with the second-largest companies in their business sectors require Saint-Gobain Containers Inc. of Muncie, Ind., and Lafarge North America Inc., based in Herndon, Va., to make company-wide pollution control upgrades and acceptance of emission limits.

Saint-Gobain will install pollution control equipment that the Justice Department estimated would cost \$112 million at 15 plants in 13 states.

Under the settlement, Saint-Gobain has agreed to pay a \$2.25 million civil penalty to resolve alleged violations of Clean Air Act regulations.

Lafarge and two subsidiaries are expected to spend up to \$170 million to reduce emissions at 13 cement plants in 13 states. The company, the second-largest manufacturer of the most commonly used type of cement, has agreed to pay a \$5 million civil penalty to resolve alleged violations of the Clean Air Act.

The settlements are a message to other companies and other industries that the Justice Department and the Environmental Protection Agency intend to pursue Clean Air Act violations aggressively, Assistant Attorney General Ignacia S. Moreno, head of the Justice Department's Environment and Natural Resources Division, told reporters.

Senators try to thwart EPA efforts to curb emissions

By Juliet Eilperin, staff writer

Washington Post and other papers, Friday, Jan. 22, 2010

A bipartisan group of senators introduced legislation Thursday to block the Environmental Protection Agency from regulating greenhouse gases under the Clean Air Act, a move that could undercut one of the Obama administration's top domestic priorities.

As prospects fade that Congress will pass a comprehensive climate bill this year, the EPA has been moving forward to enact regulations that would put costly limits on power plant pollution, making the agency the target of influential industry representatives and some members of Congress.

"We're being presented with a false choice between unacceptable legislation and unacceptable regulations," said Sen. Lisa Murkowski (R-Alaska), adding that it made no sense in the midst of an economic downturn. "Here in Washington, federal bureaucrats are contemplating regulations that will destroy jobs, while millions of Americans are doing everything they can just to find one."

Murkowski, joined by three Democrats and 35 other Republicans, said she is offering a "resolution of disapproval" that would prevent the EPA from taking action on emissions by reversing its recent finding that greenhouse gases endanger the public's health and welfare.

The resolution faces an uphill battle because it would have to pass both houses, but it highlights the deep unease that Republicans and moderate Democrats feel about taking action on climate change -- either in legislation or through the EPA.

Sen. Barbara Boxer (D-Calif.), chairman of the Senate Environment and Public Works Committee, called the move "a direct assault on the health of the American people." She said that if the public waits for Congress to pass climate legislation, "that might not happen, in a year or two, or five or six or eight or 10."

Last month, at a dinner with environmentalists, EPA Administrator Lisa P. Jackson said her staff had figured out how it could impose a nationwide, market-based system to curb greenhouse gases like the one being contemplated in Congress. But that approach could spark years of litigation from industries that would have to comply with new and potentially complex federal rules and would probably impose higher costs on industry than steps shaped by lawmakers.

John Podesta, a White House ally who heads the liberal think tank Center for American Progress, said that although the administration is still hoping for a legislative solution on climate, "they're not going to give up their authority to move forward in the absence of comprehensive legislation. We've seen how difficult it is to get 60 votes for almost anything."

For months, most environmentalists and representatives of fossil-fuel-based industries assumed that Congress would pass legislation that would override what many call "Plan B," in which the EPA -- empowered by a 2007 Supreme Court ruling -- regulates greenhouse gases on its own.

The newly activist agency is pressing ahead. It finalized its scientific finding that greenhouse gases qualify as a pollutant last week, and by the end of March it plans to finalize rules regulating

greenhouse gases that cars and trucks emit and rules for identifying any facility emitting at least 25,000 tons of carbon dioxide as a target for regulation.

It's that step, targeting coal-fired utilities, oil refineries and other major emitters, whose products and services ripple through the entire U.S. economy, that is sparking a major lobbying and litigation fight.

"The Murkowski resolution asks each senator to deny the overwhelming science that greenhouse gas pollution is a real and serious threat to the health and welfare of our citizens," Jackson said Thursday.

"It disregards the Supreme Court decision that directed us to act and ignores the evidence before our own eyes."

Influential business interests, ranging from the Southern Co., a utility, to the U.S. Chamber of Commerce, are making it clear that Congress will have to step in to stop the administration from reaching that far. The House-passed climate bill prevents the EPA from using the Clean Air Act to regulate greenhouse gas emissions from vehicles, power plants and a few other major emitters, despite the Supreme Court ruling that gave the agency the right to do so. Democrats made that concession to win votes for the overall package, but industry groups are trying to enshrine it in law without a climate bill.

"We think it would be premature for EPA to move ahead," said Southern spokesman Jason Cuevas. "We are sharing that information with people on the Hill."

U.N. Foundation President Timothy Wirth called it "the number-one goal of the industry, to defang the EPA."

Obama officials, utility executives and environmental advocates all say they'd prefer Congress to complete legislation this year. But even backers of a bill, such as American Electric Power chief executive Michael G. Morris, are skeptical that will happen, given the lack of enthusiasm among moderate Democrats and nearly all Republicans. "I don't see anything happening in 2010."

DEQ to host air quality meeting in Pinedale

By Mead Gruver, Associated Press Writer

In the San Diego Union-Tribune, Contra Costa Times and other papers, Friday, Jan. 22, 2010

PINEDALE, Wyo.—More study is needed to help state regulators determine the best ways to reduce wintertime smog problems in the Upper Green River Basin, a Wyoming Department of Environmental Quality administrator told a public meeting here Thursday.

The smog results from high levels of ozone. The ozone results from air pollution from the area's substantial gas development combined with certain weather conditions, such as snow on the ground, sunshine and temperature inversions.

Smog usually is associated with warm weather and urban areas. The Wyoming Department of Environmental Quality and others have been studying western Wyoming's rather unusual ozone problem since 2004.

Dave Finley, head of the department's Air Quality Division, briefed about 60 local residents, environmentalists and industry officials on the agency's ongoing studies in the Upper Green River Basin.

"We've studied this almost to death. We're pretty certain what conditions have to be in order for ozone to form and for it to stick around," Finley said.

The department continues to both maintain an inventory of known pollution sources in the basin as well as monitor pollution at stations set up in and around the Pinedale Anticline and Jonah gas fields, he said.

Still, the department doesn't exactly know the best ways to require changes in activity—for the gas industry, primarily—when conditions are likely to produce smog.

"What are the emission levels that will prevent this from happening?" Finley said. "In order to do that, we need computer models. The computer models we have today don't work in the dead of winter in the Upper Green River Basin."

Late last year, the department convened a group of experts on ozone at Laramie County Community College to provide recommendations for addressing the Upper Green River Basin smog, Finley said.

The department got a couple hundred recommendations, he said.

"We're not done analyzing all of the information that came to us in that technical forum," Finley said. "We heard a ton of stuff."

The meeting occurred ahead of plans by the U.S. Environmental Protection Agency to lower the nationwide limit for ozone pollution. A new EPA standard for ozone—between 60 and 70 parts per billion—is expected by Aug. 31.

Gas industry officials say they've taken significant steps to reduce air pollution.

Alaska senator moves to limit EPA authority

John M. Broder, New York Times

Also in the S.F. Chronicle and other papers, Friday, Jan. 22, 2010

Washington - -- In a direct challenge to the Environmental Protection Agency's authority, Sen. Lisa Murkowski, R-Alaska, introduced a resolution on Thursday to prevent the agency from taking any action to regulate carbon dioxide and other climate-altering gases.

Murkowski, joined by 35 Republicans and three conservative Democrats, proposed to use the Congressional Review Act to strip the agency of the power to limit emissions of greenhouse gases under the Clean Air Act. The Supreme Court gave the agency legal authority to regulate such emissions in a landmark 2007 ruling.

The agency has declared carbon dioxide and other greenhouse gases to be a threat to human health and the environment and is moving to write regulations to restrict emissions from vehicles, power plants and other major sources. The action could impose significant costs on the economy but would also rein in production of the heat-trapping gases that most scientists link to worrisome changes in the global climate.

Murkowski said EPA enforcement would mean businesses would be forced to close or move overseas, domestic energy production would be curtailed, housing would become more expensive and agricultural costs would rise.

Her resolution requires a majority vote in the Senate, a remote possibility because of the strong opposition of the Democratic leader, Sen. Harry Reid of Nevada, and most other Democrats. It faces even longer odds in the House. And then it would require the signature of President Obama, who is all but certain to veto it.

Murkowski said that the Obama administration was using the threat of EPA regulation to force Congress to move quickly on broad energy and climate-change legislation, including a complex cap-and-trade program to limit carbon-dioxide pollution.

Murkowski, the senior Republican on the Senate Committee on Energy and Natural Resources, has nearly unanimous Republican support in addition to the backing of the three Democrats: Sens. Blanche Lincoln of Arkansas, Mary Landrieu of Louisiana and Ben Nelson of Nebraska.

Her effort was applauded by industry, agriculture and energy lobbies.

EPA vows to do all it can for school's air

By Blake Morrison and Brad Heath
USA TODAY, Friday, Jan. 22, 2010

The U.S. Environmental Protection Agency pledged Thursday to "use all the tools at our disposal" to reduce high levels of a toxic chemical that continues to permeate the air outside an elementary school in Marietta, Ohio.

The chemical, manganese, can affect children in much the same way as lead. Government scientists have concluded that long-term exposure can cause mental disabilities and emotional problems.

The EPA plans to release data today that show high levels of manganese outside a cluster of schools in and near Marietta. One air sample — taken Oct. 22, 2009, outside Warren Elementary — shows manganese levels that were 23 times above what the EPA considers safe for long-term exposure.

"That is pretty remarkable," said Stephen Lester, science director for the Center for Health, Environment & Justice, a Virginia-based advocacy group that focuses on children and schools.

Two other schools, including Neale Elementary in Vienna, W.Va., just across the Ohio River from Marietta, also appear affected. One reading at Neale was five times higher than what is considered safe for long-term exposure.

Breathing high levels of manganese for extended periods can cause "irreversible damage," Lester said. He worried that the readings might represent "just the tip of the iceberg. How many other chemicals are these kids exposed to?" he asked. "It's not just manganese alone that you worry about. It's the combined effect of all these chemicals on the central nervous system."

EPA spokesman Brendan Gilfillan said the agency plans to investigate the source of the manganese in Marietta. According to data collected by the EPA, several companies in Marietta reported releasing manganese into the air in 2008, the most recent year for which complete records were available. One, Eramet Marietta, reported releasing 240,000 pounds of manganese into the air that year. The company could not be reached for comment Thursday.

Marietta has been the subject of air quality studies since 2000. In July, the Centers for Disease Control and Prevention said one of its studies had found elevated levels of manganese and other toxic chemicals in the air at several locations.

The EPA renewed its interest in the area last year, when it launched a \$2.25 million program to monitor the air outside 63 schools in 22 states. It included among the 63 schools two in Marietta — Warren Elementary and the Ohio Valley Education Service Center.

The EPA's air monitoring program came in response to a USA TODAY investigation that identified hundreds of schools where chemicals appear to saturate the air. Gilfillan said the agency has finished testing the air outside 54 of the 63 schools and expects to issue reports on each school by this fall.