

## **Sierra Club tries to block Avenal power plant EPA has until Aug. 27 to uphold or deny approval.**

By Lewis Griswold, staff writer

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The Sierra Club has asked the Environmental Protection Agency to rescind a permit to build a 600-megawatt natural-gas-fired power plant in Avenal.

It should get an answer soon because the EPA has until Aug. 27 to uphold or deny the permit, issued last month under pressure from a federal judge.

On Monday, the Sierra Club filed a "petition for review" with the EPA's environmental appeals board.

The petition said the plant would emit too much smog-causing nitrogen oxide and is being wrongly "grandfathered in" under old clean-air rules.

But the planned \$530 million plant is "arguably the cleanest of its kind in the country," said Avenal Power Center LLC spokesman Frank Wilson.

At issue are nitrogen oxide and carbon dioxide emissions.

Under new federal clean-air rules approved last year, a maximum of 100 parts per billion of nitrogen oxide, a component of smog, is allowed in a one-hour period.

The Avenal plant would put out an estimated 44 parts per billion, but the legal limit might be exceeded when combined with an estimated 50 to 60 parts per billion of "background" nitrogen oxide, said Paul Cort, an attorney for Earthjustice, representing the Sierra Club.

And carbon dioxide must be controlled using the best technology available, which the company has not shown it would use, Cort said.

Avenal Power, based in Houston, will submit a response to the EPA by July 11, but for now has no comment on the particulars of the petition, Wilson said. The company believes the construction permit will be upheld, he said.

Whoever loses can appeal to the U.S. Court of Appeals.

The Center for Biological Diversity joined the Sierra Club in the petition.

The environmental group People for Clean Air and Water, based in Kettleman City, filed a similar petition last week, and is represented by the Center for Race, Poverty and the Environment in San Francisco and Delano.

[Bakersfield Californian, Commentary, Wed., June 29, 2011:](#)

### **Don't retreat on Clean Air Act progress**

By William Ahlgren

Do you breathe? How long can you hold your breath? These are important questions if you live in, or pass through, the San Joaquin Valley. Unfortunately, breathing in the San Joaquin Valley is dangerous to your health. The American Lung Association awards Bakersfield the most polluted air in the nation, and three other San Joaquin Valley cities are in the top six of this infamous roster.

Fortunately, there is a plan in place to clear the air, and it is working. That plan is called the Clean Air Act. Thanks to the Clean Air Act, the number of days in which ozone concentration in the valley exceeds toxic levels has been reduced from 132 per year one decade ago to 59 per year currently. Of course, 59 days per year of toxic ozone is still too many. We who breathe need to keep this plan working for us, so that we achieve and maintain zero days per year of toxic air. If we maintain the course we are currently on, this could happen by 2020.

How does the Clean Air Act work its magic? It harnesses the most powerful force known to humankind: the power of the free market. By putting a price on pollution, the Clean Air Act gives a

competitive advantage to those who can run their businesses while generating less pollution. This is done by charging polluters a cost for the pollution they create. It is not all the residents of the valley who pay this cost; it is only the polluters. Those who do not pollute pay no cost.

Suppose we do not put a price on pollution. Then those who engage in enterprise, our job creators, will be compelled to pollute. They will have no choice! Pollution, which carries no cost, is required by the logic of capital markets. Investors seek to maximize their return, and those who manage investments have a fiduciary responsibility to do so. If there is no cost to pollute, and if it does cost something not to pollute, our job creators must pollute. Else, they will be unable to compete with those who minimize production costs by polluting. Imposing a cost for pollution enables the job creators to do what they really want to do: create sustainable prosperity. This is impossible, however, if we as a community do not assign a proper cost to pollution.

Making pollution costly is a valid and essential function of government. If we fail to do so, we cannot create good jobs and build sustainable prosperity for our community. What we will get instead is an unsustainable race to the bottom of environmental quality. We can reach the bottom in short order; 51/2 years is plenty of time to get us there. Climbing back out of that hole will take longer.

We need the Clean Air Act. Rep. Kevin McCarthy's "common sense" bill, HR 1582, would repeal the Clean Air Act for 51/2 years. But not everywhere; just in the San Joaquin Valley. What would be the effect? The valley would acquire a competitive advantage in attracting the most polluting industries in North America.

The reason why the Clean Air Act is a national and not a local or regional law is precisely to prevent this kind of migration of polluters. It shields all American communities from becoming a destination for polluters. If we remove that shield from our community, the polluters will come. Why would we want to do that?

Some jobs may be created, but others will be lost. In the latter category is any job that depends on visitors. Who wants to visit a place where the air is poisonous? For that matter, who wants to live in such a place? Our most talented and industrious citizens -- our job creators -- will regretfully conclude that they must emigrate to protect their families' health. Jobs will be lost as a result.

Repealing the Clean Air Act in the San Joaquin Valley will convert our air from the worst in the nation to the worst in the world. Keeping the protection afforded us by the Clean Air Act will enable us to continue the trend of the last decade toward clean air. If we maintain the course we are on, we will have zero days of toxic air by 2020. Let's keep the Clean Air Act working for us. It's just common sense.

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