

Group loses lawsuit against air district

AMY HILVERS, Californian staff writer
The Bakersfield Californian
March 24, 2004

A Kern County Superior Court judge on Monday rejected an environmental group's attempt to force a study on the health effects of opting for a longer deadline to clean up valley air. The Association of Irrigated Residents filed suit against the San Joaquin Valley Air Pollution District in January, claiming the district didn't scrutinize the effects on public health before volunteering for the Clean Air Act's "extreme" air category in December.

The "extreme" status is the worst under the federal rules, but it gives the valley five more years to meet clean-air regulations.

If the goals aren't met, businesses face millions of dollars in fines and penalties, and the area could lose \$2.2 billion in federal transportation funds for planned highway projects.

But the environmental group, made up of residents from Kern, Tulare and Stanislaus counties, wanted the air district to have a formal study on the effects on the environment and public health before the downgrade to extreme becomes final. They argued that changing the classification just delays stringent implementation of clean air rules.

Judge Kenneth Twisselman's decision will allow the air district time to create a plan to clean up air before an environmental review is required.

Don Hunsaker, a planning supervisor for the air district, said the district is pleased with the decision.

"Now we can focus on preparing our extreme plan," he said.

The district needs more time because the region depends on new state and federal regulation of vehicles and fuels that have yet to take effect, Hunsaker said. Vehicle emissions are the largest source of pollution, and these new rules are needed to help the valley meet its clean-air goals, Hunsaker said.

But the environmental group argued that the district needs to study the impacts of their decision before moving forward with it.

"It (the air district) only considered the economic consequences and it made its decision based on those consequences," said Brent Newell, an attorney representing the Association of Irrigated Residents.

If the group does not decide to appeal Twisselman's decision in the next few weeks, Newell said, the Environmental Protection Agency will move forward with a formal decision to accept the extreme reclassification.

News from the San Joaquin Valley

Tuesday, March 23, 2004
By the Associated Press
Published in the San Francisco Chronicle online

Clean air advocates lost a legal bid to stop the San Joaquin Valley's move into the worst-offender category for smog pollution until local air officials have a chance to analyze the health effects of the move.

Representatives from the Association of Irrigated Residents, a South Valley-based group, said the decision to move the valley into a category only occupied by Los Angeles would save local businesses millions of dollars in penalties -- and that took precedence over public health concerns.

The environmental organization went to Kern County Superior Court to ask the judge to stop the downgrade until the San Joaquin Valley Air Pollution Control District had conducted an environmental review that analyzed health effects of the change.

Judge Kenneth C. Twisselman II decided the review need not take place until the district has a new plan for cleaning up smog or ozone.

The organization is considering an appeal.

"I'm surprised because the law is pretty clear," said lawyer Brent Newell of the Center on Race, Poverty and the Environment, representing the group. "It fits the definition of a project, and it required a review."

The decision removes the last barrier to lowering the valley into the worst-polluter category.

The EPA is expected to formally accept the move in late May or early June.

Group fails to sway judge on valley smog label

By MARK GROSSI-THE FRESNO BEE

Published in the Modesto Bee

Wednesday, March 24

AIR, the Association of Irrigated Residents, lost a bid to keep the San Joaquin Valley out of the worst-offender category for smog -- a category that will save millions of dollars in penalties for businesses.

AIR, based in the Southern San Joaquin Valley, contends that the San Joaquin Valley Air Pollution Control District put business concerns ahead of public health in seeking the downgrade, which gives the valley five more years to clean up ozone.

Monday, in Kern County Superior Court, the association asked a judge to stop the move until the air quality control district had put together an environmental review that analyzed the health effects.

Judge Kenneth C. Twisselman II disagreed, saying the review does not need to take place until the district assembles a new plan for cleaning up smog or ozone.

The association is considering an appeal.

"I'm surprised because the law is pretty clear," said lawyer Brent Newell of the Center on Race, Poverty and the Environment, representing the association. "It fits the definition of a project, and it required a review."

Unless an appeal is filed, the decision lifts the last barrier from the district's unprecedented request to the federal government for placement in the "extreme" noncompliance category. The Los Angeles area is the only place in the nation with that status.

"We're pleased," said Don Hunsaker, plan development supervisor for the San Joaquin Valley Air Quality Control District. "Now we can focus on the plan."

The U.S. Environmental Protection Agency today is scheduled to close a public comment period on the district's request for "extreme" status. EPA action on the request is expected in late May or early June.

San Joaquin Valley air officials, who govern a district that stretches between Stockton and Bakersfield, made the request in December. The downgrade would delay the air cleanup deadline from 2005 to 2010, thereby putting off millions of dollars in business sanctions.

Officials say the valley cannot achieve the ozone standard by next year.

Ozone, the main ingredient in smog, is a corrosive gas that aggravates asthma and other breathing difficulties. Air officials said the 25,000-square-mile valley, considered the second-worst place for ozone in the country, creates smog on hot, still summer days. The pollution can remain trapped in the bowl-shaped valley for days.

Vehicles are the biggest source of the pollution, and the next significant cleanup of fuels and engines will not take place until 2007, officials said. State and federal agencies control those sources.

If the valley misses the 2005 deadline, an estimated \$36 million in business sanctions is expected by 2007. Another sanction would require new and expanding large businesses to pay more for pollution reduction.

Also, the federal government is poised to withhold more than \$2 billion in road building money from the valley, except for projects that promote the environment or safety. And the government would take over cleanup plans.

The sanction money would pour into air pollution reduction projects, such as mass transit, Newell said. Those reductions should have been studied to see whether the air would be cleaned any faster, he said.

But Hunsaker said such a review would have been too speculative. "It is too early in the process to start the environmental review," he said. "And we have full intention of complying as we make the plan and rules."

Council to weigh property rezoning

JAMES BURGER, Californian staff writer

The Bakersfield Californian

March 24, 2004

Aera Energy is asking the Bakersfield City Council to let it turn 160 acres of agricultural land into property zoned for homes. Council members will consider the request during the 7 p.m. regular session of tonight's council meeting.

Sierra Club officials oppose the rezoning -- saying homes on the land north of Paladino Drive at Morning Drive will cause too much traffic congestion and smog.

It's the same argument the Sierra Club has used against a collection of other home development plans around Bakersfield.

The club's opposition has been the foundation for lawsuits against many of those projects. And many of those lawsuits have been settled out of court in exchange for the developers' promises to pay a \$1,200 "air quality mitigation fee" -- money intended to eliminate other sources of pollution.

But Aera Energy officials say the company isn't yet ready to launch an army of earthmovers onto the site or even to plot out tracts of homes there.

Chris Boyd, land specialist for Aera, said the oil and energy company is asking for the zone change because it needs to get the approval under its belt.

The Metropolitan Bakersfield General Plan shows the property as low-density residential development, he said.

With all the new development being planned around Aera's land, Boyd said the company felt it was time to change the zoning to reflect the general plan.

Aera has, he said, done land development in the past.

But right now company officials aren't sure whether they will sell the land to someone else, partner with a developer, build homes themselves or leave the land as it is.

"We have no specific plans at this point," Boyd said. Aera officials simply felt that, "it would probably be wise to get this done."

* In other action at tonight's council meeting, Bakersfield Planning Director Stan Grady is expected to update the council on the process of updating the city's sphere of influence. The sphere of influence is the area of property outside of the city's limits that is available for annexation.

TID kicks off construction of power plant

By Kimberly Horg

Turlock Journal

Wednesday, March 24

Now it's only a matter of time before Turlock Irrigation District has a new source of electrical power. TID officials, with representatives from the city, broke ground in a ceremony to begin construction of Walnut Energy Center.

The natural gas-fired power plant will be located in West Turlock, on West Main Street and Washington Road, behind the Foster Farms feed mill. Walnut Energy Center is being build across the road from an existing power plant.

The TID Board of Directors and General Manager Larry Weis all put on their hard hats to shovel dirt for the groundbreaking ceremony.

Local and district officials spoke on energy issues and offered their commentary on important energy subjects that affect consumers in the district. Senator Denham was scheduled to be the keynote speaker of the ceremony but was unable to attend due to traffic problems.

Turlock Vice-Mayor Beverly Hatcher spoke on behalf of Mayor Curt Andre, who also was unable to attend the event. Other speakers included TID Board President Phil Short, Randy Baysinger, assistant general manager of power generation, and Steve Boyd, TID department manager of communication and government relations.

TID's first irrigation system was formed 117 years ago, but this system is the first of its kind in the area, officials said. Walnut Energy Center will be among the cleanest power-generating facilities of comparable size in the nation.

"This is a state of the art plant. It is powered by natural gas so it has one of the lowest emissions in the state," Boyd said.

The plant will burn the best and efficient gas available, officials said. The state has a limit on the amount of megawatts used in a plant. If it is over 50 megawatts the costs are higher.

"The new plant is 100 percent more efficient than the one across the road," Short said. "Less fuel will be burned at this one and that is what keeps costs down."

Short has worked for TID for almost 27 years and has been the board president for three years.

When it is completed, the energy center will join the district's existing power generating portfolio that presently includes hydroelectric facilities producing 154 megawatts at Don Pedro Dam on the Tuolumne River, a string of small scale hydroelectric plants on the district's extensive irrigation canal system and two existing 49-megawatt natural gas-fired plants on the outskirts of Ceres and Turlock.

By utilizing the best available emissions control technology, the WEC's emissions will be as much as 85 percent lower than those of older generating facilities currently operating in California. Its emission of smog forming pollutants and particles will also be offset, Boyd said.

"It has a state-of-the art-emission control so there is nothing to worry about when it comes to pollutants in the air," Boyd said.

Not only will the emissions will be lower but the cooling water supply source for the energy center will be recycled water from the City of Turlock's wastewater treatment plant TID plans on implementing alternate energy sources into its system.

"We are committed to implementing alternate energy sources (solar or geothermal energy)," Boyd said. "That technology is more expensive so that is why it is not used more than it is and this type of energy wouldn't be enough if it was used alone. We are committed to a certain amount of

increase in that energy source. In 2005, we are starting a 1 percent increase in that type of energy every year.”

“The city has by far a superior source of power now, Turlock is an energy oasis. This energy center means that there will be no interrupted power outages. The people of Turlock do not have to worry about blackouts and brownouts that are still likely to happen in other areas in California. The energy crisis has not been solved in this state, except for right here,” Mayor Curt Andre said.

But even when the power plant is finished and on line, rates aren’t expected to change, officials said.

“In the long run this means that Turlock will be self-sufficient. There will be more stability when it comes to power bills because when there is a shortage, we won’t be at the mercy of others so bills won’t get high. There will be more energy for free,” Boyd said.

New development and population growth is driving up demand for electricity. Walnut Energy Center will supply all the residents in Stanislaus and Merced counties with the power that they need, Short said.

“There is a better future for all in our region. It will serve the operational needs of our community and it will recycle water. It is a special benefit to have a partnership with TID and the city. TID is one of our communities greatest assets, its long range vision is what our community needs,” Hatcher said.

The city of Turlock has partnered with TID in order to save on costs.

“This is a victory in many aspect because of TID’s visionary approach to providing high quality power,” Andre said.

The project will occupy 18 acres within a 69-acre parcel. The plant alone will encompass 16 acres near the northeast corner of the parcel. Two acres will be needed for primary access (emergency access to the plant and transmission lines) and the remaining 51 acres will be open for lease as a agricultural land or for future development as determined by TID’s Board of Directors.

Officials said the plant’s construction will take approximately 19 months.

EPA trying to delay phaseout of pesticide

U.S. representatives will appeal for more time for ozone-destroying chemical that is to be banned under Montreal Protocol.

By JEFF NESMITH

Cox News Service

Published in the Orange County Register, March 24, 2004

WASHINGTON – Under pressure from fruit and vegetable farmers, the Bush administration will try today to postpone the global phaseout of a chemical that has been shown to destroy ozone.

U.S. representatives will take their appeal for more time for the chemical, methyl bromide, before an "extraordinary" meeting of countries that signed the Montreal Protocol.

Methyl bromide is used primarily to fumigate farm soil in order to kill insects, weeds and organisms that cause some plant diseases. Lesser amounts are used to fumigate flour milling facilities and to eliminate insects from exported products.

It was identified in the 1990s as a threat to the ozone layer, which protects Earth's surface from lethal ultraviolet radiation, and added to the list of substances that were to be discontinued under the Montreal treaty.

Countries signing the protocol agreed to freeze use of the chemical at 1991 levels in 1995. After that, annual use was to be reduced by 25 percent of 1991 levels in 1999, another 25 percent in 2001 and 20 percent in 2003, leaving 30 percent to be finally discontinued next year.

But led by strawberry and tomato growers in Florida and California, growers in several states have petitioned EPA to grant them "critical-use exemptions" for the 2005 growing season.

The California Farm Bureau Federation lobbied last year for a bill, introduced by Rep. George Radanovich of Fresno, to require EPA to allow continued use of the chemical on California farms.

EPA documents show that the Georgia Fruit and Vegetable Growers Association petitioned for exemptions allowing pre-treatment of soil in which farmers grow squash, tomatoes, cucumbers, cantaloupes, eggplants, peppers and strawberries.

Environmental organizations and farm labor groups have opposed the exemptions.

EPA says between 50 percent and 90 percent of the methyl bromide used to fumigate soil eventually finds its way into the atmosphere. The chemical has also showed up in water wells and church basements.

David Doniger, a lawyer with the Natural Resources Defense Council and a former Environmental Protection Agency official, said EPA has asked that the final 30 percent reduction required by the Montreal Protocol - representing about 22 million pounds - be suspended.

LA clean-air agency settles suit over pollution trading program

Tuesday, March 23, 2004

By the Associated Press

Published in the San Francisco Chronicle online

The metropolitan region's clean-air agency has settled a lawsuit by two environmental groups that claimed it mismanaged a pollution-trading program aimed at capping smog-causing emissions, it was announced Tuesday.

Under the agreement, the South Coast Air Quality Management District will change the way it penalizes refineries, factories and other facilities that emit more pollution than they are allowed under the "Reclaim" incentive program.

Previously, companies that exceeded the level of emissions for which they had purchased credits could have their credits reduced for the next two years, said AQMD spokesman Sam Atwood.

"What we will do differently now is instead of being able to spread your exceedence into two years in the future ... a company will be debited immediately for the full amount of the exceedence," Atwood said.

The Reclaim program allows facilities to buy credits for a certain amount of air pollution. It was intended to provide a financial incentive to cut emissions, since it costs more money to pollute more.

The agreement also establishes a \$1 million fund for projects intended to reduce air pollution. The AQMD will also publish information on its Web site about facilities responsible for nitrogen oxide emissions.

"This settlement provides funds to clean up the most polluted neighborhoods in Los Angeles and makes information publicly available to everyone concerned with air quality and smog," said Scott Kuhn of Communities for a Better Environment, one of the groups involved.

The environmental groups -- Communities for a Better Environment and Our Children's Earth -- had argued the AQMD was making it difficult for outside parties to determine if facilities are in compliance with pollution standards.

Suit Over Smog Rules Settled

Region's anti-pollution agency admits mismanaging a key program. Plaintiffs alleged emissions violated U.S. standards.

LA Times Headlines - March 24, 2004
By Miguel Bustillo, Times Staff Writer

Southern California's regional smog-fighting agency has agreed to settle a lawsuit by two environmental groups alleging that the agency has mismanaged one of its biggest anti-pollution programs, allowing power plants and refineries to emit more unhealthful exhaust than allowed by federal laws.

The suit accused the South Coast Air Quality Management District of violating the Clean Air Act by improperly overseeing a landmark program that had allowed about 350 companies to buy and sell pollution credits while capping the overall amount of permitted pollution. As a result, the air district, which is charged with reducing air pollution in Los Angeles, Orange, Riverside and San Bernardino counties, had allowed nearly a million excess pounds of smog-forming gases to enter the atmosphere, according to the lawsuit.

Under the settlement with Communities for a Better Environment and Our Children's Earth, the district agreed to tighten enforcement against companies that exceed emission limits and to make more program data available to the public on the Internet. It also agreed to create a \$1-million fund to reduce air pollution in low-income communities.

Environmentalists have long criticized the cap-and-trade program, contending that even when it reduces overall pollution, it allows worse pollution from some facilities, which disproportionately affects poor neighborhoods.

"This provides the public with more certainty over how the air district will police the program in the future," said Scott Kuhn, legal director of Communities for a Better Environment. "In our view, they were not policing the polluters enough. They were letting these companies off easy, even when they did catch them breaking the law."

The cap-and-trade program, known as "Reclaim" (for Regional Clean Air Incentives Market), is supposed to give companies a financial incentive to reduce air pollution. It regulates the emission of nitrogen oxides, which leads to the creation of ozone, the principal element of smog.

Companies that reduce emissions faster than required earn extra pollution credits, which they can bank for the future or sell on the open market to companies that are exceeding their allotments. Companies that go over their limits receive fewer credits in the future.

However, the air district had been allowing companies that were exceeding the limit to delay the purchase of credits for years into the future, Kuhn said.

"It is a market-based system. It works on supply and demand, and if you go over the cap, you should have to buy credits right there, not in five or six years," Kuhn said. "It became a game where [businesses] were waiting, speculating on the prices of credits going down."

Air district officials conceded they had been interpreting the program rules incorrectly. They said many of the violations had occurred during the energy crisis, when power plants were running at full bore, and that some companies had polluted so heavily that taking away all of their credits would not have been a severe enough penalty. Environmentalists argued that such companies should start the year with a deficit and should be forced to buy more credits.

"We have agreed that is the more appropriate way to interpret this rule," said the air district's chief attorney, Barbara Baird.

Energy-Permit Plan Opposed

Community groups fear that projects would be pushed through without adequate scrutiny.

LA Times Headlines - March 24, 2004

By Elizabeth Douglass, Times Staff Writer

Community groups are fighting a proposal that could make it easier for energy companies to get approval to build oil storage tanks, pipelines and other projects — setting the stage for another conflict between environmental and safety concerns and California's urgent need to boost its gasoline supplies.

The concept of streamlining the permitting process dates to 2000 and is one of several recommendations included in the state energy policy report recently submitted to Gov. Arnold Schwarzenegger by the California Energy Commission. Two bills supporting the plan have been introduced in the state Assembly, and public hearings are scheduled to discuss the plan.

State officials, energy experts and the oil industry say simplifying California's lengthy and complex permit-review system could help speed badly needed expansion of fuel production and storage facilities. That could help ease the supply crunch that has left California drivers vulnerable to sharp price increases for gasoline.

Opponents, however, fear the plan would bypass local authorities and push controversial projects through without adequate public scrutiny.

Jesse Marquez, executive director of the 300-member Wilmington Coalition for a Safe Environment, is leading a loose coalition of environmental and community groups that opposes the energy commission's proposal and has been active in vetting permit requests involving nearby refineries.

"Right now we can go to our local planning commission, our local city council," said Marquez, who plans to voice his concerns at a commission public hearing tonight at Banning's Landing Community Center in Wilmington. If the review process were centralized, he said, "we would have to go to Sacramento and fight the petroleum industry and their lobbyists."

Claudia Chandler, assistant executive director of the state energy commission, said, "The whole point of these meetings is to hear what people have to say.... Is it a good idea? Is it a bad idea?"

"No one's trying to cut anybody out of the process," said Keith Richman (R-Northridge), who is sponsoring a bill that would seek recommendations from the energy commission on ways to streamline permitting for petroleum infrastructure projects.

But, he added, "It's very easy to oppose things. It's much harder to solve a problem.... All the people who drive in California have a problem, and that problem is that we don't have enough [gasoline] supply to meet demand."

A separate bill introduced by Assemblyman Alan Lowenthal (D-Long Beach) would require the commission to speed up its certification process for oil industry projects.

Over the years, various studies have underscored the increasingly precarious balance between California's gasoline supply — almost all of which is produced by 13 refineries located in the state — and the growing demand from its motorists. One problem that has come to light is a shortage of fuel storage tanks that can hold extra supplies and help handle imports.

Kinder Morgan Energy Partners, a major pipeline company, has proposed building 18 to 20 new storage tanks at its Carson facility, where it already has 55 tanks capable of holding 4 million barrels of gasoline, jet fuel and diesel. Initial plans call for 10 tanks with 800,000 barrels of storage capacity.

Surrounding communities have strenuously objected, raising worries about the safety of the fuel storage and added air pollution from the new tanks. The oil industry, however, says the Carson project would provide storage space for fuel imports, helping to ease the state's gas crunch.

"We just want to have the chance to build something," said Joseph Sparano, president of the Western States Petroleum Assn.

Santa Monica bans smoking on beaches

The Orange County Register

March 24, 2004

SANTA MONICA, Calif. (AP) -- The City Council voted late Tuesday to make Santa Monica the third and largest California community to ban smoking on its beaches.

The council heard arguments for several hours from residents, business owners and others before voting 4-2 for the ordinance, which would also prohibit smoking on the city's pier except in designated, nonflammable smoking areas. The city also banned smoking at bus stops.

Mayor Richard Bloom said the ban would boost public health, reduce the risk of fire on the wood pier, and cut down on pollution.

"We know that cigarette butts not only litter our community, but also leach out toxins into the sand, into the water, and that affects marine life, it affects the quality of our beaches," he said.

"It's about health," said Mayor Pro Tem Kevin McKeown. "It's time to clear the smoke."

Los Angeles City Councilman Jack Weiss said at the meeting that a committee for his council will hear a similar proposal April 6.

"We're going to end up with this historic 13-mile stretch of coastline where smoking will not be permitted on the beach," said Weiss, who said he hoped twin bans across the two cities would send "shockwaves" through the state. "We're going to start the process of changing peoples' attitudes about where its acceptable to smoke."

In Orange County last week, the San Clemente City Council voted 3-2 for a beach smoking ban. Solana Beach in San Diego County made its beaches smoke-free in October.

Santa Monica already bans smoking at its public parks. California's strict anti-smoking restrictions include bans on smoking in restaurants and bars and a new law that prohibits smoking within 20 feet of a building entrance or operable window.

[Letter to the editor, Modesto Bee](#)

Friday, March 19

Get excited about solar electricity

I've waited for many years to get a chance to install solar electricity panels. Outside of the fact that I don't like high electric bills, this is a sure way of cutting back on wasting fossil fuels, especially when it gets hot and energy demand is high.

Fossil-fuel generators are there to help out. Fossil-fuel use adds to pollution.

I only generate 16,000 to 20,000 watts a day, or about 464,000 watts a month, but that is equal to a lot of fossil fuel. If more people got excited about solar electricity, we could preserve the air and what is left of the fossil fuel for our grandchildren.

ALTON UPLINGER

Oakdale

[Editorial in the Turlock Journal](#)

Tuesday, March 23

Valley air quality

There was a caller who is concerned about 18-wheelers traveling up and down the Valley and the pollution they cause. He was responding to an article printed in the Journal about an academic expert who travels the world studying air pollution. "The article said the Valley violates ozone levels more often than anywhere else in the nation and goes on to say that particle pollution comes from unpaved roads, fireplaces, construction, agriculture and chemicals but not one mention of the 18-wheelers traveling the Valley."