

Panel lifts freeze on controversial dairy loans

Loans are meant to improve the environment

By Jake Henshaw, Sacramento Bureau
Visalia Times-Delta, Wed., Jan. 26, 2005

SACRAMENTO - Two Tulare County dairies seeking financial aid from a controversial program may soon see work on their stalled applications restarted after a divided state board decided Tuesday to end a moratorium on loans.

The applications were filed by the Van Beek Brothers Partnership of Dairyland Farms in Tipton, seeking \$4.6 million, and Joe and Diane Airoso of Airoso Dairy in Pixley, for \$2.5 million. Work on their applications along with those from three other San Joaquin Valley dairies was frozen when the California Pollution Control Financing Authority decided in October to impose a 90-day moratorium on these loans.

The decision was prompted by questions about whether past low-cost financing of solid waste projects by dairies approved by the agency actually improved air and water quality, a requirement of the loans.

The financing authority board had expected to receive a report from its advisory committee Tuesday, but that now has been delayed until the March 1 meeting.

Given the delay, the board staff Tuesday recommended that the board extend the moratorium for 60 days to allow time for the board to finalize new rules to use in evaluating applications in Tulare County and elsewhere.

But dairy industry representatives opposed an additional moratorium as unfair to the existing applicants as well as discriminatory against dairies because other industries seeking loans wouldn't be affected.

"We don't think there's a need to continue any moratorium," said Gary Conover, a lobbyist for Western United Dairywomen of Modesto.

Representatives of Controller Steve Westly and finance director Tom Campbell, two of the board's three members, agreed over the objections of the representative of Treasurer Phil Angelides, the third board member.

Angelides later criticized the decision for opening the door to new tax-exempt loans before the board has standards in place to ensure they only go to projects that improve air and water quality.

"It is the wrong signal and a step in the wrong direction," said Angelides, who chairs the authority's board and who led the push for new standards.

Applications for new loans as well as recommendations on new rules may both go to the board at the March 1 meeting.

It also appeared Tuesday that the board likely will receive conflicting recommendations from its advisory committee, which has divided into two camps - dairy industry and environmentalists.

"There is absolutely no opportunity or chance of a compromise between the two perspectives," said Mark Murray, executive director of Californians Against Waste, and a member of the advisory committee.

He said the environmentalists likely will recommend continuing the moratorium until state environmental regulatory agencies can complete work on new standards that could affect dairies, which he said may take a year or more.

But dairy representatives urged a quick end to the review and adoption of new rules.

"We are all interested in getting this behind us as quickly as possible," said Michael Boccadoro, a lobbyist for the Community Alliance of Responsible Environmental Stewardship, also known as Dairy CARES.

The pollution authority's focus on dairy loans was prompted by environmentalists' complaints and subsequent news reports that at least some dairies may have used some of the pollution control financing to move from Southern California to the Valley or expand dairies there, not necessarily with improved air or water quality.

The authority had approved 18 loans valued at \$66 million.

Ban on loans that prompted fray lifted

State agency allows dairies to apply despite criticism that program helps foul air

By VIC POLLARD, Californian Sacramento Bureau
Bakersfield Californian, Wed., Jan. 26, 2005

SACRAMENTO -- An obscure state agency Tuesday refused to extend a moratorium on controversial low-interest loans to help build dairies.

Last October, the Pollution Control Financing Authority ordered a 90-day halt to the loan program after environmentalists complained that they amounted to a state subsidy of dairy-caused air pollution in the Central Valley.

At that time the three-member authority formed an advisory committee to recommend steps to make sure the loans do not aggravate air and water quality problems in the valley.

But the committee had not finalized its recommendations when the initial moratorium expired this month and the authority refused to wait any longer to process pending loan applications and begin taking new ones.

Representatives of Gov. Arnold Schwarzenegger and state Controller Steve Westly declined to support a staff recommendation to extend the moratorium another 60 days.

That was sharply criticized by state Treasurer Phil Angelides, who proposed the original 90-day moratorium and backed the extension.

"I am mystified about why my colleagues on the board, the controller and the governor, why they would allow the authority to begin accepting applications before we have standards in place to protect air and water quality," said Angelides, who also sent a stand-in to the meeting.

A spokesman for Westly, Garin Casaleggio, said the effort to develop environmental standards for the program will continue.

He said Westly wanted to put pressure on the advisory committee to "come up with a quick response that we could look at at the next meeting."

A dairy industry lobbyist, Michael Boccadoro was delighted at the action.

"It will allow them to continue to process applications they have before them, while at the same time consider recommendations that are being submitted to the authority by members of the dairy advisory committee," Boccadoro said.

Over the last four years, some \$70 million in state-backed, low-interest loans earmarked for pollution control have gone to help build dairies in the Central Valley, which has one of the nation's worst air pollution problems.

About half the money went to dairies in Kern County, which has seen an explosion of milk production facilities.

To qualify for the anti-pollution financing, dairies applying for the program certified that they would not send their solid waste to landfills.

Environmentalists charged that was an abuse of the program because most dairies dispose of their waste on site.

The Sierra Club whistleblower who raised the first objections to the program said she was shocked by the authority's action.

"Why couldn't they wait another month," said Vickie Lee of Sacramento, who is a member of the advisory committee.

Board OKs building height restrictions, seeks review of other zoning rules

By GRETCHEN WENNER, Californian staff writer
Bakersfield Californian, Wed., Jan. 26, 2005

County supervisors Tuesday approved new countywide building height restrictions, but asked for further study of proposed rules for accessory buildings on homeowner property.

Some urban storage buildings have turned into complaint magnets, board members said, but the proposed zoning tweaks were too vague to cover both rural and urban areas, they agreed.

Supervisor Barbara Patrick, for example, referred to a problematic storage building in the Olive Drive area.

"The storage structure is two to three times the size of the home," Patrick said, adding the building totaled about 4,500 square feet and stood two stories tall. "It's a big problem for the neighbors."

Likewise, Supervisor Don Maben said a two-story "butler building" in Golden Hills "dominates the entire neighborhood," even in a relatively rural area where many large-lot homes are zoned for horses.

Also, tall tents over mobile homes create similar problems, he said.

Patrick and Maben thought rules needed to be tightened.

But Supervisor Jon McQuiston, whose district includes Ridgecrest, said residents there have a "tremendous amount of interest" in getting mobile homes off the street and out of the elements.

He feared suggested height restrictions could get in the way.

"I'm somewhat concerned about the law of unintended consequences," McQuiston said.

"We may not really understand the implications of what's being suggested here."

Supervisors unanimously approved other zoning tweaks, including new rules for wind energy turbines and countywide height limits to avoid conflicts with military airspace.

The height restrictions resulted from years of negotiations between county planners, the military and the wind energy industry.

McQuiston called the outcome "precedent setting," and Maben thanked all three parties for "hammering together the leading edge of zoning for the United States."

In other business, county supervisors Tuesday:

- Approved a request by Supervisor Michael Rubio for a staff report on First 5 Kern, the local tobacco-tax commission. Specifically, Rubio asked for: a full accounting of First 5 Kern's spending since the program was created about six years ago; travel spending for staff training at the Harvard University John F. Kennedy School of Government and on a lobbying trip to Sacramento next month; and safeguards for earmarked funds. Rubio asked to have the report back in two weeks.
- Unanimously approved plans for up to 60 new homes along Nanak Road, off Weedpatch Highway. "We're happy," said a beaming Nazar Kooner after the vote. Nazar Kooner and brother Major Singh Kooner upgraded 18 acres previously zoned for mobile homes. The development will go up near a small Sikh enclave off Weedpatch Highway in east Bakersfield on an active oil field.
- Forgave \$13,209.75 owed to county waste managers by the Housing Authority of the County of Kern, which refused to pay a 10 percent administrative fee for manual billing charged over a 10-year period.

- In closed session, unanimously approved paying a \$25,000 settlement to end a lawsuit filed against the county by Jeffrey Scott Foster over a car accident.
- Approved a \$783,000 contract for preparation of group [dairy environmental reports for Sacramento-headquartered firm Jones and Stokes Associates](#). The money will be paid back by dairy applicants and a state grant. Wasco resident Bob Reeves addressed Supervisor Ray Watson during public discussion, reminding Watson about the November election in Wasco when residents overwhelmingly showed they did not approve of a batch of dairies proposed close to their city.
- Honored retiring county staffers Carolle Tomlinson, Deborah Evans, Patrick Mitchell, Esther Magana and Ed Johnston. All worked more than 30 years for the county.
- Extended the county's emergency status due to rain and flood damage. The county's costs so far from recent storms total about \$598,000, according to county Fire Chief Dennis Thompson.
- Heard a summary of the county's 2004 wildland fire season. County firefighters responded to 194 wildfires that chewed through 1,554 acres and destroyed one home, Fire Chief Dennis Thompson told the board. More than 90 percent of the blazes were 10 acres or less.

PG&E pulls the plug on plant sale

After years of negotiating, utility terminates deal that faced city opposition

By JAMES BURGER, Californian staff writer
Bakersfield Californian, Wed., Jan. 26, 2005

A plan to reactivate a mothballed power plant at Coffee Road and Rosedale Highway is dead.

And a final hour attempt to swap the Pacific Gas and Electric power plant for a swath of suburban shopping was shot down by skeptics from the city of Bakersfield.

North American Power Group, of Colorado, has tried for four years to acquire the plant from PG&E.

But PG&E finally gave up on the deal last month.

Cindy Pollard, a spokeswoman for PG&E, said a clause in the contract allowed either party to terminate the agreement if the site didn't sell by the end of June.

The site didn't sell and the utility company terminated the deal with a Dec. 9 letter to North American Power President Michael Ruffatto.

North American Power had promised for years to convert the mothballed facility -- shut down in 1985 -- into an environmentally friendly electricity generator powered by biodiesel fuel.

But the plan got forceful opposition from the city of Bakersfield and City Councilman David Couch, who said a power plant no longer fit in the heart of growing northwest Bakersfield.

In May the California Public Utilities Commission dealt North American Power a fatal blow when it ruled that state law prevents the sale until January 2006.

So Ruffatto offered to demolish the power plant and build shops and offices on the land instead.

The site could be prime commercial real estate located directly across the street from the large Northwest Promenade shopping center.

Officials with PG&E said they had no estimated cost for demolishing the plant and dealing with industrial pollution on the site.

But Ruffatto said he had been optimistic the project could happen.

"We were certainly trying to reach agreement with the city on the form of that redevelopment," he said. We promised to, "clean up the property and redevelop it consistent with Couch's goals."

The city and North American Power met several times in the summer and fall to talk about the site.

Letters from Ruffatto about those meetings talk about conceptual agreements and outline commitments to abandon the power plant plan and build the commercial project.

But city officials said they repeatedly turned down the idea.

"There is absolutely no possibility that the city of Bakersfield will support, or in fact allow, without full legal opposition, the transfer of the Coffee Road site to NAPG, under any circumstance," City Manager Alan Tandy wrote to Ruffatto on Nov. 12.

The reasons, Tandy stated, were simple -- North American Power has no commercial development experience and the city can't trust the company not to buy the land from PG&E and build the power plant anyway.

"Past credibility problems contribute to this position, but the full articulation of them serves little positive purpose," Tandy wrote.

"Our experience (with Ruffatto) has not been a pleasurable one," Couch said.

The city, he said, had simply had enough.

The final Dec. 9 decision by PG&E ended the discussion.

Pollard wouldn't say what role, if any, the city played in PG&E's decision. But she did say the utility and the city have "consulted."

Right now the ultimate fate of the piece of ground is up in the air. It can't be sold to the public for another year and Pollard said PG&E doesn't have any solid plans for it.

"At this stage, we're still taking a look at what our options are," Pollard said. "We're trying to decide what happens next. We will continue to consult with the city of Bakersfield because we know they have specific land use plans for the northwest."

-- Staff writer Erin Waldner contributed to this report

Pataki, Schwarzenegger urge Congress not to weaken states' environmental powers

DEVLIN BARRETT, Associated Press Writer

in the S.F. Chronicle, Wed., Jan. 26, 2005

WASHINGTON (AP) -- New York Gov. George Pataki and California Gov. Arnold Schwarzenegger are pressing Congress to protect key parts of the Clean Air Act as lawmakers and the Bush administration seek to change the law.

The two moderate Republicans on Tuesday urged senators considering updating the act not to reduce the powers states have now to enforce environmental regulations or create tougher state regulations.

The governors, who both place great emphasis on their environmental initiatives, wrote to members of the Senate Environment and Public Works Committee, which will hold a hearing Wednesday to consider changes to the Clean Air Act.

Schwarzenegger and Pataki urged lawmakers to preserve the parts of the law allowing states like New York to file lawsuits against out-of-state power plants, or impose pollution controls tougher than federal standards.

The letter reflects ongoing tensions between Washington officials looking to update environmental laws and state capitals worried they will lose some of their enforcement powers.

"One of the cornerstones of the Act is that states do the majority of the work to carry out its mandates," the governors wrote. "The right of individual states to set policy with respect to the health and welfare of their citizens is a fundamental tenet in which we both strongly believe."

The Bush administration is planning an aggressive effort to build support for his pollution-cutting plan. On Monday, Sen. James Inhofe, R-Okla., who chairs the environment committee, offered a version of Bush's "Clear Skies" initiative.

Inhofe agrees with the principles laid out by Schwarzenegger and Pataki, said committee spokesman Matt Dempsy, who added that the senator's bill contains "many provisions which reaffirm and support the ability of states to control sources and institute programs within their states which are more stringent than required under federal law."

James Connaughton, chairman of the White House Council on Environmental Quality, said Clear Skies is consistent with the goals expressed by the governors.

"This is a more powerful tool for enforcing the law than the one we currently have," Connaughton said.

The administration touts Clear Skies and another proposal, the Clean Air Interstate Rule, as important tools which would reduce nitrogen oxides and sulfur dioxide by 70 percent, taking tons of pollution out of the air.

Environmentalists critical of the administration charge the initiative will significantly weaken parts of the Clean Air Act, including sections that allow states to sue power plants and craft tougher limits on emissions.

Clear Skies "leaves states high and dry and leaves the public breathing unhealthy air, with power plants continuing to pollute for two more decades," said John Walke, director of clean air programs for the Natural Resources Defense Council.

Clean Air Act backed

in the Modesto Bee, Wed., Jan. 26, 2005

Washington - California Gov. Schwarzenegger and New York Gov. Pataki are pressing Congress to protect key parts of the Clean Air Act as lawmakers and the Bush administration seek to change the law. The two moderate republicans on Tuesday urged senators considering updating the act not to reduce the powers states now have to enforce environmental regulations or create tougher state regulations. The governors, who both place great emphasis on their environmental initiatives, wrote to members of the Senate Environment and Public Works Committee, which will hold a hearing today to consider changes to the Clean Air Act.

Chlorine factories cited as big source of mercury pollution; industry says it's making changes

MARTHA MENDOZA, AP National Writer

in the S.F. Chronicle, Wed., Jan. 26, 2005

Nine chlorine plants in the South and East pour at least eight tons of mercury into the environment each year -- a situation that demands federal action to force companies to convert to cleaner technology, activists said Wednesday.

Environmentalists think the amount of mercury emitted by the plants may be even greater; the industry acknowledges that tons of the toxic metal are unaccounted for each year, though it does not believe that mercury is dumped into the environment.

Chlorine at the plants is made by pumping electrically charged salty water through a vat of mercury, a process devised more than 100 years ago. Environmentalists say these plants are a largely ignored and unchecked source of mercury pollution.

Mercury settles in waterways and accumulates in fish. In humans who eat those fish, the metal can cause neurological and developmental problems, particularly in fetuses and children.

Citing chlorine factories as a "major global source of mercury," the Washington, D.C.-based environmental group Oceana on Wednesday called on the Environmental Protection Agency to require all the plants to convert to mercury-free technology by 2008.

Arthur Duncan, vice president of safety and health for The Chlorine Institute, a trade group based in Arlington, Va., said emissions have been significantly reduced in the past decade.

"Certainly mercury has been a concern for a long time to people and it's an environmental issue that we're working to address," he said.

The calculations of how much mercury is dispersed into the environment are in dispute. The industry, in reports to the EPA, says eight tons -- about three 50-gallon barrels -- were emitted in 2003.

For example, the companies said a plant in Muscle Shoals, Ala., emitted 1,757 pounds of mercury that year; another, in New Castle, Del., released 2,863 pounds.

But the environmentalists say these calculations may be wrong, because while the companies monitor the amount of mercury that goes out of their smokestacks, they merely estimate the amount that evaporates and leaves the factories through vents.

In addition, industry officials acknowledge that they cannot account for an additional 30 tons a year. They say that it could be stuck in factory pipes, and they are trying to find it.

The environmentalists are skeptical. They think even more mercury is missing, pointing out that more mercury is delivered to the plants each year than is going out -- 65 tons more in 2000 alone, said Oceana's Jacqueline Savitz, co-author of the report.

But industry officials say that mercury purchases do not necessarily equal mercury use, because some of it is simply stored to be used later.

EPA spokeswoman Cynthia Bergman said the question of where all this mercury went is very important to her agency, but that the EPA's "best information indicates that the mercury is not being emitted into the air."

While total mercury emissions in the United States have fallen substantially since 1990, power plants remain the largest remaining human-caused source. They released 90,370 pounds of mercury into the air in 2002, the most recent year for which EPA data are available.

Federal guidelines released last February place strict limits on the amount of mercury that power plants can release.

They place no similar caps on chlorine plants, but do require more frequent emission measurements and equipment inspections, "significantly more stringent requirements" than had been in force before, said Vito Fiore, a vice president of Vulcan Chemicals, which has a plant in Port Edwards, Wis.

Last year, three environmental groups -- Earthjustice, Natural Resources Defense Council and Sierra Club -- sued the EPA and began using other legal channels to get power plant emission limits extended to chlorine plants.

The other plants are in Charleston, Tenn.; New Martinsville, W.Va.; Ashtabula, Ohio; Lake Charles, La.; St. Gabriel, La., and Augusta, Ga.