

Activists abandon pollution lawsuit

By Mark Grossi / The Fresno Bee

Friday, May 6, 2005

Air quality activists Thursday backed away from a lawsuit over a controversial delay in pollution fees for urban sprawl.

Earthjustice Legal Defense Fund also announced it would not sue the local air district over four other delayed rules. In negotiations with Earthjustice, the district promised to adopt the four rules by the end of the year.

The rule on sprawl fees is projected for completion early next year, and Earthjustice did not want to rush the process. Activists are interested in getting a strong rule.

"We feel things are moving," said Earthjustice lawyer George Torgun, representing Medical Advocates for Healthy Air, Latino Issues Forum and the Sierra Club.

The San Joaquin Valley Air Pollution Control District is compelled by a 2003 law to pass the rule, which would require fees for air pollution from traffic and other activities related to urban sprawl in the district's eight counties from Stockton to Bakersfield. The rule was supposed to be adopted last year. Critics wondered whether the building industry was causing a delay by pressuring the district. But air officials say delays have occurred in tweaking analytic models for predicting pollution emissions.

Air officials believe this is the first rule of its kind in the country, so there is no previous example to follow.

"It is a lot more complicated than anybody thought it would be," said air district counsel Phil Jay.

Two large developers in Kern County didn't wait for the rule. Tejon RanchCorp and Castle & Cooke California Inc. agreed last month to bankroll pollution reduction among neighboring businesses to compensate for dirty air connected to their proposed developments.

The development contracts were not popular with the building industry or environmentalists. Builders thought they offered too many concessions, and environmentalists considered them weak and vague.

Air district officials said the contracts potentially offer more pollution reduction than the new rule.

But none of the discussion changes the minds of activists. Torgun said his clients want the new rule on the books, as the law requires. "We're hoping to keep the pressure on," he said.

The other four rules involved in the Earthjustice announcement also were supposed to be adopted last year. Jay said the rules would not create large reductions in pollution, but the district will move quickly on them this year.

The rules cover such sources as commercial dryers, small boilers and various kinds of water heaters.

San Joaquin Air District sets deadlines for new clean air rules

By JULIANA BARBASSA, Associated Press

S.F. Chronicle, Modeto Bee and Lodi News-Sentinel, Thursday, May 5, 2005

Fresno, Calif. (AP) -- Air quality regulators in the San Joaquin Valley, one of the nation's dirtiest air basins, are adopting new measures to control tiny pollution particles by the end of the year.

The new rules announced Thursday would set standards for engines like steam generators, commercial dryers, residential space heaters and industrial or commercial water heaters, air regulators said.

These measures were required by the San Joaquin Valley Air Pollution Control District's 2003 plan, designed to reduce particulate matter - the tiny particles of soot, dust or chemicals that can embed themselves deep in lung tissues, causing lung damage and long-term heart problems.

According to the federal Environmental Protection Agency's plan, these measures were to be put into practice last year. But the air district missed the deadlines to implement them, and the same environmental coalition which sued to push the air district to include the rules in its plan sued again asking for their implementation.

The coalition, represented by the legal environmental group Earthjustice, includes Latino Issues Forum, Medical Advocates for Healthy Air, and the Sierra Club.

On Thursday, lawyers for the air district and the environmental coalition announced they'd reached a court-endorsed settlement, which sets the new deadline.

"Particulate matter is the most dangerous form of air pollution," said Kevin Hamilton, the director of the asthma program at Fresno's Community Medical Center, and a member of the clean-air advocacy organization Medical Advocates for Healthy Air.

The coalition was moved to sue again, Hamilton said, because "progress has been slow to nonexistent."

Representatives of the air board said the agency has implemented a number of changes which have greatly reduced particulate matter pollution in the valley in the last two years. These include banning wood burning on smoggy days and encouraging farmers to switch old diesel engines for new, cleaner-burning models.

Philip Jay, the air district's legal counsel, said the agency's actions have cut air pollution significantly, keeping the region in compliance with federal air standards for particulate pollution for the last two years.

"These (new rules) aren't blockbusters," Jay said. "We tend to take care of the bigger ones first, the ones which will give us the most reductions. These were left for the end."

According to the California Air Resources Board, about 1,300 Valley residents die prematurely every year because of long-term exposure to particulate matter pollution. The ones who suffer the most are children, the elderly, and anyone who already suffers from respiratory problems like asthma.

On the Net:

<http://www.earthjustice.org/> <<<http://www.earthjustice.org/>>>

<http://www.valleyair.org/> <<<http://www.valleyair.org/>>>

Kern: We don't want your sludge

Neighbor to north now wants to ship biosolids to Kern where stuff will be spread on land

By Misty Williams and Bob Christie, staff writers

Bakersfield Californian, Friday, May 6, 2005

A proposal to spread 50,000 tons of Fresno city sludge on a farming operation in northern Kern County is under fire from local politicians.

Tule Ranch would take as much as 50,000 tons of wet sludge a year, according to city documents, if Fresno's council approves the contract.

That proposal is drawing heat from county Supervisor Ray Watson, who fumed that the operation moved sludge processing from an area far from groundwater aquifers and water banks to a place that could contaminate groundwater.

"We're asking them (Fresno's city council) to not approve the contract or at least delay it," Watson said. "It's flying directly in the face of a concern we have that biosolids are being spread over the water banks in Kern County."

For nearly a decade, Fresno shipped about 100,000 tons of sludge a year to a composting site near Lost Hills.

A majority of that compost was then spread on farmland in Kings County, said Pat McCarthy, owner of San Joaquin Composting.

But with its composting contract up in December, Fresno has decided it is time to find more than one way to get rid of its sludge. The council will consider the idea of a contract with Tule Ranch on Tuesday.

If Fresno approves that contract, Watson pointed out that Kern will go from composting and shipping 100,000 tons of Fresno sludge out of the county to spreading 50,000 tons on local land - a point Fresno officials dispute.

They say Fresno is actually cutting in half the amount of biosolids sent to Kern and note the composting facility near Lost Hills sends a large amount of compost to farmers in the area.

Last year, about 450,000 tons of wet sludge were applied to Kern County land. Tule Ranch applied 185,783 wet tons, or 45,110 dry tons last year, according to the county's environmental health department.

State Sen. Dean Florez, who has been an outspoken proponent of banning sludge imported into Kern County, said any application, whether compost or wet sludge, is a problem.

Valley cities shouldn't be working against each other; they've got enough to worry about from Southern California, the Shafter Democrat said.

"You're not doing us any favors; in fact, you're making the situation even worse," he said of Fresno's plan.

Florez said he plans to personally call Fresno council members, so they're aware of the impact their decision could have. If Fresno goes ahead with the contract, it may eventually find itself "holding a bag of some sludge" it doesn't know what to do with, he said.

The Kern County Water Agency is already talking with biosolids facilities to stop the application of sludge on land above the aquifer, Watson said.

But William Skinner, Fresno's solid waste division manager, noted that most of Tule Ranch is outside the banking area marked by the Kern water agency.

Patrick Wiemiller, Fresno's interim director of public utilities, said, "This isn't a matter of us merely sending out waste to accumulate in somebody's back yard. It was responsible when we first recommended (using Tule Ranch), and we believe it is still responsible to do so now."

A proposed ordinance to ban the treated sewage on Kern lands will be discussed again at the Board of Supervisors' meeting Tuesday.

Last month, supervisors agreed to draft an all-out biosolids ban and backed proposed legislation from Florez that would make it easier for Kern to stop sludge imports.

Program raises a red flag on air pollution

By Jennifer Murphy

Stockton Record, Thursday, May 5, 2005

STOCKTON - Parents of asthmatic San Joaquin Elementary students will be able to look up the school's flagpole to judge how likely their children are to suffer an asthma attack during the school day under a program started Wednesday.

The American Lung Association of Central California began the program, which uses different-colored flags to indicate how clean the air is on a certain day. Red flags mean almost no students should play outside. Green flags mean the air is clean and less likely to trigger breathing problems.

Two other schools in the district, El Dorado Elementary and Montezuma Elementary, plan on raising the air quality flags later this month.

The Air Quality Flag Program provides some schools with free informational materials on air quality and the health effects of air pollution.

Josette Merced Bello, chief executive officer of the American Lung Association of Central California, said the program is designed to protect the neighborhood children on high pollution days and educate their parents on ways to reduce air pollution.

The four flags - green, yellow, orange and red - are color coded to match the air quality level in the area. Air quality forecasts are made by the San Joaquin Valley Air Pollution Control District.

San Joaquin Elementary Principal Nicholle Medina said the flags will help teachers plan healthy outdoor activities. This is especially important at year-round schools, because the hot Central Valley air cooks certain air emissions from sources like businesses and cars. The sunlight turns the emissions into smog, which has been shown to trigger asthma attacks.

One in six Valley children has asthma.

Schools chosen to participate in the flag program were selected on factors such as historical air pollution levels in the area and commitment to the three-year program.

Harold Moore, 42, whose daughter is in the fifth grade at San Joaquin Elementary, said that the flags are good for parents and teachers.

"We are not just concerned with our own children but all of the children's welfare," Moore said. Contact reporter Jennifer Murphy at (209) 546-8258 or jmurphy@recordnet.com or <mailto:jmurphy@recordnet.com>

Suit settled over air cleanup deadline

Stockton Record, Friday, May 6, 2005

SAN FRANCISCO --Earthjustice announced Thursday that it has settled a lawsuit with the San Joaquin Valley Air Pollution District over the district's failure to meet deadlines for cleaning up particulate pollution.

The environmental law firm said in a news release that the air district has agreed to adopt rules by the end of this year to control soot and dust emitted by water heaters, residential space heaters, commercial dryers and small boilers.

The air district was originally supposed to have adopted rules to control the pollution by 1994.

The particles can sink deep into human lungs.

Medical research links the pollution to asthma, strokes, heart attacks and premature death.

Earthjustice sued on behalf of the Latino Issues Forum, Medical Advocates for Healthy Air and the Sierra Club.

The San Joaquin Valley has severe particulate pollution, especially during the winter, and has never met federal clean air standards.

Westley litigation nears end

Buried tires to be dug up, settlement funds disbursed

By Blair Craddock, staff writer

Modesto Bee, Friday, May 6, 2005

WESTLEY - Contractors will dig up and cart away tons of buried tires under a court order a judge signed last week in one of several cases that stemmed from the 1999 Westley tire fire.

"We're not sure how many tires are buried there," said Roni Java, a spokeswoman for the California Integrated Waste Management Board.

"It's the bottom part of the iceberg," Java said of the buried tire pile at Walnut Flats, which is on land that belongs to a trust owned by rancher Edward J. Filbin and his relatives.

Over 5 million tires, stacked 60 feet high in a canyon elsewhere on Filbin's land, burned for 34 days after lightning struck the pile Sept. 22, 1999. Acrid, black smoke blanketed the region.

The fire sparked environmental lawsuits by state, local and federal agencies against the Filbins and others associated with the tire pile.

"This was a hugely complicated litigation," said Tom Dresslar, a spokesman for the state attorney general's office, which represented the Waste Management Board and Regional Water Quality Board in the civil case that ended when Santa Clara County Superior Court Judge Jack Kemar signed a settlement order April 26.

Filbin's wife, Mary Etta Filbin, a codefendant in the case, said Thursday that she and her husband did not wish to comment on the matter.

The state originally sued not only the Filbins, but a number of companies associated with the tire pile, and with a nearby waste-to-energy plant.

All the other defendants settled previously, Dresslar said, so the April 26 settlement wraps up the state's case.

Dresslar said the state, Stanislaus County, and the Filbins agreed to the settlement last fall. He said the Filbins have already paid about \$342,000 into a settlement fund. The settlement order says they must also pay another \$58,000, and authorizes the state to put a lien on their property for that amount.

Settlement order signed

The judge signed the settlement order last week to make it official, because the Filbins had not yet signed it even though they had agreed to do so, Dresslar said.

The settlement says the \$400,000 from the Filbins will be distributed as follows:

\$300,000 to the Waste Management Board, which will pay for removal of buried tires and water quality monitoring;

\$50,000 to the Stanislaus County treasurer;

\$10,000 to the Stanislaus County district attorney's office;

\$40,000 to an account set up to pay for training local police and prosecutors on enforcement of environmental laws.

The Waste Management Board has not yet determined what the Walnut Flats cleanup will cost, Java said: Estimates range from "a couple of hundred thousand" dollars to over a half-million.

"We've spent over \$16 million on contractors to clean up this location, and recovered about half of that," she said.

The rest of the money - \$8.1million in cash, plus cleanup work valued at \$2.4 million - came from other companies that settled in the same case, the attorney general's office previously announced:

Modesto Energy, which operated the tire-to-power plant next to the site, settled earlier with the state for \$2.5 million and for work at the site valued at \$1.6million;

CMS Generation, the former owner of Oxford Tire Recycling of Northern California, settled with the state for \$4.7 million and for work at the site valued at \$800,000;

An insurer of Oxford Tire settled with the state for \$875,000;

Total Tire Recycling of Sacramento, a supplier of tires to the now-closed energy plant, settled with the state for \$50,000.

In separate federal cases, the U.S. Coast Guard, which helped fight the fire, won two judgments last year for \$957,000 in cleanup costs from companies associated with the site.

Tire recycler also must pay up

Another case related to the tire piles also wrapped up this year: a misdemeanor case against Robert Kirkland, the owner of Omega Tires, a tire-recycling business that in 1997 leased land from Filbin Land & Cattle Co.

Kirkland pleaded no contest in 2000 to accepting waste tires in 1998, after he had lost his permit to do so. He was fined \$10,000, which court records show he paid in March 2004.

Last year, a Stanislaus County judge ordered him to pay \$57,127 in restitution to Dorothy Arnaud, the head of Filbin Land & Cattle, for back rent, lost profits and other expenses.

Kirkland filed an appeal. Michael Chastaine, an attorney who represented him in the appeal, said Thursday that Kirkland would not have lost the permit except for getting "a bad deal" from the state, which imposed new regulations tire recyclers.

Kirkland's appeal was unsuccessful; in January a Stanislaus County appellate panel ruled he must pay the \$57,127 to Arnaud.

Class-action suit unresolved

One of the biggest cases stemming from the tire fire remains to be resolved: A class-action lawsuit, filed by personal-injury lawyers on behalf of about 11,000 people said to have been exposed to chemical smoke from the fire.

Some of the companies and people have settled with the plaintiffs' lawyers in the class-action case. The case against the remaining defendants is scheduled for trial in Santa Clara County, beginning July 11. That trial could take six weeks to three months, said Leslie James Sherman, one of the attorneys for the plaintiff class.

[Letters to the Fresno Bee, Friday, May 6, 2005:](#)

'Trash and dust'

Steven Aaron is right on [letter May 2]. Those noisy blowers only blow debris off your yard into the street or my yard. It is still in the atmosphere. It lingers ready to fill our lungs or fly back in our yard when the neighbor blows his yard clean. We keep exchanging the same dirt each week.

When I awake to a whining sound of 220 mph peak velocity, it strains every nerve in my body. The continuing whine tells me my patio is even dirtier than it was last night.

Every neighbor knows I don't own a blower. They know I will sweep up each small item and put it in a can for the city to get rid of. So if they blow everything down to my house, eventually I will be the one who picks up all the trash and dust from my entire street. They will be blowing new, but less, dirt each day. And with my help, ultimately all debris will disappear.

Blowers don't clean. They damage our hearing, limit our breathing, disturb our sleep and rearrange dirt. I think I'll go to Starbucks and rearrange my thinking.

Winnie Enloe Furrer, Hanford

Just like politics

Are not leaf blowers the perfect symbol for bureaucracy and Fresno's City Council? They both blow a lot of hot air, make a lot of noise and move the problem around without solving anything!

Leaf blowers are viewed as obnoxious and as an "unfriendly act." Kind of like local politics.

T.C. Morgan, Fresno

[Letter to the Tulare Advance-Register, Friday, May 6, 2005:](#)

Nation needs to develop electric automobiles

Why is everyone so surprised about increasing gasoline prices? It was inevitable that the price of crude oil would increase and we would be in the position we are in now.

Around 1980, the first electric car was built and marketed, and the technology was on the drawing board long before that.

If the politicians and lawmakers of our country wanted electric cars, we would have had them before now and more reasonably priced.

Let's take the blinders off, people. The Legislature has slowed the process of transportation technology down because of trade agreements and political strategies. Only political need will push the need for technology that will free us of our dependency on oil. But, for now we still need our allies. We endeavor to benefit the world, not just our country.

GLEN W. THOMAS, Visalia