

## Valley air board, AG differ on limiting emissions

By Mark Grossi / The Fresno Bee  
Thursday, Dec. 31, 2009

The Valley air board this month adopted California's first guidelines for greenhouse-gas reduction on new development, but the state Attorney General's Office questions whether they will hold up in court.

At the heart of the argument: How can government set a local limit for emissions that are causing a worldwide problem? Nobody knows how much greenhouse gas is too much, say officials with the San Joaquin Valley Air Pollution Control District.

"There is no scientifically proven means to establish a numeric threshold," said Dave Warner, director of permit services for the San Joaquin Valley Air Pollution Control District. "This is really the cornerstone of the policy the board adopted."

So officials did not set a limit on greenhouse gases. Instead they suggested that developers of new projects, from housing subdivisions to warehouses, use the most stringent and efficient technologies in those projects. The guidelines would apply to all new projects, not just large ones.

That's not how air pollutants, such as ozone-creating gases, are usually regulated. Air districts usually set limits on how much new developments can produce.

Under such limits, larger projects must come up with ways to lower pollution from traffic and energy use. In housing tracts, for instance, builders can install solar panels to reduce dependence on fossil fuels.

But without such limits for greenhouse gases, environmental critics say the whole process is open to legal challenge, and the attorney general apparently agrees.

"It's just too vague," said Kern County resident Gordon Nipp of the Sierra Club.

But district officials said state estimates show the approach in the future will trim at least 29% of the greenhouse gases, perhaps up to 34%. Under the district's guidelines, all new projects would have to use the advanced technology.

The guidelines amount to legally defensible suggestions, not requirements, for local government agencies as they consider development proposals, officials said. The guidelines would not affect existing businesses.

The greenhouse-gas law, Assembly Bill 32, is pointed at such new developments as strip malls, movie theaters and schools, which create greenhouse gases with additional vehicle and energy use.

For months, the California Attorney General's Office has advised the Valley district that the guidelines may have weaknesses -- foremost among them, the lack of a threshold. Such a threshold would require larger projects whose greenhouse gases exceed the limit to take additional steps to reduce those emissions.

A threshold is part of guidelines under consideration at the Bay Area Air Quality Management District. The district calculated the limit after deciding that the state's estimate on stringent new technology won't provide enough reductions to meet the 29% requirement in the law.

Dave Vintze, district air quality planning manager, said there's no assurance that future technologies will achieve the goals in the law.

"In the real world, we think there will be a gap," he said.

After studying emissions data and Bay Area projects dating back over the last eight years, the district calculated a threshold of 1,100 metric tons per year. It is equivalent to greenhouse emissions coming from a 55-home subdivision.

New projects emitting gases above that level would have to perform an expensive environmental study and take actions to reduce the number. It would encourage developers to think about installing the latest energy-saving features and locating near bus routes and work centers, Bay Area officials said.

The Attorney General's Office agrees with that approach, saying the logic and evidence could be legally defended.

Vintze said the Bay Area and Valley districts have agreed to disagree about their respective approaches.

At the Valley air district board meeting this month, business and industry representatives said they liked Valley officials' approach.

And Valley air officials said they tweaked their approach to include annual reviews and updates of the latest technologies, hoping to eliminate doubts from the Attorney General's Office. It did not.

"Our position has not changed," the state agency wrote this month.

Environmental activists said they prefer the Bay Area's approach because climate change is too important to rely on technology advances.

"The Valley air district is essentially setting the rule book for this important law," said Sarah Jackson, a research assistant with nonprofit legal watchdog Earthjustice in Oakland. "And it's wrong."

## **State finds extra \$3 million for Port truckers, but angry drivers say it's too little, too late**

By Cecily Burt, Oakland Tribune

In the Contra Costa Times & Tri-Valley Herald, Thurs., Dec. 31, 2009

State air regulators found an extra \$3 million Wednesday to help more Port of Oakland truckers buy new diesel filters for their rigs, but that did not stop more than 450 independent drivers from filing a lawsuit to block a state-mandated emissions deadline that will put them out of work on New Year's Day.

Approximately 1,200 mostly independent drivers who haul cargo in and out of the port will not be able to enter the gates starting Friday. They applied for grant funds to install new diesel filters on their rigs but were rejected because a \$22 million pot to help them ran out.

The new port truck rule passed by the California Air Resources Board in December 2007 set a Jan. 1, 2010, deadline for all large diesel trucks serving California's ports and intermodal rail yards to reduce diesel emissions. The rule bans trucks manufactured before 1994 and requires new soot filters on others to reduce by 85 percent the amount of dangerous particulate emissions generated by dirty diesel engines. The tiny particles can lodge in the lungs and cause asthma, cancer and other health problems.

The \$22 million covered 1,000 grant applications — fewer than half of those who applied. About 200 drivers got \$50,000 grants toward the purchase of a new truck. The rest got grants to buy new diesel filters that cost up to \$21,000 each.

The newly found money will be used to award \$5,000 grants to approximately 580 truckers — not nearly enough to go around and well short of actual filter costs.

The lawsuit filed late Wednesday in U.S. Northern District Court against the state of California, Air Resources Board, regional air district, the city of Oakland and the port also seeks a preliminary injunction to suspend the new truck rules until funding is found for all the drivers, said Lakhbir Bhambra, vice president of the Northern California Rail and Port Truckers Association. Representatives of the Air Board had not seen the lawsuit and could not comment.

The petition cites the harm caused to the drivers by the deadline and alleges a breach of contract by the state to provide grants to the truckers. The petition also alleges that large trucking companies were favored over independent drivers in awarding the grants. Drivers who wish to apply for the \$5,000 grants will have a short, five-day window starting Monday to visit the OT-411 trucker information center and tell air district representatives if they are interested. To qualify, the drivers must have been eligible for a grant but turned down for lack of funds. They must also prove that they can secure the remainder of the cost to purchase and install a new filter.

The whole process will take several weeks, during which time the drivers will not be able to use their trucks at the port. Once they get a new grant they can apply for an extension, but the extensions are good

only until April 30 to coincide with the deadline for truckers who are stuck in a months-long backlog waiting for their filters to be installed.

The sudden appearance of \$3 million did little to appease drivers who will be unemployed Friday and are now being told they must go through the arduous grant application process all over again, especially when there won't be enough money to go around. Some, assured previously by local and state air officials that there was no more money to help them, borrowed from friends and family and whoever else they could to buy new filters.

"All these guys are living paycheck to paycheck already," said Dominick Lee, vice president of VA Transportation in West Oakland. "Once you cut off their paycheck they'll have no means to make their trucks compliant."

Oakland Mayor Ron Dellums' staff has been working with state and federal officials to try and secure additional funding for the retrofits since the truckers held a rally outside City Hall this month to publicize their plight. Dellums pledged Wednesday to keep searching for more money and relief for the truckers.

"This announcement is a significant step in the right direction. ... I am deeply appreciative of the state's and local air district's continued efforts to partner with our city," Dellums said in a news release.

The truck grant program was confusing from the start. Drivers applied in 2008 only to be told that there was no money because of the state budget crisis. The program started up again this spring, and by summer drivers were lined up day after day to fill out applications and provide required information to qualify for the grants.

Representatives from the air district accepted applications until Sept. 10, but few who applied later than May got any money. The new funds have been reallocated from other projects earmarked for Prop 1B state transportation bonds at the request of the Bay Area Air Quality Management District and the mayor's office.

"In response to the request for a last-minute reprieve, the Air Resources Board and the air district scoured all existing funds and were able to come up with an additional increment to ease the cost of compliance with this important public health rule," said Air Resources Board Chairman Mary Nichols.

The economy has caused a decline in the amount of cargo passing through the Port of Oakland. Despite fewer truckers being able to access the Port starting next month, officials there have said previously they do not expect any disruption in service.

## **Dust: Tiny particles with a big impact**

By Robert S. Boyd - McClatchy Newspapers

In the Modesto Bee and Merced Sun-Star, Thurs., Dec. 31, 2009

WASHINGTON -- Dust, dust, dust. It's everywhere, burrowing under beds, piling up on windowsills, clogging guns and machinery, irritating eyes, noses and lungs. It soars thousands of miles over continents and oceans, sometimes obliterating the sky.

Enormous masses of the stuff - fine grains of soil, sand, smoke, soot, sea salt and other tiny particles, both seen and unseen - pervade Earth's air, land and water.

Now scientists are beginning to have new respect for the way dust alters the environment and affects the health of people, animals and plants. As global warming raises temperatures and forests are cleared for agriculture and other development, the amount of dust swirling through the Earth's atmosphere is expected to grow. The likely impact is unknown.

"Environmental scientists are increasingly recognizing dust as both a major environmental driver and a source of uncertainty for climate models," said Jason Field, a soil researcher at the University of Arizona in Tucson, who co-wrote a paper, "The Ecology of Dust," that was published in the latest edition of the journal *Frontiers of Ecology and Environment*.

By blackening snow and ice, dust even may have contributed to the end of the Ice Age 10,000 years ago, Karen Kohfeld, an environmental scientist at Queens College in Flushing, N.Y., wrote in *Advances in Science*, a publication of the Royal Society of London.

The amount of dust traveling through the atmosphere is huge, Kohfeld said.

"Although these individual particles are often invisible to the naked eye, billions of tons of material are transported every year" through the air, she said. "Some of these transport events are even visible from space."

Dust plays a complex role in the environment. Some of its effects are benign. Unlike CO<sub>2</sub>, a prime culprit in global warming, most airborne dust particles turn back the sun's rays and thus cool the planet. Dust also carries chemical nutrients that help agriculture.

"Dust can be an important and even in some locations essential parent material for soils," said Daniel Muhs, a researcher at the U.S. Geological Survey in Denver. Windblown dust from Africa "may be critical in sustaining vegetation" in the Caribbean, Central America, Mexico and the southeastern United States, he said.

"Dust delivered to the oceans may also provide some essential nutrients, especially iron, for microscopic marine plants that draw down carbon dioxide from the atmosphere, another counterbalance to greenhouse gas warming," Muhs said.

On the other hand, like other airborne particles, dust can spread harmful pollutants around the world.

"The atmosphere connects all regions of the globe, and pollution emission within any country can affect populations and ecosystems well beyond national borders," Charles Kolb, chief executive officer of Aerodyne Research in Boston, wrote in a report published in October by the National Academies of Science.

Kolb called fine particles, particularly smoke and road dust, "the deadliest air pollutant," responsible for about 348,000 deaths in 25 European countries annually.

"The heavy loads of fine particles we find in many large urban areas exacerbate heart problems and also cause deaths from lung cancer and emphysema," he wrote.

Muhs said dust also cause silicosis, a serious lung disease, and asthma.

Natalie Mahowald, a climate scientist at Cornell University in Ithaca, N.Y., observed that dust particles "may carry microbes, or actually be microbes."

Besides the constant rain of dust, unusual events have greatly magnified the impact of dust.

More than 800 million tons of topsoil were blown away in the great southwestern Dust Bowl of the 1930s. The 1980 eruption of Mount St. Helens spewed an estimated half a billion tons of ash and dirt that drifted across the Northern Hemisphere.

More recently, the collapse of New York's World Trade Center on Sept. 11, 2001, produced huge clouds of toxic dust composed of particles of glass, wallboard, concrete, paper and other building materials, according to a report by USGS scientist Geoffrey Plumlee. Last year, dust clouds threatened the Beijing Olympics.

The champion of all recorded dust clouds was the 1815 eruption of the Tambora volcano on an island in what's now Indonesia. The volcano spewed so much dust around the globe that 1816 became known as "The Year without a Summer." Crops failed worldwide and at least 70,000 people died.

Geologists say the major sources of dust are deserts in Africa, Asia and the Middle East, and dry lands, cleared by deforestation, livestock grazing or for agriculture.

"Human activity has increased dust deposition over the past 100 to 200 years," Field said. "Abandoned cotton fields in Texas and Arkansas and military training grounds in Texas and California consistently produce large regional dust storms that can be seen on satellite imagery."

"Windblown dust that settles on the land surfaces can accumulate to great thickness," Kohfeld said, citing a 200-meter thick plateau of soft soil dumped by the wind in China.

In Hawaii, she said, "much of the soil has literally come from China and central Asian deserts."

"High concentrations of African dust are measured in Florida and the southern and eastern United States every summer," Joseph Prospero, an atmospheric scientist at the University of Miami, wrote in the International Journal of Biometeorology.

### **Colo. State gets funds for feedlot emissions study**

The Associated Press

In the Modesto Bee and Merced Sun-Star, Thurs., Dec. 31, 2009

FORT COLLINS, Colo. -- Colorado State University researchers have received \$1.15 million in federal funds to study how much nitrogen and ammonia are emitted from cattle feedlots.

Feedlots along Colorado's Front Range are believed to be a major source of nitrogen pollution in Rocky Mountain National Park to the west. Biologists say the park's rising nitrogen levels could lead to fish die-offs and other environmental harm.

The money from the U.S. Department of Agriculture will fund three projects, led by Colorado State's Institute for Livestock and the Environment. Researchers will measure ammonia and other pollutants from feedlots and evaluate influences on emission levels, such as weather, the animals' diet and the handling of manure.

Feedlots along the Front Range can handle a total of about 600,000 cattle.

### **EPA faults proposed NY gas drilling regulations**

By Mary Esch, Associated Press Writer

In the Washington Post, Contra Costa Times and other papers, Thurs., Dec. 31, 2009

ALBANY, N.Y.—The Environmental Protection Agency said New York regulators have much more work to do on proposed regulations that have already held up gas drilling in the state's part of the massive Marcellus Shale formation for more than a year.

The EPA submitted its comments Wednesday on the state Department of Environmental Conservation's 809-page draft document that sets rules for gas drilling using high-volume hydraulic fracturing. The controversial technique, which injects chemical-laced water into deep horizontal wells to release gas from shale, has raised concerns about potential contamination of drinking water.

The EPA said the draft, released at the end of September for a public comment period ending Dec. 31, needs to significantly expand analysis of cumulative impacts of gas exploration and place greater emphasis on potential health effects.

In addition, the EPA expressed "serious reservations" about whether gas drilling should be allowed in the New York City watershed in southeastern New York. Mayor Michael Bloomberg's administration has asked the DEC to ban drilling in the watershed, which provides drinking water for 9 million people.

The EPA recommended that the state Health Department, which enforces the Safe Drinking Water Act, and Public Service Commission, which oversees natural gas pipelines, collaborate with the DEC on the regulatory document.

The agency said it was particularly concerned about issues involving water supply, water quality, wastewater treatment, air quality, and management of natural radioactive materials disturbed during drilling.

The state has received more than 9,600 public comments on the document, which is called a draft Supplemental Generic Environmental Impact Statement. Gov. David Paterson in July 2008 directed the DEC to draft the document as a supplement to its 1992 regulations on oil and gas drilling.

More than two dozen national, statewide and local environmental groups sent a letter to Paterson earlier this month asking him to scrap the proposed rules and impose a yearlong drilling moratorium while new rules are drafted. They said the proposal fails to address the cumulative impact of thousands of gas wells.

A coalition of 16 business and economic development groups, led by the Independent Oil & Gas Association of New York, delivered a letter this week to Paterson urging him to remain committed to his draft State Energy Plan, which supports the expansion of natural gas exploration.

"The extremely stringent requirements" proposed by the DEC ensure that gas will be extracted safely, the coalition said.

The coalition estimates that Marcellus Shale development in New York will generate more than \$1.4 billion in annual economic impact, including more than \$100 million in landowner lease payments and \$32 million in state tax revenue.

On Monday, a group of New York congressmen, state lawmakers, New York City officials and environmental advocates will hold a news conference in Manhattan to call on Paterson to withdraw the draft impact statement and develop a new one.

The environmental impact assessment process requires that public comments be reviewed and addressed in the final document.

"I am very appreciative that so many individuals and organizations have submitted comments to DEC," state Environmental Commissioner Pete Grannis said in a statement on Wednesday. "It is clear that the public has been fully engaged, and we have much hard work ahead as we carefully consider the comments and move the process along."

The Marcellus Shale formation runs through parts of West Virginia, Ohio, Pennsylvania, and New York. It underlies about 18,700 square miles.

### **Fight over drilling SW Colo. mountains in court**

By Judith Kohler, Associated Press

In the Washington Post, Contra Costa Times and other papers, Thurs., Dec. 31, 2009

DENVER -- Opponents of a plan to drill dozens of natural gas wells in the southwest Colorado mountains, including roadless forest land, accused federal officials Thursday of playing a shell game with public lands.

Attorneys representing the San Juan Citizens Alliance and four other groups argued in federal court that agencies didn't follow the forest management plan when they approved a project authorizing about 140 wells in the San Juan National Forest in 2007.

Of special interest are the HD Mountains, which include roadless areas. The mountains make up roughly 45,000 acres of the 125,000-acre project area.

Industry officials note that there are already several wells in the area. Environmentalists, though, say most of the drilling has been on the western flank of the mountains and beyond. They say the HD Mountains are one of the last pockets of undisturbed backcountry in western Colorado.

Earthjustice attorney Michael Freeman told U.S. District Judge Richard Matsch that federal officials played a shell game when they said measures to reduce harmful impacts on air and water quality and wildlife habitat would be reviewed later, when individual wells were approved.

"Those commitments have been routinely ignored," he added.

Freeman said the U.S. Forest Service erred when it approved the project even though its own environmental analysis said some of the development would conflict with the forest management plan. Pledges to avoid old growth forests and protect key wildlife habitat and waterways have been ignored, he added.

Forest management plans are comprehensive documents similar to a zoning plan that says what activities can occur on forest land and where.

Department of Justice lawyer John Most countered that allegations of the government acting arbitrarily are "lost in an ocean" of evidence to the contrary. He said the review of the project and public input were extensive and that seasonal restrictions on drilling to protect wildlife are an example of the steps taken to minimize the effects.

Most also disputed Freeman's argument that the forest management plan is a set of mandatory requirements that any projects on the land must adhere to.

"The forest plan is a guidance," Most said. "It does not serve as a blueprint."

The law gives land managers flexibility to carry out their directive to balance multiple uses of public land, Most said.

Freeman disagreed, saying that federal laws and the Forest Service's own guidebook make clear that forest managing plans are binding.

Matsch said the question about whether provisions of a forest management plan are just guidelines or requirements under the law "is a little twist on this case that I'm concerned about."

Five energy companies have intervened in the case in support of the federal government. So far, 21 wells have been approved.

The companies are drilling in underground coal seams to extract methane gas. Pumping out groundwater releases the pressure that traps the natural gas in the seams.

The area is in the San Juan Basin, which extends from southwest Colorado to northwest New Mexico and is a major gas-producing region.

It wasn't clear when Matsch would rule on the case. "It will be next year before you get a decision," he told attorneys at the end of the hearing.

### **Air quality worsens in Fairbanks**

The Associated Press

In the Contra Costa Times & Tri-Valley Herald, Thurs., Dec. 31, 2009

FAIRBANKS, Alaska—Fairbanks residents have been warned to limit prolonged exertion because of worsening air quality.

The Fairbanks North Star Borough's Air Quality Index on Tuesday showed fine particulate air pollution at more than twice the level deemed acceptable by the Environmental Protection Agency.

The borough has three air quality monitors in Fairbanks and one in North Pole.

The National Weather Service says a mass of warm air is resting on top of colder air, holding down pollution. It should disperse by New Year's Eve.

Meanwhile, the borough is asking those can burn oil instead wood or coal to do so.

### **Council in France Blocks a Carbon Tax as Weak on Polluters**

By James Kanter, staff writer

N.Y. Times, Dec. 30, 2009

BRUSSELS — The French Constitutional Council has rejected a tax on carbon emissions strongly backed by President Nicolas Sarkozy that was to take effect Friday. But his ruling conservative party said the measure would be redrafted so it could be passed into law next year.

The council, which evaluates the constitutionality of proposed laws, ruled late Tuesday that the bill contained too many exemptions for polluters, broke with past practices and threatened to make tax collection unfair.

The decision is a blow to Mr. Sarkozy, who has sought to burnish his green credentials by holding international talks next year to seek agreement on emission cuts after the Copenhagen climate conference.

Environmental groups have said they expect the talks to be held in Paris.

The Copenhagen conference, which ended without a timetable to reach a binding global agreement to curb greenhouse gas emissions, represented a humiliation for European Union leaders seeking to lead global efforts to tackle climate change.

Mr. Sarkozy said he strongly favored the tax, scheduled to go into force on the first day of the new year, as a way to shift France onto a low-carbon path and modify the way the state collects revenue.

The tax was set at 17 euros for each ton of carbon dioxide.

Members of the opposition Socialist party, many of whom said the tax would damage citizens' purchasing power, said the defeat was a personal one for Mr. Sarkozy. He had cultivated an image of aggressively fighting emissions on the international stage but was unable to put in place workable policies at home.

Members of the French Green party said the defeat would force the government to come forward with a bill that would be more effective in helping to curb France's contribution to global warming.

A number of Scandinavian countries already have similar taxes, which raise the cost of fuel for motorists and for household heating.

But in its ruling, the French council said the tax was flawed because it would have primarily raised the cost of fuel for vehicles and heating even though there are many other sources of emissions.

Senior members of Mr. Sarkozy's party immediately said the government would amend the text of the bill, taking into account the objections of the council, and present a new text for approval by the country's council of ministers on Jan. 20.

But it remains unclear how the bill could be modified to meet the demands of the council without fierce objections from French industry.

A move to subject heavy industries to the tax would be opposed by French companies that already complain the costs of doing business in the country make it difficult for them to compete in Europe and elsewhere.

France has backed efforts to introduce a carbon tax throughout the European Union that could overcome some of those objections. But many countries like Britain strongly oppose moving such fiscal decision-making from national capitals to Brussels.

Mr. Sarkozy also has promoted so-called border taxes at the European Union's frontiers to protect the competitiveness of European industry. But those taxes could provoke a trade war with partners like China and the United States.

The European Union has operated its Emissions Trading System since 2005, requiring large polluters like cement manufacturers, steelworks and electricity utilities to hold a certain quota of permits to emit greenhouse gases.

Those companies must buy additional permits if they exceed their quota.

But the price of those permits has never been high enough for long enough to push utilities to adopt lasting changes. The French carbon tax was planned to nudge industry toward systemic change by pushing up the cost of products and services based on fossil fuels.