

Supervisors to discuss air quality

By Laura Florez

Staff writer

Visalia Times-Delta

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The Tulare County Board of Supervisors will be asked Tuesday to do its part in the next six years to help ditch the Valley's reputation of having the nation's second-worst air.

Last year, the San Joaquin Valley voluntarily dropped into the country's worst-offender category -- joining only Los Angeles -- extending the Valley's deadline to come into compliance with smog cleanup requirements to 2010.

The move also helped the Valley dodge business penalties and keep local control of a \$2 billion federal fund to build roads.

But by taking on the extreme designation, the county, along with other governmental entities within the San Joaquin Valley Air Pollution Control District, must say they will go along with plans to clean up ozone.

In order to adopt the Extreme Ozone Attainment Demonstration Plan this year, the Clean Air Act requires that control measures be implemented.

Those measures include things such as asking school districts to encourage students to walk to school, expanding public transit services and coming up with commuting solutions.

If not implemented already, the county will update measures within the county with local money or funding from state and federal transportation dollars, according to a staff report.

Each city, county and metropolitan planning organization in the air basin must adopt its own set of measures as part of the Extreme Ozone Attainment Demonstration Plan.

The three general approaches for consideration include: existing measures which could be strengthened, commitments to implement new measures and the allocation of pass-through money to support emission reduction programs.

The Valley's air quality is classified as extreme by the Environmental Protection Agency because it exceeds federal health-based standards for ozone, which is the main component of smog.

How to attend

The Tulare County Board of Supervisors is scheduled to meet at 9 a.m. Tuesday inside board chambers at 2800 W. Burrel Ave.

Striving to turn Vision into a reality

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More than three years ago Bakersfield residents were asked what their city should look like in the year 2020. They knew what they didn't like about Bakersfield -- gang violence, bad air, tangled traffic, a dry Kern River and urban development sprawling to the sunset. But there wasn't a plan to get to that future city.

No one had a communitywide vision for how to get clean air, safe parks, reborn neighborhoods, good schools, strong culture and a growing, vibrant downtown along the waters of the Kern.

That's where Vision 2020 came in. Local activists, backed by donations from across the city, went to the community and asked what Bakersfield should do to better itself.

The Vision 2020 plan was created. Looking back at the plan with three years of hindsight, it's clear that it was ambitious and comprehensive. Some of it was practical, some of it wasn't.

But the people who have lived and worked with the plan say even its impracticality hasn't blunted the plan's power to make people and organizations think about improving the community.

"I think it's always important to have a strategic plan for the community," said Brian Todd, executive vice president of the Building Industry Association. "Even though not all the goals were as attainable as others, it was import that we have a vision."

Vision 2020 called for improvement in seven distinct areas -- economic development, education, quality of life, downtown, community planning, transportation and the city's image.

Some goals have seen a lot of work.

There is a system of wells and water agreements in place that is designed to keep water in the Kern River all summer, every summer.

Plans to build a liner promenade along the Kern Island Canal in downtown Bakersfield are in the works. Ordinances have been developed to bring more trees to Bakersfield.

But other goals are far more nebulous and their achievement harder to evaluate.

How has Bakersfield aligned "the offerings of higher education with the needs of the new economy?" John Stinson, assistant city manager for the city of Bakersfield, said the plan is supposed to contain both specific and general goals.

"It helps provide a general framework," he said.

The Bakersfield City Council has, for instance, browsed through the Vision 2020 report and pulled out ideas that have been added to the council's stated goals for the city. Then the city started working on them.

Dana Karcher, who leads the Tree Foundation of Kern County, said Vision 2020 is doing all right. Government is making moves to plant more trees and make better decisions about which trees to plant for shade and aesthetics, she said. New tree rules are in place, but not always enforced by government. The people of Bakersfield have to do some of the work on their own.

"It think it's going to become more incumbent on citizens to make sure that the city and county become better," Karcher said.

Pauline Larwood agreed that the Vision 2020 plan is making progress -- inspiring improvements from government and industry.

But in the end the vision is one for what the community will be 16 years from now and the work has just begun.

"You can't possibly do all these things in a small amount of time," Larwood said.

Supreme Court rules EPA can overrule state in clean air case

ANNE GEARAN, Associated Press Writer

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The Supreme Court ruled Wednesday that the federal Environmental Protection Agency can override state officials and order some anti-pollution measures that may be more costly.

The 5-4 decision, a victory for environmentalists, found the EPA did not go too far when it overruled a decision by Alaska regulators, who wanted to let the operators of a zinc and lead mine use cheaper anti-pollution technology for power generation.

The four justices who dissented said the ruling undercut the states' power to control their environmental policies.

The Alaska case was the first of eight environmental cases on the court's docket this term, an unusually high number. The fight was over whether the Red Dog Mine must use equipment that would reduce pollution from a new generator by 90 percent. The state wanted to allow the mine operator, a major employer in a particularly rural area of Alaska, to use equipment that would only reduce pollution by 30 percent.

The Clean Air Act allows state officials to make some decisions involving facilities within their borders, but still gives the EPA wide authority to enforce the anti-pollution law passed by Congress in 1970.

"We fail to see why Congress, having expressly endorsed an expansive surveillance role for EPA," elsewhere in the law, "would then implicitly preclude the agency from verifying substantive compliance," with the portion of the law at issue in this case, Justice Ruth Bader Ginsburg wrote for the majority.

Ginsburg's usual allies on the court's ideological left joined her in the ruling: Justices John Paul Stevens, David H. Souter and Stephen Breyer. The crucial fifth vote came from Justice Sandra Day O'Connor, who usually votes with the court conservatives in states' rights cases.

The four dissenters argued that the decision undercuts states' power to control their environmental policies.

"This is a great step backward in Congress' design to grant states a significant stake in developing and enforcing national environmental objectives," wrote Justice Anthony M. Kennedy, joined by Chief Justice William H. Rehnquist, and Justices Antonin Scalia and Clarence Thomas.

"After today's decision, however, a state agency can no longer represent itself as the real governing body. No matter how much time was spent in consultation and negotiations, a single federal administrator can in the end set all aside by a unilateral order," Kennedy wrote.

The case is *State of Alaska v. U.S. Environmental Protection Agency*, 02-658.

Pentagon Appeals to White House on Pollution Limits

Congress has denied the clean air and toxic waste exemptions. But the Department of Defense says the laws could inhibit readiness.

By Elizabeth Shogren

Times Staff Writer

LA Times

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WASHINGTON - The Defense Department, having won exemptions from three major environmental laws in the last two years, now is seeking to be excused from three more.

Requirements of the Endangered Species Act, the Marine Mammal Act and the Migratory Bird Treaty Act already do not apply to the Pentagon. Now it wants exemptions from the Clean Air Act and two toxic waste laws, which Congress has refused to grant in each of the past two years.

So last month, the Pentagon asked the White House to let it fight those battles once more, according to documents obtained by The Times.

Congressional opponents say that the proposed exemptions would cause more damage than the previous ones because they would jeopardize human health.

The military, however, argues that it needs the three exemptions so that pollution laws do not get in the way of training exercises and other war preparations. "We think those three are the three initiatives that would probably go forward this year," said Bruce Hill, a Defense Department contractor in the office of the deputy undersecretary for readiness.

Many state officials and congressional Democrats disagree.

"Once again, the Department of Defense is using the war on terrorism as an excuse and an opportunity to jam through Congress broad and unnecessary exemptions for itself from three of our most important public health and environmental protection laws," said Rep. John D. Dingell (D-Mich.).

The Clean Air Act proposal would extend by three years various deadlines for the Pentagon to comply with health-based standards for ozone and fine particulates. These air pollutants aggravate asthma, intensify heart and lung ailments and cause early deaths in thousands of Americans.

The other proposals would make it harder for the Environmental Protection Agency and state officials to regulate toxic substances, such as perchlorate, that seep into ground or surface water.

Opponents in Congress and the states argue that the Pentagon has not shown any examples of how these laws have hindered readiness.

"As former EPA Administrator [Christie] Whitman and numerous state officials have testified, there is no evidence or examples where these three laws have ever adversely impacted military readiness," said Dingell. "Never has a set of legislative proposals had so much audacity and so little merit."

So far, Pentagon officials agreed, the Clean Air Act has not thwarted military preparedness, but there have been some close calls.

The Navy, they said, was able to add some F-14 fighters to the Naval Air Station Lemoore in the heavily polluted San Joaquin Valley only because nearby Castle Air Force Base had closed and its pollution allotments could be transferred to the aircraft at Lemoore. Similarly, the Navy sent aircraft to Naval Air Station Oceana in Virginia because the state was willing to shift industrial pollution allotments to the military.

"As these near-misses demonstrate, under the existing requirement there is limited flexibility to accommodate readiness needs," Benedict S. Cohen, the Defense Department's deputy general counsel, told a Senate committee in April.

Under the changes the military seeks to the toxic pollution laws, state, local and federal agencies would no longer be able to regulate military emissions, including unexploded ordnance, on operational training ranges.

Water agencies and state attorneys general, including California's, argue that the exemptions would inhibit their ability to prevent the contamination and loss of drinking water.

"Our concern is that when we don't have any authority, [military officials] tend not to listen to us," said Dan Miller, an assistant attorney general in Colorado.

States are in the midst of wrestling with releases of perchlorate, a hazardous chemical used in rocket propellants and explosives, into the ground or surface water at 27 Defense Department facilities. In at least two cases - the Aberdeen Proving Ground in Maryland and the Massachusetts Military Reservation - drinking water supplies have been contaminated and state and federal officials are trying to force the military to clean up.

"This legislation could eliminate our ability to require them to investigate or clean up soil or groundwater contamination that has military munitions in it," Miller said.

Waiting to address the problem until the pollutants flow outside of the boundaries of the ranges, some of which are massive, could mean that the states have much more expensive and health-

threatening problems to deal with, state officials said.

"By the time it starts escaping off the military property, you've got a huge problem coming right after you, said Krista Clark, regulatory specialist for the Assn. of California Water Agencies. "You don't wait until you have a huge problem and it's about to impact someone before you take control."

Perchlorate has turned up in drinking water across California, and some districts have shut off wells because of contamination. The military and its contractors are the largest perchlorate polluters in the state.

Brian Hembacher, a deputy California attorney general, said the military could already get exemptions on a case-by-case basis. State officials, he added, were eager to find solutions that do not impair military readiness.

"There is no justification," he said, "for any of these changes."