

## Licensing process for Avenal power plant nears end

By Eiji Yamashita

Hanford Sentinel, Monday, June 29, 2009

A public participation process is nearing its end for the licensing of a power plant proposed in Avenal.

The California Energy Commission, which is reviewing the license application for the proposed 600-megawatt project, held a public workshop last week.

The project is now headed for a evidentiary hearing on July 7-- a final fact-finding step the state's energy policy agency uses to put testimonies on record before making a final decision on the project.

The evidentiary hearing will take place inside the Avenal Courthouse , 501 E. Kings St.

But a pre-hearing conference on Tuesday will precede the actual hearing. Although it's a process designed for attorneys representing the applicant and staff to assess their readiness for the hearing, it's a public forum that allows concerned citizens to speak during a designated comment period. The conference will be held inside Hearing Room A of the California Energy Commission, 1516 Ninth St. in Sacramento.

State officials this week urged the public to take note of the opportunity to participate in the decision-making process.

"Public participating is the hallmark of the commission's process," said Percy Della, commission spokesman. "We encourage everyone to speak their minds about the project. Anyone can speak by simply showing up or mailing in their comments."

Della, however, acknowledges that not all public comments are given the same weight.

In order for people to have their comments or documents considered as evidence during the evidentiary hearing, they must be registered "intervenors." And only the applicant, staff and those intervenors can present and cross-examine witnesses at the hearing.

Still, public comments are considered by members of the decision-making body, Della said.

"Comments may be used to sway the decision, although they cannot on their own be used to support the decision," Della said.

The last day to become a public intervenor was June 8. At least three new intervenors registered this month. They are Center for Race, Poverty and the Environment of San Francisco, the Tehipite Chapter of the Sierra Club from Kingsburg and Rob Simpson, a Hayward-based environmental consultant, according to Della.

Houston-based Avenal Power Center, LLC plans to build the \$530-million power facility on 34 acres within an industrial zone located just south of the Fresno County line and two miles east of Interstate 5. The project is six miles from the residential and commercial areas of Avenal.

First proposed in February 2008, the project has been undergoing the licensing and permitting process through the energy commission.

Last Tuesday's public workshop followed the June 2 release of the final staff assessment of the project, which concluded that the project conforms to all laws, regulations and standards and that the plant can be built and operated safely and reliably.

The workshop was, however, held in the face of complaints by environmental justice advocates representing concerned residents of Kettleman City and Avenal that the public was not given notice properly at the time of the workshop, making it difficult for the public to attend.

Once the evidentiary hearing is held, evidence collected during the hearing will be used as a basis for the presiding member's proposed decision, which is a recommendation for the full commission.

The document is expected to be issued in late August or early September. The public will then have 30 days to review it and submit comments.

A final decision on the project will be made at a subsequent public hearing held at a regular commission meeting, the schedule of which is still pending.

If licensed, the power plant will begin construction in April 2010. After an initial startup in October 2011, the plant would be in full commercial operation by June 2012, according to the commission.

## **Independent gas station owners say economy, regulations squeezing too hard**

By Joe Goldeen  
June 30, 2009  
Record Staff Writer

STOCKTON - Independent service stations are in a fight for their lives.

Not only are gasoline sales down 8 to 10 percent in California over the past year, the sour economy is making many people think twice about that spur-of-the-moment snack purchase that is the lifeblood of the convenience stores attached to those gas stations.

On top of that, expensive new government-imposed regulations are taking a big chunk of their bottom line as independent operators struggle to repay business loans and, in many cases, fines for noncompliance.

"The new EVR lines (enhanced vapor recovery) are here. It does nothing and the cost is horrendous: \$20,000 to \$35,000, and the small independents are asked to put those in or we're shut down," said Phillip Elder of the tiny Country Club Food & Fuel neighborhood service station, convenience store and bait shop at 1856 Country Club Blvd. in west Stockton. Elder manages the station for his son, owner Jerome Elder.

April 1 was the deadline - extended to May 15 - for California service stations to install enhanced vapor recovery equipment to remove smog-producing vapors emitted when gas is dispensed at the pump.

According to the California Air Resources Board, 80 percent of the 11,000 stations throughout the state had either complied with the regulation or had applied for a permit to do so by the original deadline. The air-resources agency's experts estimated that the retrofits cost roughly \$11,000 per pump.

In the San Joaquin Valley, more than 85 percent - roughly 1,250 stations - have complied to date, according to the regional air district.

The required improved nozzles and vapor processors will eliminate the daily release of up to 10 tons of smog-forming compounds from spillage and fugitive emissions - the equivalent of taking 450,000 cars off the road, according to ARB.

In the Elders' case, they were not able to meet the deadline and have been assessed a \$500 fine - reduced from \$1,000 because of the economy - by the San Joaquin Valley Air Pollution Control District. The \$500 is due today. Phillip Elder said he would pay it on time.

"I wasn't able to get bank financing, so I had to borrow from my sons to do the EVR upgrades," Elder said, noting that no commercial lender he contacted was willing to consider a loan in the current economy.

"The fine will be paid, but I cannot afford it. This is terrible. That \$500 can be used for rent, the electric bill, inventory. We're already having problems. This business has been here since 1979," Elder said.

Elder continued to rail against onerous government regulation, noting that he has to maintain 19 annual permits costing the business between \$15,000 and \$20,000 annually.

"California keeps throwing these things at them without any money to help out. ... Just knowing the regulatory regimes service stations and convenience stores face that sell alcohol and sell tobacco, they are the most regulated piece of property per square foot in California," said Jay McKeeman, vice president of government relations for the Sacramento-based California Independent Oil Marketers Association, a trade group.

Nick Bokides, 51, of Lodi, whose family has owned retail gas stations in the Central Valley since 1958 and who was president of the trade group in 2000, said in the current economic environment "there is very little chance of making a good living selling gasoline. There is a tremendous amount of pressure on small operators right now."

Bokides said there are a number of different agencies they have to report to such as environmental health organizations, air pollution districts and city or county business licenses.

Swaran Chouhan, who owns the small Spirit gas station on Dr. Martin Luther King Jr. Boulevard in south Stockton and a large Valero station in Modesto, isn't sure what the future holds for his business, which he has operated since 1994.

"My partner had to shut down a brand new Shell station in Modesto because he couldn't get a loan. I was trying to get a loan for a year. Everybody in this business is stuck where they're at," Chouhan said, noting he's still paying off a \$150,000 loan for environmental improvements at his Stockton station.

Elder was more blunt: "Where does the small independent get the money? The banks are telling us to go to hell, but we have to do the improvements to stay in business. Everybody is hurting."

### **Sacramento air-quality concerns heat up**

Sacramento Bee, Tuesday, Jun. 30, 2009

Splashing, shrieking, laughing children frolicked in the American River on Monday, escaping the first heat wave of the summer as public health officials warned residents to stay cool and clear of the dirty air.

Isaiah Gary, 10, and his friends were having too much fun crafting a wet sand dome at the river's edge to notice the heat. They said their structure would last for decades.

"We're making history," Isaiah shouted.

Unlike Sunday's scorcher, the highs on Monday didn't threaten any records. Sacramento peaked at 102 degrees. That's well above the 87 degrees considered average for June 29, but well below the 111-degree benchmark in 1974.

Perhaps a bigger threat Monday, officials said, was the poor air quality in the region. The heat and smog contributed to a "Spare the Air" day in Sacramento – the second ozone violation of the season.

Bad air – in the "red zone" on the local Air Quality Index – is forecast for today and Wednesday, too, officials said.

"This is the first episode of the season. So it's a good time for people to prepare themselves for what they need to be doing come other dangerous air quality days," said Lori Kobza, a spokeswoman for the Sacramento Metropolitan Air Quality Management District.

She and health officials said this week is a reminder of what's likely to come.

"It's always good for people to be aware of the heat and of their bodies," Sacramento County Public Health Officer Glennah Trochet said. "We have this first-heat-of-summer every year, but as always, we want folks to stay hydrated and stay cool."

Camp directors charged with keeping kids safe while still letting them have fun said they find ways to get around the weather.

"With heat, we can get them in the shade and have them drink water," YMCA camp director Samantha Doffo said. "I worry about air quality more than heat."

The camp director said if the air quality is too dangerous to bring her campers outside, counselors will organize a field day inside the YMCA gym at W and 21st streets.

Typically, Sacramento has about 12 days of dangerous air in summer. Sometimes they occur as early as May; more often they strike in July and August.

Angus Barkhuff, a National Weather Service forecaster, said the high pressure system hovering over the Southwestern United States has blocked the cooling Delta breezes this week and trapped smog in the Sacramento Valley.

"There's this downward spiral of air that heats up as it sinks," Barkhuff said. "We're in a valley surrounded by mountains. That leaves only a few ways for the cool ocean breezes to get in, and right now, with this high pressure ridge, there's no real way for the air to get in."

Kobza said simple lifestyle changes, such as cutting back on driving, barbecuing, jogging and other outdoor activities after 9 a.m., can make a world of difference in reducing smog or its effects.

She said children and the elderly as well as those with respiratory illnesses are most susceptible to dirty air.

"Children take in more air than we do, so when the air is bad, they take in more pollution than we do," Kobza said.

Despite the air advisory Monday, the YMCA day camp kids were let out to play – a welcome change for 11-year-old Maurice Kenney, who said the weather has kept him inside.

"I barely go outside anymore," Maurice said, putting the finishing touches on his sand sculpture. "I just run out and if I don't find a friend, I go back in."

Camp leaders will be put to the test this week. Weather experts don't predict much air quality improvement until Thursday, when the Delta breeze will finally make its way back into the Valley and push out much of the dangerous smog.

Officials say that maintaining healthy habits is important, whether the heat lasts a day or a week.

They suggest drinking plenty of liquids, and checking on elderly neighbors and relatives a few times a day.

Leaving pets or children in cars – even for a few minutes – and allowing children to run around too much should be avoided at all costs, they said.

"You need to err on the safer side and not go out much if you can help it," said Kori Titus, spokesperson for Breathe California. "We want people to go out and be active, but we want them to be smart about it."

## **State to pay owners to scrap high-pollution cars**

By SAMANTHA YOUNG, Associated Press Writer  
Lodi Press, Friday, June 26, 2009

SACRAMENTO — California regulators expanded a state car-scraping program today to provide incentives of as much as \$4,000 to motorists who surrender high-polluting vehicles and replace them with cleaner cars.

California Air Resources Board Chairwoman Mary Nichols said the program would help get some of the oldest, dirtiest cars, trucks and sport utility vehicles off state roads.

Unlike the federal "cash for clunkers" program signed into law Wednesday by President Barack Obama, California's effort is not primarily designed to replace gas guzzlers with more fuel efficient vehicles.

Instead, the state will target those cars with the worst smog-forming tailpipe emissions - pollutants that give areas of California some of the country's dirtiest air.

Some 300,000 California drivers who own cars older than model year 1976 will be solicited by local air districts.

Beginning April 1, drivers could get \$1,000 if they turn their car into a licensed dismantler. Low-income Californians would be eligible for \$1,500.

The regulation also provides a voucher between \$2,000 and \$2,500 to drivers in two of the state's most polluted regions - Southern California and the San Joaquin Valley.

The vouchers could be redeemed at new and used dealerships for a fuel efficient car that's four years old or newer. Low-income Californians could buy a fuel efficient car up to eight years old.

California currently has a car scrap program, but it is limited to cars newer than model year 1976 and that fail the state's smog check.

The Legislature in 2007 directed the board to expand the program to get more polluting cars off roads. About 22,000 cars are currently scrapped under the program each year.

When fully enacted, the state incentives are projected to lead to the surrender of another 15,000 cars a year.

Air regulators strengthened the Legislature's directive by providing Californians with vouchers to buy fuel-efficient cars. To qualify, cars that are model year 2009 or older would have to get about 28 miles per gallon. The standard would increase to 42 miles per gallon for model years 2010 to 2015.

The board also adopted language preventing Californians from collecting incentives from both federal and state programs, a move that was opposed by California auto dealers.

Jonathan Morrison, an attorney for the California New Car Dealers Association, said Californians were being robbed of the chance to get a total of \$8,500 from both the state and federal governments.

"By saying we can't use the federal dollars in combination with the state dollars, basically you're saying you'd rather those federal dollars go to Indiana," Morrison said. "That seems to me to be cutting off your nose."

For now, the federal and state programs would not overlap. The federal program runs through November whereas the state incentives begin April 1. However, state regulators were concerned Congress might extend federal incentives into next year.

Jack Kitowski, chief of the board's on-road control regulations branch, said allowing Californians to "double dip" could lower the total number of cars replaced in the state.

"We can get more old cars off the road by preventing the double dipping," Kitowski said.

## **Court order to end unlawful pollution at BP plant**

The Associated Press

In the Contra Costa Times, Tri-Valley Herald and other papers, Tuesday, June 30, 2009

AUSTIN, Texas—BP Products North America Inc. agreed Monday to a court order forcing the petrochemical giant to end what state officials said are illegal pollution emissions at its Texas City refinery.

The temporary injunction filed in district court in Austin ensures BP will follow environmental laws while the state's pollution lawsuit plays out in court, Texas Attorney General Greg Abbott said.

Under the agreement, BP will review 53 pollution violations cited in the state's amended lawsuit and improve air monitoring systems and reporting procedures. The state's original lawsuit cited 46 violations. BP has not admitted liability or guilt.

One of those violations is tied to a March 2005 explosion that killed 15 workers and injured 170 others.

Abbott has said BP's refinery near Houston spewed hundreds of thousands of pounds of pollutants in a "pattern of unnecessary and unlawful emissions." The lawsuit alleges the emissions were the result of poor operational practices and inadequate maintenance at the refinery.

Through the lawsuit, the state is seeking a permanent injunction requiring BP to eliminate future unlawful emissions. The state is also seeking civil penalties, fines and attorneys' fees.

The refinery is the nation's third largest, refining 460,000 barrels of crude oil daily.

In a statement issued by the company, BP officials called the agreement is "an important step" and said they are "working to fully resolve this matter in a way satisfactory to the State and to BP."

"All of these steps are consistent with our ongoing efforts to reduce the frequency and size of emissions" at the refinery, the company said.

The agreement will remain in place throughout the course of the lawsuit and expires in two years. A trial date has been set for March 22.

The Texas Commission on Environmental Quality filed 15 enforcement orders against BP between 2000 and 2007. In that time, Abbott said, BP failed to report unlawful emissions on time and did not take proper steps to prevent further illegal pollution.

State officials said the 2005 explosion led to an unlawful release of contaminants for more than 160 hours, an event the TCEQ later determined was "avoidable" and the result of BP's "poor operations practices." In March, a federal judge in Houston approved a plea deal fining parent British oil company BP PLC \$50 million for its criminal role in the blast.

In February, BP agreed to pay almost \$180 million to settle a federal pollution case. That agreement, which federal authorities said addressed BP's failure to comply with a 2001 consent decree, included spending \$161 million on pollution controls, \$12 million in penalties and \$6 million to reduce air pollution near the Texas City refinery.

## **EPA proposes tougher clean air rule**

By H. Josef Hebert, Associated Press Writer

In the N.Y. Times, S.F. Chronicle and other papers, Tuesday, June 30, 2009

WASHINGTON, (AP) -- The Obama administration on Monday proposed to strengthen a key air pollution health standard to better protect children and people with respiratory illnesses.

The Environmental Protection Agency said it wants to tighten the air quality requirement for nitrogen dioxide that is released from motor vehicles, coal burning power plants and factories.

The pollutant is among those the EPA is required to examine periodically to determine that concentrations are at a level to ensure healthy air. Nitrogen dioxide can cause respiratory problems and is of special danger to children and people suffering from asthma and other respiratory illnesses.

The federal air quality standard for nitrogen dioxide, as it applies to health, has not been changed in 35 years.

EPA Administrator Lisa Jackson said in a statement the proposal to tighten the requirement reflects the latest scientific findings on what is needed to protect people's health.

"We're updating these standards to build on the latest scientific data and meet changing health protection needs," Jackson said. She said the proposal, if adopted, would "fill gaps in the current standard and provide important additional protections where they are needed most."

The EPA especially wants to assure that the federal requirement addresses health concerns from short term exposure of an hour or less. The proposal would maintain the current long-term concentration requirements, monitored over a year, but establish a new standard based on one-hour monitoring.

While the annual standard of a maximum 53 parts per million nitrogen dioxide concentration in the air would remain the same, the EPA wants to limit short-term concentrations — based on hour-long monitoring — to between 80 ppm and 100 ppm to provide added protection from short-term exposure.

"Current scientific evidence links short-term exposure, ranging from 23 minutes to 24 hours, with increased respiratory effects, especially in persons with asthma," the EPA statement said. These exposures, it said, often occur close to heavily traveled roadways and lead to increased visits to emergency rooms, hospital admissions and respiratory illnesses, particularly in children, the elderly and asthmatics.

The EPA set its first air quality standard for nitrogen dioxide in 1971, establishing both a standard to protect health and a secondary standard to protect public welfare. All parts of the country are well below the annual standard, but the short-term requirements need to be addressed, the agency said.

Under the ambient air quality rules, which cover a number of pollutants, the agency cannot take into account economic cost in establishing a federal standard, which is used to determine whether the air in a certain designated area is to be considered healthy. If an area has unhealthy air it risks the loss of federal highway funds and possibly other sanctions.

The EPA said it will accept public comment over the next 60 days on its nitrogen dioxide proposal and also plans to hold several hearings. It said it anticipates a final rule to be issued by January.

## **EPA gives California emissions waiver**

**The state can develop its own standards on greenhouse gas emissions from cars and trucks, though it agrees not to toughen the standards before 2017. Automakers agree to drop lawsuits.**

By Jim Tankersley, staff writer  
L.A. Times, Tuesday, June 30, 2009

Reporting from Washington -- The Environmental Protection Agency will announce today that it is granting California's request to impose tough restrictions on greenhouse gas emissions from cars and trucks -- reversing the Bush administration's position and opening the way for the state to take the lead on global-warming policy.

California developed the standards in 2004 but was barred from implementing them.

EPA officials say granting California the waiver from federal standards gives the state wide latitude to promulgate stricter rules, restoring a 40-year interpretation of the Clean Air Act.

"It preserves California's role as a leader on clean air policy," particularly on motor vehicles, EPA Administrator Lisa Jackson said in an interview. "It feels good to know that we are able to move past -- address -- this issue, responding to the president's call."

President Obama had criticized the Bush EPA's denial and, shortly after his inauguration, ordered the agency to revisit it.

California Gov. Arnold Schwarzenegger called the decision a "huge step for our emerging green economy that will create thousands of new jobs and bring Californians the cars they want while reducing greenhouse gas emissions."

Sen. Barbara Boxer (D-Calif.), a longtime advocate of the waiver, said the EPA did "what is right for the people of California, the environment and the many states in the union that intend to follow California's lead in cleaning up tailpipe emissions."

But critics said the EPA should not give up federal control of climate policy.

"California already has experience in adopting differential regulations for gasoline and electricity," said Scott Segal, an attorney for Bracewell and Giuliani in Washington, which represents utilities and refiners on climate change policy. "In each case, the results have been high prices for consumers, small businesses, schools, hospitals and industry. The precedent set here for cars could be just as damaging."

Today's decision sets the stage for the proposed national vehicle emissions standards that President Obama announced in May: New cars and trucks sold in the U.S. will be required to improve their fuel efficiency gradually over the next seven years, reaching an average of 35.5 miles per gallon by 2016 -- a 40% improvement over the current 25 mpg level. The federal government agrees to adopt California's standards as its own, and the state agrees not to toughen the standards before 2017. Automakers agree to drop lawsuits against California's standards.

Agreement on the national standards came after intensive negotiations between the administration, California, environmentalists and the auto industry.

In the future, California could petition the EPA to set even stricter emissions standards, which probably would be granted on the legal grounds that the administration reaffirmed in granting this request.

"Congress recognized that California could serve as a pioneer and a laboratory for the nation in setting new motor vehicle emission standards," Jackson wrote in today's decision. "Congress intentionally structured this waiver provision to restrict and limit EPA's ability to deny a waiver, and did this to ensure that California had broad discretion in selecting the means it determined best to protect the health and welfare of its citizens."

The original Clean Air Act, passed in the 1960s, included a provision that allowed California to seek permission to set its own tougher standards. Other states could adopt California's rules or stick with the federal government's.

Spurred by a 2002 state law, California adopted standards for tailpipe emission of greenhouse gases, which scientists blame for climate change. The state petitioned to enforce them under the Clean Air Act, and a dozen other states lined up to adopt them.

But late in 2007, Bush's EPA denied the request -- the first time in more than 50 instances that the agency had rejected an entire set of proposed California standards.

Stephen L. Johnson, EPA administrator at the time, said California had failed to demonstrate that the standards were necessitated by "compelling and extraordinary conditions" as required by law, because global warming was not an extraordinary threat to the state compared to the country as a whole.

Obama's EPA disagreed. Jackson, the current administrator, said today's decision stemmed from a careful reading of the Clean Air Act and EPA history.

"This decision was based entirely on the law," she said, "and not at all on politics."

Longtime advocates of the waiver cheered Monday night.

State Sen. Fran Pavley (D- Agoura Hills), who wrote California's 2004 emissions law, took a break from state budget negotiations to share a celebratory bottle of non-alcoholic Pinot Noir with colleagues.

"For our state, it's quite a victory," she said, "and for the coalition we had working on this bill back when global warming wasn't the issue of the day."

## **EPA approves California pollution rule**

By H. JOSEF HEBERT - Associated Press Writer  
Merced Sun-Star, Tuesday, Jun. 30, 2009

WASHINGTON -- The Environmental Protection Agency has given the go-ahead for California to impose stringent regulations on greenhouse gas emissions from motor vehicles.

California has been fighting the federal EPA over the issue for years. The agency's approval announced Tuesday is needed before a 2004 state pollution law to combat global warming can go into effect. It would require the fuel efficiency of motor vehicles to increase by 40 percent by 2016 to an average of 35.5 miles per gallon.

The decision had been expected. President Barack Obama in May announced a national requirement similar to the one in California. The federal waiver for California to go ahead with its rule sets the stage for the national program.

### **Court order to limit emissions at BP plant**

By Associated Press

In the N.Y. Times, S.F. Chronicle and other papers, Monday, June 29, 2009

Austin, Texas (AP) -- BP Products North America Inc. has agreed to a court order forcing the petrochemical giant to end what state officials say are illegal emissions at its Texas City refinery.

The temporary injunction filed in district court in Austin on Monday ensures BP will follow environmental laws while the state's pollution lawsuit plays out in court.

Under the agreement, BP will review 53 pollution violations cited in the state's lawsuit and improve air monitoring systems and reporting procedures. One of those violations is tied to a March 2005 explosion that killed 15 workers and injured 170 others.

The Texas attorney general said BP's refinery near Houston spewed hundreds of thousands of pounds of pollutants. BP has not admitted liability or guilt.

### **SWEPSCO to appeal permit rejection for coal plant**

By Tom Parsons, Associated Press Writer

In the Contra Costa Times, Tri-Valley Herald and other papers, Tuesday, June 30, 2009

LITTLE ROCK, Ark.—Southwestern Electric Power Co. said Monday that the state Court of Appeals ignored 30 years of procedural rules when it decided last week to overturn a Public Service Commission permit for a coal-fired power plant in southwest Arkansas.

The utility filed a request with the Arkansas Supreme Court to review the appeals court ruling that would force the utility to start over in its effort to obtain a permit for the \$1.6 billion coal-fired plant.

SWEPSCO said there are errors in the ruling issued Wednesday by the Arkansas Court of Appeals, which granted a request by landowners to send the company back to the beginning of the permit process. The utility said the appeals court also ignored decades of procedural rules in revoking the permit.

"SWEPSCO ... followed all the rules," company president, Paul Chodak, said at a news conference. He said the appeals court "changed the rules without any notice."

According to Chodak, the appeals court objected to the permit procedure, not to the plant itself, and on the procedural matter "they simply got it wrong." He said work on the plant will continue at least until the state Supreme Court decides whether it will review the appeals court decision.

The appeals court ruled that the Arkansas Public Service Commission had not followed the law in conducting hearings about the electric-generation plant near Fulton in Hempstead County. The ruling also criticized SWEPSCO's site-selection process.

Chodak said the company had already spent \$713 million on construction and that having to seek a new permit jeopardizes 732 jobs at the plant and the economic boost it is creating in southwest Arkansas. He said that, given construction shut-down costs estimated at about \$100 million, the company concluded that "in the near term, it's best to continue work" on the plant while seeking a review of the appeals court ruling.

The filing Monday by SWEPCO puts the appeals court decision on hold at least until the high court says whether it will review the case.

Monday's filing cites six grounds for reviewing the Court of Appeals decision. Those grounds include basing the ruling on an "initial, non-final order" rather than the final order granting the permit; and a previous court case holding that "something more than mere error is necessary" to overturn a state public service commission decision.

The SWEPCO filing said there had been no showing of harm to those seeking to block the plant.

Landowners near the plant and environmental groups sued the state commission in an effort to block the facility from operating. The landowners, including members of the Hempstead County Hunting Club Inc., had argued that the plant will produce greenhouse gases and will damage wilderness areas downwind from the electric-generation plant.

At the SWEPCO news conference, Chodak referred to the landowners' group as a coalition of "elite private hunting clubs" that charge high fees for membership.

"These elite few hope to control acreage they do not own," Chodak said, "at the expense of not only SWEPCO (and electric cooperatives that are partners in the endeavor) but economic development in the region."

He said customer demand for SWEPCO's electricity had risen by 22 percent over the past decade, and the company currently must buy electricity on the open market to fulfill customer needs. Those open-market purchases, he said, are at premium prices compared to the projected costs of producing that electricity at the John W. Turk Jr. plant.

In appealing the permit for the Turk plant, lawyers for the hunting club said the public service commission improperly broke up its hearing process rather than holding a single hearing, as stipulated by state law. The appeal said the need for the facility was established improperly in a separate proceeding.

Opponents had also argued that alternatives to the plant were not addressed in a manner required by state law. SWEPCO said Monday that the appeals court decision agreeing with that argument amounted to an illegal substitution of the court's judgment for the state commission's "specific findings" on alternative locations.

A lawyer for the landowners said last week that the appeals court set forth clear procedures that the state commission must follow when considering permits. Commission Chairman Paul Suskie said the procedures had never been challenged before and that the commission would follow court directions if the ruling stands.

He said no decision had been made on what the company would do if the state Supreme Court declines to review the case.

A representative of the Sierra Club, one of the environmental groups challenging the permit, passed out a statement after the SWEPCO news conference's Monday that called the utility to immediately halt work on the plant.

The dispute over SWEPCO's permit goes forward as the Obama administration is trying to tighten rules dealing with air pollution.

SWEPCO is a subsidiary of Columbus, Ohio-based American Electric Power, among the largest electric utilities in the country. It has 111,000 customers in Arkansas and 340,000 more in Louisiana and Texas. Regulators in those states had already approved the plant, which would affect ratepayers there. The company filed papers with the Arkansas Public Service Commission in January 2006.

[Letter to USA Today, Tuesday, June 30, 2009:](#)

**EPA study puzzling**

I thought USA TODAY's coverage of pollution in "2.2M live where air is cancer risk" was great, but I find the Environmental Protection Agency's chemical pollution premise puzzling (News, Wednesday).

How can three West Coast states (California, Oregon and Washington) with very little chemical industry have the greatest toxic chemical air pollution problems in the USA, aside from New York? If the airborne chemicals aren't from highway vehicle traffic, air traffic or tobacco smoking, where do they originate?

Perhaps the EPA should solve the pollution problems of Eastern states before spending taxpayer dollars to fix the ones of Western states.

*Tom Novinson - Ventura, Calif.*

[Visalia Times-Delta and Tulare Advance-Register, Editorial, Tuesday, June 30, 2009:](#)

### **Innovation is one way out of hard times**

Innovation will bring about sustained prosperity in our region. Tough times such as these should push both business and government to seek new ways of operating and new opportunities for revenue.

We were reminded of this again by the report that the city of Dinuba is entering a business partnership with Chevron to develop a solar wind farm on seven acres of city land.

The city expects to receive assistance from the federal government to build the solar farm. Chevron would design and operate it, offering a chance for experimentation and innovation by its alternative-energy division.

Part of the energy produced would be used by the city of Dinuba to cut its electric bill by \$250,000. It could also sell any excess back to Pacific Gas and Electric. That's a whole list of winners for one project, including the taxpayers of Dinuba.

That kind of out-of-the-box thinking is taking place more and more in the Valley, and it needs to take place even more frequently. We're seeing partnerships between public and private sectors, between educational institutions and other branches of government, between technology companies and the public sector.

Whether in business or government, if entities would look beyond their immediate boundaries and commit to collaboration with others, exciting innovations can take place.

The city of Lindsay has made a living on this kind of thinking over the past couple of decades, converting what were useless or derelict properties into valuable entities. Its latest venture, McDermont Field House, leveraged federal grant money to create a unique, state-of-the art recreation center that in turn has made partnerships with professional sports leagues and other organizations to bring the best of those activities to the area.

College of the Sequoias also has traditionally been adept at forming partnerships, either with business, other learning institutions or other government entities. One of its little-known innovations was the yogurt-making plant the college farm operated on its own property. With expansion of its farm program to Tulare, the college has even more opportunity for partnerships with companies in the dairy business.

Too often, we in the Valley believe we are locked into a cycle of dependence on our agriculture-based economy. We lament the limitations of water development, technology, a migrant and unskilled work force, as well as the government regulations designed to protect our environment and our own health. Yet our Valley leaders in business and government must look beyond what seem to be intractable obstacles and see the potential in innovative thinking.

For instance, why couldn't solar farms work for marginally productive farmland in the Valley? If lack of water prevents land from being arable, perhaps the land has other uses nearly as valuable.

Agriculture is certainly doing its best to be conservative with water. But there also are ways to use and reuse water two or three times. Agriculture in partnership with government could find uses for treated water that would make up part of what might be set aside for the environment. To again cite Dinuba as an example: The city is using treated water from its sewage-treatment plant to water its golf course.

For years, we have touted the benefits of converting animal waste to energy. This is the perfect time for dairy farms to explore ways to acquire the capital that would make methane-energy conversion not only practical, but The Hilarides Dairy in Lindsay has become a model for that kind of profitable development.

The economy will rise again. Economic cycles ebb and flow. True, many will survive by hunkering down and waiting out the bad times. Innovators, though, will use this opportunity to develop new paths to prosperity and will emerge as leaders in a transformed economy that will move our Valley forward.

[Editorial in the Sacramento Bee, Tuesday, June 30, 2009](#)

### **Better windows can help climate**

No one at the Air Resources Board is claiming that its new regulation requiring auto windows to do a better job reflecting and absorbing the sun's rays will dramatically slash California's greenhouse gas emissions, the historic goal that AB 32 mandated when it became law in 2006.

But as the state gears up for the epic challenge of meeting the law's requirement to cut greenhouse gas emissions 30 percent by 2020 – and by much more later – the window regulation serves as a reminder that small changes in individual behavior help pave the way for immense changes in the broader economy.

The new window rules adopted by the ARB last week are one of several "early action measures" that the agency has already approved to curb the gases that cause global warming. These measures are, in the words of an ARB official, "low-hanging fruit" that can be quickly – and sometimes easily – plucked before the law's more daunting challenges are confronted.

The other early-action measures involving cars and trucks that have been OK'd include requiring tire-pressure checks during maintenance and cutting greenhouse gas emissions from refrigerant cans used by do-it-yourselfers when they fix air conditioning systems. The ARB also approved a more complex early-action measure cutting the carbon content of vehicle fuels.

The window regulation will resonate with anyone who has lived through a Sacramento summer. The hotter vehicle interiors get, the harder air-conditioning systems have to work to cool them down, and keep them comfortable. The new regulation requires that beginning in 2012, new cars sold in California have windows that block more of the sun's energy. If things go as planned, that will mean cooler interiors, less demand on air conditioners, and fewer greenhouse gas emissions.

The cost will be about \$70 per vehicle for the standard mandated for 2012, and \$250 for the tougher limits set for 2016. Those investments, the ARB says, will take so much carbon dioxide out of the atmosphere that by 2020, it will be comparable to removing 140,000 cars from the road.

Would that mean the polar ice caps are now safe? Hardly. To keep things in perspective, a rough calculation suggests that the state window regulations will have about one-tenth of 1 percent the impact on greenhouse gas emissions as the new vehicle-mileage standards President Barack Obama announced in May.

But that doesn't mean that the new window rules, and the early-action measures generally, are insignificant. It's true that the big battles in the war against climate change will be fought over the major policy changes mandated by AB 32 – sharp improvements in vehicle emissions, alternative energy use, building conservation, and the establishment of a "cap and trade" system for emission permits.

But even if these policies deliver on their promised cuts in greenhouse gases at an affordable price – and the jury remains out on whether they can – they won't by themselves be able to fashion the new energy culture we'll almost certainly need in the decades ahead.

That will require smaller, more personal changes in the way we live – from the cars and appliances and power sources we choose, to the way we use them. More efficient windows are a part of this cultural shift. It may be a small step, but it's one that's well worth taking.

[Fresno Bee Earth Blog, Monday, June 29, 2009:](#)

### **Best place to be during bad-air seige Sunday**

By Mark Grossi

There was a line of red-colored smog readings for Valley air monitors on the state Web page for Sunday. Red is the color used for violations.

Shafter in Kern County and Stockton in San Joaquin County escaped. But the best place to breathe in the region appeared to be Sequoia National Park at the Lower Kaweah Campground.

The campground is several thousand feet higher than the entrance gate where the park's other official monitor takes readings. The one at the park entrance showed a violation.

[Fresno Bee commentary, Tuesday, June 30, 2009:](#)

### **Fresno excels at many things**

By John Ostlund

It's a miracle.

The U.S. Census Bureau recently announced that Fresno passed Long Beach to become the fifth largest city in California. But this isn't the miracle. The big story is not that 200 people move to Fresno every week, but rather how Fresno copes with this record-setting growth on a budget one-third the size of the city we just blew by.

As hard as this is to believe, it's true. For every dollar Fresno has to build roads, fight crime, provide water and garbage, keep our city clean and green, Long Beach has \$3. Imagine what our city could do with another billion or two.

Every day, City Hall pours five quarts of priorities into a one-gallon jug -- the mess left behind is what we all complain about. But it's what is accomplished with our modest budget that is worthy of recognition.

For example: The California Integrated Waste Management Board ranks Fresno No. 1 in the state for diverting 71% of our solid waste away from landfills. Which is to say that Fresno does a better job of recycling than any other California city, including those with much more money.

And consider the solar energy farm at Fresno Yosemite International Airport. This project is the largest of its kind in the country and will save our community \$13 million over the next 25 years. The bonus of this innovative idea is that through a long-term Power Purchase Agreement, it didn't cost the city a nickel to build.

[Operating on just 30 cents for every dollar that the next largest California city has, Fresno has also managed to buy one of the largest fleets of clean-air vehicles in the state. And by December, every city garbage truck in Fresno will be clean-air certified.](#)

Fresno is one of the safest cities in the state as well, recently achieving a 43-year low in crimes committed per capita. Compare that with Oakland, which had three times as many murders as Fresno despite 75,000 fewer residents.

Of course, Fresno's limited budget is not by design. Our above-average unemployment and below-average income, combined with dozens of social and economic issues are directly reflected in our paltry budget (if you can call a billion dollars paltry). But whoever said you can't squeeze blood out of a turnip never shopped in the vegetable section called Fresno.

It's interesting to note that those cities throughout the state that operate on two or three times as much money per person as Fresno, have many of the same problems we do. In fact, every city I looked at suffers from not being able to live within its means.

You'd think that Fresno's efficiency would count for something as the state looks to local communities to balance its budget. But that is an issue for another day.

To be clear, Fresno City Hall was asleep at the switch for 30 years when it came to downtown revitalization and controlling development. Our graffiti and weed abatement issues are still out of control, and you can't buy a parking permit online.

While no one at the city is claiming victory over every issue -- I do think it is time to give a little credit to where credit is due.

As a city, we're not perfect. We're simply better at doing more with less than other cities in the most populated state in the country.

So, the next time someone asks where you're from, put your hometown pride on display and tell them, "Fresno, the fifth largest and one of the best-run major cities in California."

*John Ostlund is the owner of KJWL and KYNO radio stations in Fresno.*

[Opinion in the Sacramento Bee, Tuesday, June 30, 2009](#)

### **Paul Krugman: Those in power who deny climate change are traitors**

So the House passed the Waxman-Markey climate-change bill. In political terms, it was a remarkable achievement.

But 212 representatives voted "no." A handful of these no votes came from representatives who considered the bill too weak, but most rejected the bill because they rejected the whole notion that we have to do something about greenhouse gases.

And as I watched the deniers make their arguments, I couldn't help thinking that I was watching a form of treason – treason against the planet.

To fully appreciate the irresponsibility and immorality of climate-change denial, you need to know about the grim turn taken by the latest climate research.

The fact is that the planet is changing faster than even pessimists expected: Ice caps are shrinking, and arid zones spreading, at a terrifying rate. And according to a number of recent studies, catastrophe – a rise in temperature so large as to be almost unthinkable – can no longer be considered a mere possibility.

It is, instead, the most likely outcome if we continue along our present course.

Thus researchers at MIT, who were previously predicting a temperature rise of a little more than 4 degrees by the end of this century, are now predicting a rise of more than 9 degrees. Why?

Global greenhouse gas emissions are rising faster than expected; some mitigating factors, including absorption of carbon dioxide by the oceans, are turning out to be weaker than hoped; and there's growing evidence that climate change is self-reinforcing – that, for example, rising temperatures will cause some Arctic tundra to defrost, releasing even more carbon dioxide into the atmosphere.

Temperature increases on the scale predicted by the MIT researchers and others would create huge disruptions in our lives and our economy. As a recent authoritative U.S. government report points out, by the end of this century New Hampshire may well have the climate of North Carolina today, Illinois may have the climate of East Texas, and across the country extreme, deadly heat waves – the kind that traditionally occur only once in a generation – may become annual or biannual events.

In other words, we're facing a clear and present danger to our way of life, perhaps even to civilization itself. How can anyone justify failing to act?

Well, sometimes even the most authoritative analyses get things wrong. And if dissenting opinion-makers and politicians based their dissent on hard work and hard thinking – if they had carefully studied the issue, consulted with experts and concluded that the overwhelming scientific consensus was misguided – they could at least claim to be acting responsibly.

But if you watched the debate on Friday, you didn't see people who've thought hard about a crucial issue, and are trying to do the right thing. What you saw, instead, were people who show no sign of being interested in the truth. They don't like the political and policy implications of climate change, so they've decided not to believe in it – and they'll grab any argument, no matter how disreputable, that feeds their denial.

Indeed, if there was a defining moment in Friday's debate, it was the declaration by Rep. Paul Broun of Georgia that climate change is nothing but a "hoax" that has been "perpetrated out of the scientific community."

I'd call this a crazy conspiracy theory, but doing so would actually be unfair to crazy conspiracy theorists. After all, to believe that global warming is a hoax you have to believe in a vast cabal consisting of thousands of scientists – a cabal so powerful that it has managed to create false records on everything from global temperatures to Arctic sea ice.

Yet Broun's declaration was met with applause.

Given this contempt for hard science, I'm almost reluctant to mention the deniers' dishonesty on matters economic. But in addition to rejecting climate science, the opponents of the climate bill made a point of misrepresenting the results of studies of the bill's economic impact, which all suggest that the cost will be relatively low.

Still, is it fair to call climate denial a form of treason? Isn't it politics as usual?

Yes, it is – and that's why it's unforgivable.

Do you remember the days when Bush administration officials claimed that terrorism posed an "existential threat" to America, a threat in whose face normal rules no longer applied? That was hyperbole – but the existential threat from climate change is all too real.

Yet the deniers are choosing, willfully, to ignore that threat, placing future generations of Americans in grave danger, simply because it's in their political interest to pretend that there's nothing to worry about. If that's not betrayal, I don't know what is.

[Opinion in the Sacramento Bee, Tuesday, June 30, 2009:](#)

### **Rich Lowry: Bulky cap-and-trade bill raises more of a stink than a solution**

By Rich Lowry

The cap-and-trade bill passed the House of Representatives shrouded in a fog of willful ignorance and calculated irrationality.

No one could be sure what he was voting for – not after the 1,200-page bill had a 300-page amendment added at 3:09 a.m. the day of its passage. The bill is so complex and jerry-built that even its supporters can't know how, or if, it will work. And it's metaphysically impossible for someone to know whether the motivating crisis, impending planetary doom, will ever materialize.

Other than that, it's a model exercise in thoughtful lawmaking.

The formulation of the so-called Waxman-Markey bill was less traditional legislative sausage-making than an unspeakable practice out of "The Jungle." Its architects bought off every possible interest group no matter what the policy consequences until they had a bare majority to slam it through the House sight unseen (a physical copy of the final bill didn't yet exist when it passed). Mission accomplished, although at the price of a ramshackle bill that won't succeed on its own terms, even as it introduces costly distortions and invasive bureaucratic controls into the economy.

The basic idea of cap-and-trade is that government establishes an economywide cap on carbon emissions and then creates emission credits, which companies can buy or sell among themselves. It is essentially carbon rationing designed to suppress traditional sources of energy.

Because cap-and-trade is meant to create pain in an economy dependent on fossil fuels for 85 percent of its energy, the only way to make it politically salable is to vitiate it. Originally, the Obama administration counted on \$80 billion a year from the government's sale of emissions credits. To win over industry, Waxman-Markey gives the credits away for free. Poof! There goes the revenue.

The bill bestows hundreds of billions' worth of credits on local electricity and natural-gas distribution companies, as well as on the auto, coal and oil industries – basically anyone with the ear of a congressman or with a halfway competent lobbyist.

Then there are the "offsets," the environmental equivalent of indulgences. A company maintains its carbon emissions but buys an offset for someone else to capture carbon or reduce emissions – say, by not cutting down a tree in a rain forest somewhere. Offsets are notoriously dubious. Waxman-Markey makes generous allowance for them anyway.

The upshot is that an Environmental Protection Agency analysis says that under Waxman-Markey, there will be no reduction in emissions by 2020. The progressive Breakthrough Institute estimates that emissions could continue at their current business-as-usual rate through 2030.

Perversities abound. According to the Los Angeles Times, under the bill, the United States "would use more carbon-dioxide heavy coal in 2020 than it did in 2005." Time magazine writes that "the total amount of renewable energy generation under Waxman-Markey would actually be less than the renewable energy that would have been produced without the bill." Isn't saving the planet grand?

Waxman-Markey creates an irresistible incentive for industry to repeat the games-playing of recent weeks as it maneuvers for advantage in Washington and works to push the legislation's restrictions always off into the indefinite future.

Even if Waxman-Markey were perfectly formulated, it would reduce global surface temperatures by only one-tenth of 1 degree Celsius in 100 years. That's a negligible difference, purchased at a great price.

The watered-down version is still so threatening to energy-intensive industries that it mandates tariffs on goods from countries that refuse to hamstring themselves so foolishly.

Democrats resorted to any expedient to pass Waxman-Markey as a long-term play: Get the bureaucratic structure in place, then work through regulators, the courts and legislation to tighten the screws later. For them, that's the ultimate promise of the Offsets Integrity Advisory Board, the Carbon Market Oversight Interagency Working Group, the International Reserve Allowance Program and all the rest of the vast regulatory machinery engendered by the bill.

President Barack Obama called it an "extraordinary first step." Extraordinary, indeed.

[Opinion in the Merced Sun-Star, Tuesday, Jun. 30, 2009](#)

### **Our View: Little things will help us reach goals**

Reflective car windows may not seem like much, but it's the first step in climate cultural shift.

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But as the state gears up for the epic challenge of meeting the law's requirement to cut greenhouse gas emissions 30 percent by 2020 -- and by much more later -- the window regulation serves as a reminder that small changes in individual behavior can help pave the way for immense changes in the broader economy.

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