

Court upholds Calif. air regulator's pollution fee

By Garance Burke, Associated Press

In the S.F. Chronicle and other papers, Tuesday, Dec. 7, 2010

Fresno, Calif. (AP) -- A federal appeals court ruled Tuesday that air quality regulators in California's smog-laden San Joaquin Valley have the right to charge home builders a fee to control their pollution emissions.

A three-judge panel of the U.S. 9th Circuit Court of Appeals in San Francisco upheld the local air district's rule requiring developers to reduce emissions from new housing projects by building features like bicycle lanes and energy-efficient cooling systems. If they don't do enough to preserve air quality, they must pay fees that have averaged about \$500 per house.

The valley, stretching 240 miles from Stockton to Bakersfield, is one of the dirtiest air basins in the nation for emissions that create ozone, the main ingredient of smog.

The Fresno-based district was the first in California to impose such a rule in 2005, and other regions still look to it as a model to control pollution from construction equipment and suburban sprawl.

"This is a long-awaited, welcome decision by the court, and I'm hoping that this will be the end of it," said Seyed Sadredin, executive director of the San Joaquin Valley Air Pollution Control District. "We are eager to continue working with valley developers to clean up our air."

The rule allows construction companies to reduce emissions through a variety of means, including using cleaner bulldozers and backhoes or building near public transit, Sadredin said.

In 2007, when the construction industry was still paving over cropland to build dozens of new subdivisions, the National Association of Home Builders challenged the rule in federal court, saying vehicles were the problem, not new homes and businesses. The national federation claimed the air district lacked the authority to regulate tailpipe emissions and claimed it was the responsibility of the U.S. Environmental Protection Agency.

A Fresno federal court ruled in favor of the air district in 2008, and the 9th Circuit upheld that ruling Tuesday.

Amy Chai, senior counsel for the home builders association, said the organization remained concerned about the rule's impact on the local industry, which has suffered heavily in the economic downturn in the foreclosure-ridden valley. Officials have not ruled out an appeal to the Supreme Court, she said.

"We filed this suit four years ago, and sadly a lot of our members are no longer in business," Chai said. "We are disappointed."

Sadredin said the collapse in the construction industry meant the air district collected far less in fees than it had originally projected before the recession began — just \$16 million over the last five years, as opposed to the initial estimate of up to \$30 million per year.

Clean air activists — including the environmental law group Earthjustice, which has opposed local regulators in the past but intervened in the air district's favor in this case — said they were pleased by Tuesday's ruling.

Valley air district wins court fight over fees

Staff reports

The Fresno Bee, Tuesday, Dec. 7, 2010

A federal appeals court on Tuesday sided with the San Joaquin Valley Air Pollution Control District, affirming the agency's right to regulation of pollution from urban sprawl.

The 2007 suit filed by the National Association of Homebuilders sought to stop fees on developments at the edge of cities, which result in more driving and additional pollution.

[Sacramento Bee Editorial, Saturday, December 4, 2010](#)

Sly: Gov. Schwarzenegger cared about the San Joaquin Valley

When Arnold Schwarzenegger became governor in late 2003, construction was under way on the first buildings at UC Merced — but some big-city politicians were making noise about further delaying its opening in order to save money and to redirect funds to existing UC campuses.

At his first State of the State address in January 2004, Schwarzenegger came out firmly in support of funding UC Merced, saying, "We must work to expand the dream of college. And we must not let the dream bypass our Central Valley."

As we all know, UC Merced went on to open in 2005 and has grown to almost 4,400 students today.

Furthermore, I think that 2004 speech provided a signal that we finally had a governor who cared about the San Joaquin Valley.

Now, with only a month left in office, Schwarzenegger is getting mediocre grades from citizens and pundits. While the state is in a financial mess, I don't think all of the low marks are deserved.

In fact, I think that Schwarzenegger has been a pretty good governor for our valley, and I'm not alone in that view.

"He hasn't been perfect, none of them are," Modesto Mayor Jim Ridenour told me, "but he's been better than Gov. Davis and most."

Ridenour is disappointed, as am I, that Schwarzenegger seldom came to Modesto. Heck, he didn't even attend the grand opening at UC Merced, though he visited the campus shortly before.

He did spend plenty of time in Fresno, in large part due to his friendship with its former mayor — and fellow former actor — Al Autry.

In fact, he spent so much time there that last month local officials organized a big farewell luncheon attended by hundreds. A Kings County supervisor wrote a song for the occasion, referring to Schwarzenegger as "warrior of the San Joaquin."

That's an exaggeration, perhaps, but I agree that Schwarzenegger has been, in many ways, a champion for our valley. Consider, for example:

- Proposition 1B, which was part of a package of infrastructure bond measures that Schwarzenegger pushed in 2006, included \$1 billion for improvements to Highway 99 — at the governor's insistence. It was the only set-aside in that bond measure.
- He created by executive order the California Partnership for the San Joaquin Valley and then supported its extensions as recently as July.
- He also kicked off the Blueprint process, which set up panels to deal with problems ranging from air pollution to traffic to water.

Carol Whiteside, who founded the Great Valley Center in Modesto, points out that Schwarzenegger chose several cabinet members who either lived in the valley or had strong valley ties. Those were people such as Resources Secretary Mike Chrisman, a farmer from Tulare County.

Many valley conservatives are unhappy with the governor over his green initiatives, especially AB 32, the Global Warming Solutions Act. And many farmers don't believe he's done enough to protect their interests in the never-ending battles over water.

Schwarzenegger's concern for the San Joaquin Valley may be notable because his predecessors were so neglectful.

But from early on, I've sensed he didn't just pay lip service to the valley. When he met with Modesto Bee editors in June 2006, I was impressed with the depth of his knowledge on so many valley issues and concerns.

When it comes to representing the San Joaquin Valley, I think Schwarzenegger deserves at least a B and maybe a B-plus. I can only hope Jerry Brown does so well.

Sly is editor of The Bee's Opinions pages.

[Fresno Bee Earth Blog, Monday, Dec. 6, 2010:](#)

3 Valley residents honored by EPA

By Mark Grossi

Three San Joaquin Valley residents have been honored with EPA Environmental Awards this year: Mayor Ashley Swearengin of Fresno, water activist Rebecca Quintana of Visalia and Hanford dairyman Dino Giacomazzi.

The U.S. Environmental Protection Agency's regional office in California gives the awards each year to those whose outstanding efforts promote a healthy environment.

Swearengin receives the Green Government award, recognizing Fresno's commitment to recycling, cleaner air and preservation of agricultural land.

Quintana, a school bus driver in Tulare County, was recognized as Environmental Justice Champion. She fights for the small town of Seville, which needs access to clean, safe and affordable water.

Giacomazzi, a fourth generation dairy farmer, was named Sustainable Agriculture Champion. His farm, which his family has run since 1893, tills corn fields in narrow strips, so there is less dust and less fuel used.