

[Bakersfield Californian Commentary, Wednesday, Nov. 28, 2012:](#)

LOIS HENRY: Arvin water district responds to state air bully

Well, all I can say is the board of directors at Arvin-Edison Water Storage District is waaaaay more calm and considerate than I would be in their shoes.

My response to the blatantly threatening letter from the California Air Resources Board (CARB), in which chair Mary Nichols demanded the water district replace a controversial air monitor on district land -- or else, would have consisted of two words: pound sand.

Instead, the Arvin-Edison board very thoughtfully looked at the issues CARB presented in its "black hand" letter, heard comments from the public at its Nov. 16 meeting and, in the end, decided the best course was to get more information in order to make a reasoned decision based on facts.

In a letter back to Nichols, which was sent Tuesday, the board asked for a number of things.

Board members asked for the original site selection criteria and report from 1989 and a new site selection study conducted by a neutral third party using current selection criteria taking into account changes in site conditions over the past 20 years.

Sounds reasonable to me.

They also asked for a follow up report on CARB's review of an alternate site offered by a landowner not a half-mile from the original site. Good luck with that. From what I could gather no such report was made. The alternate site was arbitrarily crossed off CARB's list (see below).

And the board wanted to review the results of a planned "saturation study" to be conducted by the San Joaquin Valley Air Pollution Control District next summer. The study will look at numerous points in and around Arvin to see exactly where the pollutant ozone is pooling and how it migrates through the area.

To me, this study is the most interesting and responsive action so far to all this "monitor-gate" rigamarole.

Discrepancies in ozone readings between air monitors within just a few miles of one another prompted the study. Those discrepancies were discovered after the Arvin-Edison board voted not to renew CARB's lease in 2009.

Arvin-Edison allowed the old monitor to remain in place during 2010 while a new monitor was set up at Di Giorgio Elementary School, about three miles to the north. The Di Giorgio monitor showed ozone readings about 10 percent lower than the Arvin-Edison monitor.

That caused a lot of angst among CARB officials as well as the Environmental Protection Agency. They feared, and probably rightly so, that if the valley were to be deemed in compliance with federal ozone standards, air activists would sue saying the Di Giorgio monitor's readings shouldn't count because they're so much lower than the old monitor's readings.

If such a lawsuit were successful, that would throw the whole valley out of compliance.

The old monitor at Arvin-Edison regularly showed some of the worst ozone pollution readings in the entire valley. Actually, in the last seven years, Fresno/Clovis had surpassed Arvin with the highest number of peak ozone readings in the valley, according to Seyed Sadredin, director of the San Joaquin Valley Air Pollution Control District.

Nonetheless, he believes air activists want the monitor back in the old Arvin-Edison spot in hopes it will show high readings, keep the valley out of compliance and force more and tougher air rules on businesses.

Either way, CARB and the EPA were so worried about the legal issues surrounding the monitor relocation that they came back to Arvin-Edison last year and asked to put the monitor on its old site.

The water district said no, but put CARB and EPA officials in touch with a landowner, Nazar Kooner, across the street who was ready, willing and able to host the monitor.

Apparently, though, these widely varying ozone eddies were too much of a risk for CARB and EPA to put the monitor on Kooner's land, only a half mile at most from the old site.

CARB never even bothered testing the area around Kooner's land. They just wrote it off as unacceptable.

After a year of inaction, CARB decided to threaten the water district saying the district's lands are ultimately under state control and that if the district didn't get in line, CARB might be forced to take "further" actions.

The Arvin-Edison board did have the district's lawyer respond to that. (CARB tangling with a water lawyer -- "Mothra vs. Godzilla")

The legal citation CARB tossed out trying to scare the district was from a 120-year-old case, according to the district's lawyer, that, when read in full context, actually gives the district full power and authority over its own lands.

I think the district is absolutely right to stand its ground and demand more information and honest interaction from CARB.

That's always the best policy when dealing with a bully.