

## **Local oil advocate supports court's decision to block EPA regulation of power plants**

By Lauren Foreman

Bakersfield Californian, Tuesday, June 30, 2015

The U.S. Supreme Court sent federal regulators back to the drawing board Monday with a ruling that blocks federal regulation limiting emissions from toxic pollutants such as mercury because cost was not properly factored into the regulating agency's edicts.

The Environmental Protection Agency decided regulation is "appropriate and necessary" because of the hazards to public health posed by power-plant emissions, but the agency didn't adequately consider the costs to coal-fired power plants in its mandates, according to the Supreme Court's syllabus on the court's opinion.

Local oil industry advocate Les Clark agreed that the costs of meeting the EPA's demands could be substantial.

He said certain regulations would force power plants to embrace costly technologies that, though not necessarily backed by evidence, could be difficult to implement and possibly force closures, putting Kern County employees out of work.

The EPA estimated costs to power plants would be \$9.6 billion a year, but "quantifiable benefits" from reduction in hazardous-air-pollutant emissions would be \$4 million to \$6 million a year, according to arguments that factored into the Supreme Court's decision.

"It would be a trickle down effect," Clark said.

The EPA's failure to consider costs as part of its decision-making process led to the high court's rejection in a 5-4 ruling on the case, *Michigan v. Environmental Protection Agency*.

Justice Antonin Scalia wrote the majority decision, and justices Stephen Breyer, Ruth Bader Ginsburg, Elena Kagan and Sonia Sotomayor dissented.

Scalia wrote:

"The Clean Air Act directs the Environmental Protection Agency to regulate emissions of hazardous air pollutants from power plants if the Agency finds regulation 'appropriate and necessary.' We must decide whether it was reasonable for EPA to refuse to consider cost when making this finding."

Kagan, in turn, wrote that the EPA used "a lengthy regulatory process" that did include consideration of costs.

"After all that, EPA conducted a formal cost-benefit study which found that the quantifiable benefits of its regulation would exceed the costs up to nine times over — by as much as \$80 billion each year. Those benefits include as many as 11,000 fewer premature deaths annually, along with a far greater number of avoided illnesses."

[Fresno Bee, Editorial, Tuesday, June 30, 2015](#)

### **Valley could be air-cleanup showplace**

The Valley's notoriously dirty air can be cleaned without destroying our region's economy.

We know. This sounds too good to be true.

But it isn't.

In fact, the cleaning of our air — which is believed to be worst in the country — could trigger an economic explosion that results in the strengthening of the Valley's middle class and the lifting of thousands of families out of poverty.

Such an effort would reduce asthma in children and adults caused by high ozone levels and dramatically cut hundreds of early deaths every year brought on by the tiny pollutant known as PM-2.5.

What has to happen for our predictions to become reality?

The federal government must stop treating the San Joaquin Valley and its deadly air pollution the same way it treats air pollution in other parts of the country.

As The Bee's Mark Grossi wrote in a story published June 28 about the drought exacerbating the PM-2.5 problem here: "Air cleanup is a challenge in the 25,000-square-mile Valley. Surrounded by mountains and plagued by stagnant weather, the region naturally traps dirty air."

If President Barack Obama, Congress and the Environmental Protection Agency truly want to help Valley residents enjoy better lives, they should turn our region into a clean-air demonstration project for the rest of the country.

Combining their efforts with those of the state of California, they should provide the financial support and incentives to put solar panels on every rooftop, electric cars in most every garage and charging stations along every major route in the region.

They should provide research funding for developing zero-emission truck engines that are powerful, efficient and durable. And they should team with agriculture and the dairy industries to come up with best practices and new technologies to reduce emissions.

The EPA's one-size-fits-all approach hasn't worked and won't ever work when it comes to reducing Valley air pollution and protecting the health of residents.

The Valley doesn't have the political clout to easily sell the federal government on our suggestion. But the Valley's congressional delegation, California's two U.S. senators and Gov. Jerry Brown should be able to convince those inside the Beltway on the benefits of making the Valley a national incubator for air-pollution research and technology.

The Valley wants to help itself. The Valley need tens of thousands of new middle-class jobs. And the Valley has many bright, ambitious young adults who are attending or have recently graduated from college.

Instead of continually admonishing the San Joaquin Valley Air Pollution Control District and Valley businesses for failing to meet federal Clean Air Act standards, the federal government must become a willing ally.

The Valley doesn't need a handout. It only needs the federal government to seize this opportunity to solve serious health and economic problems — and then showcase the solutions to the world.

## **Federal takeover of Valley air cleanup on the table?**

By Mark Grossi

Fresno Bee, Friday, June 26, 2015

It's known as the nuclear option — the feds taking over the San Joaquin Valley's air cleanup of dangerous soot, chemicals and other lung-searing debris.

It has never happened here and rarely anywhere else. Valley air leaders have fought desperately against it in the past, imagining nightmarish days when driving is banned or farming is shut down.

But some leaders say the San Joaquin Valley Air Pollution Control District needs to be ready for it after the epic drought created conditions for monster readings of the tiny pollutant, known as PM-2.5. There's no way the Valley will meet a Dec. 31 cleanup deadline for the 1997 standard.

The issue is more than bureaucratic red tape. At stake is the health of nearly 4 million people. The Valley has the nation's worst bouts of PM-2.5, and it is blamed for hundreds of early deaths here each year.

In April, Valley air board member William O'Brien, a Stanislaus County supervisor, asked the air district staff for a report on what a federal takeover would look like.

"We don't want to give up any local control," O'Brien says. "We've made great strides in controlling pollution, but the nuclear option comes into play on Dec. 31."

To avoid the prospect, the district is offering an improved cleanup plan and asking the U.S. Environmental Protection Agency to push deadlines to 2018 for 24-hour readings and 2020 for the annual average. But if EPA doesn't agree, maybe the federal officials should take a crack at it themselves, says a frustrated O'Brien.

EPA officials have worked closely with the district on the improved plan, so hopes are high for approval. Even if EPA does not approve, a federal takeover would be years down the line, following two other sanctions.

They are higher expenses for new or expanding businesses and freezing \$2.5 billion in federal road-building funds. Local officials worry about slowing the local economy under such conditions.

"Sanctions can have a devastating effect on the poorest people in our area," says district executive director Seyed Sadredin. "I think it shows the need for modernizing the antiquated provisions in the federal Clean Air Act, which makes unreasonable demands on this area."

Critics say it's time the Valley caught up with a standard that was set 18 years ago. Activist Tom Frantz in Kern County likes the idea of a federal takeover.

He says the local air board hasn't regulated ammonia emissions from dairies or volatile organic compounds from the oil industry. The health of Valley residents should be the highest priority, not the needs of industries, he says.

"I would rather see EPA dismantle the air district entirely because of their compromised authority," he says "It's a great idea."

Air cleanup is a challenge in the 25,000-square-mile Valley. Surrounded by mountains and plagued by stagnant weather, the region naturally traps dirty air.

PM-2.5 is particulate matter 2.5 microns in width or smaller. Thirty to 40 of these particles would fit side-by-side across the width of a human hair.

The debris can be breathed deep into the lungs where some of it can pass into the bloodstream. It can trigger asthma and other lung ailments as well as heart problems.

Emissions sources for this cold-weather pollution are diesel exhaust, fireplace burning, cars, farming operations and industrial boilers.

The pollutant also forms in the air when ammonia from dairies combines with oxides of nitrogen from trucks and cars. Such specks are called ammonium nitrate.

When winters are dry and stagnant, the debris builds up in the air.

"PM-2.5 is exacerbated by drought," Sadredin says. "We asked that the EPA not count the Valley's high readings in these extreme drought conditions. The EPA refused."

The Clean Air Act excludes stagnation and drought as exceptional events — events that could lead to a waiver of high pollution readings. But the agency is doing all that it can do to help the Valley achieve the PM-2.5 standard, says Kerry Drake, associate director of EPA's regional air program.

"EPA's goal is to continue working hard with the California Air Resources Board and the air district to provide healthy air for the residents of the San Joaquin Valley," he says.

If the EPA does not approve the district's latest plan and request for deadline extension, the Valley will have a year to submit another plan showing a 5% reduction in PM-2.5 every year until meeting the standard.

“We can’t hit that 5% reduction every year,” says board member O’Brien. “We’re not asking to be let off the hook. We just want goals that are halfway attainable.”

District rules control many sources, such as residential water heaters, school bus fleets, stationary gas turbines and wood burning in fireplaces. In the next few years, new technologies will be pushed to regulate under-fired commercial charbroilers.

The U.S. Department of Agriculture has spent more than \$100 million in incentive funds helping farmers to replace dirty diesel engines on tractors and other equipment. In the next several years, state diesel truck fleet regulations are expected to get big pollution reductions — one of the larger sources of PM-2.5.

The air district, businesses and Valley residents need to keep pushing forward on pollution reduction, says Valley air board member John Capitman, executive director of the Central Valley Health Policy Institute.

He says there are many reasons why it’s not a good idea for the EPA to take over the cleanup plan, especially the loss of local control.

“I think the district staff has laid out a good plan,” he says. “We are going to make some tough choices. I think we need to be talking about a better partnership with the federal government.”