

Valley group plans to sue EPA over air rule Fight centers on smoke, dust exemption for agriculture.

By Mark Grossi - The Fresno Bee

July 23, 2003

A community activist group today will announce plans to sue federal authorities for not deciding whether to accept or reject a San Joaquin Valley air rule exempting farmers from visible smoke and dust limits.

The Association of Irrigated Residents, a Valley-based group, believes the rule should be rejected. But activists intend to file the lawsuit in 60 days -- a required waiting time on such cases -- because the federal government missed a Jan. 22 deadline to decide on the rule.

The San Joaquin Valley Air Pollution Control District rule, limiting so-called visible emissions from pollution sources, was sent to the U.S. Environmental Protection Agency last year for consideration.

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EPA officials explained they are working with the Valley air district on a broader plan to control particle pollution. The visible-emission rule is part of that plan, and any action in January would have been premature, said Kerry Drake, associate director of the agency's regional air division.

"We know we're late," Drake said. "But that's because it is part of a [larger] plan. We have asked how the district can justify the rule. We are engaged to bring about clean air in the Valley."

Valley air officials said they are scheduled next year to review the farm exemption to see whether it is economically and technically feasible to remove it. But the activist group protested this rule last year in a letter to the EPA, arguing that it should be disapproved because the Clean Air Act does not exempt agricultural sources.

Tom Frantz, president of the group, said the EPA needs to focus on the Valley, which is gaining more attention for air quality problems.

Though air cleanup efforts have produced moderate progress, the Valley is considered one of the three worst air basins in the country, alongside Los Angeles and Houston. One in six Fresno County children has asthma, the highest rate in California.

"EPA claims that air quality in the Valley is a top priority," said Frantz, a high school teacher from Wasco in Kern County. "Until that actually happens, we will continue to advocate for environmental health in our communities."

The reporter can be reached at mgrossi@fresnobee.com or 441-6316.

Editorial – The Fresno Bee, July 23, 2003:

Hot spot

Current heat wave is annual ritual for Valley residents.

It's summertime. It's the San Joaquin Valley. It's hot.

Enough said. Well, yes, but this is the Valley and we like to talk about the weather -- in this case blazing hot, sometimes humid, suffocating, sticky, "Gee, I am miserable" weather -- even if venting does little to comfort us.

We're in one of those summer spells when there are few means of relief.

Swimming pools do the trick, but work and other obligations unfortunately do cut into our days, limiting the time we can take those cool dips. This also is a popular stretch of the year to head west over the mountain range to the coast -- nothing like the feel of that cool, ocean breeze when you get over the hump.

Of course, there are health concerns that come with the heat. These tidbits of advice have been recited many times but are worth repeating:

Drink plenty of fluids, especially while working outdoors or doing any physical activity.

Be mindful of the health of elderly people, children and those with medical conditions.

Don't leave children or pets in parked vehicles.

Make sure pets have fresh water and shaded areas.

Use good judgment on the lengths and times of the day of athletic practices, and take frequent water breaks.

Stay indoors as much as possible.

Take safety precautions when cooling off in Valley waterways.

As hot as we believe it is, take some solace. We did find out that this torrid heat is not hot enough to fry the proverbial egg. That lesson was taught to us by teacher Delores Medina and her second- and third-graders from Jefferson Elementary School in Fresno.

They tried but the egg didn't cook and simply looked like "an old man," as one student said. However, that's little consolation. It's still hot, and there is no relief in the forecast. Heck, we haven't even hit August yet.

But we'll get through this. We endure this ritual every summer.

If you need a mental getaway to help you, there is a cool respite, sort of. Just remember that before too long we will be navigating our way through the infamous tule fog that covers our Valley during the winter.

OK, so that's not something to necessarily look forward to, but it does take our minds away from the current heat wave.

[Letter to the Editor – The Fresno Bee, July 23, 2003:](#)

Blame people, cars

By Louie Souza - Kerman

Does the San Joaquin Valley Air Pollution Control District think that stopping wood-burning of any kind it is going to stop pollution? Think again.

For years people have been burning wood, brush and grass, a lot more than today.

So fireplaces are not allowed in the home? Gas-burning stoves put out more toxic fumes than wood. If you don't believe me, try smelling the fumes from a gas heater. Wood fumes are a lot safer than gas of any kind. Farmers don't burn and fireplaces are not used in the summer months, so don't blame the farmers and fireplaces for the bad air now. Put the blame on more people and cars in the Valley. Every kid has a car to drive to school and drag the main. Put the blame on cars, trucks and trains. To save the air, fewer cars on the road would help.

Committee discusses pollution solutions

By Katie Hicks

The Porterville Recorder

July 23, 2003

A group of concerned residents met for the first time Monday night to begin the daunting task of establishing ways to combat air pollution in Porterville. The group, headed by Mayor Richard Stadtherr, met at the Family Health Network. Ten residents attended the first meeting. The group includes doctors, the media and business owners.

Several ideas for improving air quality were presented.

œ Educate and increase community awareness: Members said working with the schools to get information to students and home to parents would be a good way of sending the message concerning air quality out to the public.

They also said the media could be utilized.

One member on the committee said, contrary to popular belief, the majority of pollution in the Central Valley is created here, but in the Bay area.

The Porterville Recorder could print weekly features on air quality and address myths, said editor David Arkin.

One member said she would come back to the committee with information from the school district on what they are doing to inform students about air quality and how they could work with the committee on getting the message out.

œ What the City Council has done: Stadtherr said he would look to see what kind of resolutions past City Councils approved.

Hal Hill, who recently retired from his post with the city, told the group about plans already in place in Porterville, including the multi-transit station, and a new law requiring road shoulders to be at least six feet wide to accommodate bicycles and reduce dust.

Committee members also discussed a new mandate approved from the Air Pollution Control District concerning fireplaces.

The committee agreed that having someone from the air district attend a meeting would be a good idea.

œ Talk to other cities: Board members agreed that finding out what other cities are doing to combat air quality would be a good idea.

Several members said they would contact different cities in the Valley and find out what they're doing and let the committee know about those plans at their next meeting.

In a separate issue, Stadtherr suggested a previously discussed plan of partnering with local businesses and offering a bonus or reward to employees who carpool or ride a bike to work.

Promoting walking and riding bikes to school was a high priority for the group.

"Something needs to be done so parents can feel comfortable enough to allow their kids to walk or ride a bike to school," Hill said.

Stadtherr told the group that the most important thing was gaining the voluntary commitment of the community.

"No single raindrop wants to take responsibility for the flood," Stadtherr said. "But collectively all the raindrops play a part. That is why we all must make an effort to do something, no matter how significant."

The air quality group will meet again on Aug. 11 at 5:30 p.m. at the Family Health Network.

Group to sue over ag concerns

By Matt Weiser, staff writer

The Bakersfield Californian

July 22, 2003

A local citizens group on Tuesday announced plans to sue the U.S.

Environmental Protection Agency to force agriculture into compliance with pollution laws.

The Association of Irrigated Residents, based in Shafter, filed a 60-day notice of intent to sue, a required precursor to an actual lawsuit. At the center of the controversy is a San Joaquin Valley Air Pollution Control District rule that governs visible pollution from industrial sources.

Rule 4101 is one of the air district's simplest mandates. It forbids any pollution source from emitting a visible plume of smoke or exhaust. But the rule exempts a number of agricultural sources, including a blanket exemption for "other equipment ... necessary for the growing of crops or raising of fowl or animals."

The rule reflects a broader statewide exemption for agriculture that the EPA has already ordered withdrawn by Nov. 23 to comply with the Clean Air Act. But in a separate move, the EPA last year committed to review Rule 4101 by Jan. 22, and to either approve or reject the rule as written. That review never happened.

Tom Frantz, chairman of the Association of Irrigated Residents, said Rule 4101 violates the Clean Air Act, and he wants the EPA to make its promised ruling so the air district is forced to get on with regulating agriculture.

"It's pretty simple. Somebody needs to enforce the Clean Air Act here in this valley. That's the bottom line," said Frantz. "The ruling is one specific part of removing the overall exemption on agriculture. This is all just following up on that to make them do what they have basically promised to do."

Kerry Drake, associate director of the EPA's regional air division, said the Jan. 22 deadline wasn't met because the EPA was waiting to review related pollution plans in the works by the valley air district and to ensure they are all compatible.

"They're right. We didn't take action on the rule when we were supposed to," said Drake. "The bottom line is, we just didn't want to do anything with Rule 4101 that was going to be inconsistent and premature."

Among the actions the EPA was waiting on was approval of a comprehensive plan to control particulate pollution in the valley. That plan was adopted by the air district Governing Board on June 19. It includes a number of existing regulations and proposed new rules that affect agriculture.

The Center on Race, Poverty and the Environment filed the legal action on behalf of the Association of Irrigated Residents. Attorney Brent Newell said the move is one more effort to ensure that agriculture adheres to the Clean Air Act.

"EPA is supposedly making the valley a top priority, and this is not indicative of prioritizing anything. It's more like ignoring the problem," Newell said.

Board OKs fares for new bus route

By Davin McHenry, staff writer

The Bakersfield Californian

July 22, 2003

Supervisors approved fares Tuesday for their newest bus route, the East Kern Express.

The new route will connect Bakersfield and Palmdale, eight times a day on weekdays and three times on Saturday.

And it will cost passengers \$5.50 to ride the whole way, a roughly three-hour trip.

The new route is expected to start in early September.

It is a consolidation of two separate routes that run from Bakersfield to Mojave and from California City to Palmdale.

"We're basically taking two smaller routes and making one big one," said Pat Ebel, a county engineer.

The new route will start in Bakersfield and include stops in Keene, Tehachapi, Mojave, Rosamond, Lancaster and Palmdale. California City won't be served by the new route, for time reasons, Ebel said.

"It would add 40 minutes to go out to California City and back," she said.

Instead the county is looking at the possibility of having a special shuttle take passengers from California City to Mojave and meet up with the express route. Even without the express route, California City has bus service connecting it to Ridgecrest and Mojave, Ebel said.

In other action Tuesday, supervisors voted to:

- * Keep giving out food stamps to some people, even if they do not find a job within three months.

Previously the county would cut off food stamps going to able-bodied people if they remained unemployed and had no children. But given rising unemployment, that isn't as good an idea anymore, said Beverly Beasley-Johnson, head of the county human services department.

"When we had a better economy it made sense to make it more difficult," she said.

Tuesday's vote means roughly 2,700 people will be able to continue receiving the stamps indefinitely. Parents and the disabled already have that status.

- * [Move forward with plans to create an online building permit application. The San Joaquin Valley Air Pollution Control District has given the county \\$22,194 to start up the work, hoping that the online permit would cut down on traffic to and](#)

from the building division offices. The county will pay for the rest of the roughly \$45,000 project, which is expected to take six months to a year to complete.

* Spend \$614,567 more on fighting the glassy-winged sharpshooter, a pest that threatens vineyards. The county department of agriculture has been battling the insect for several years and has spent millions in grants.

Pollution warning not issued after long stretch

By Melanie Turner, staff writer

The Modesto Bee

July 23, 2003

When temperatures soar in the valley, often so do air pollution levels.

Which explains Tuesday's valleywide Spare the Air day and six others since July 10, as temperatures have hovered around 100.

Today brings a breather, of sorts, with no Spare the Air declaration from the San Joaquin Valley Air Pollution Control District. A cleaner-air day is just what people with breathing problems need.

In calling Spare the Air days, the district looks at air quality index forecasts for the valley's three regions: north, south and central.

An expected AQI of 151 or higher brings a Spare the Air declaration for that region and for its neighboring region if the AQI forecast for the neighbor is 101 or higher.

At 151 the air is considered unhealthy for everyone. From 101 to 150, the air is unhealthy for sensitive groups, such as the elderly or people with breathing difficulties.

Valley air is often worse farther south. On Monday, Merced County, which is part of the northern region with San Joaquin and Stanislaus counties, had the dirtiest air in the 25,000-square-mile district, with pollution levels climbing to 164 on the air quality index.

The air district has called 19 Spare the Air days in the valley since June 6, and all but one have included the northern region.

The recent string of seven included two stretches of three Spare the Air days in a row: July 10, 11 and 12, and Friday through Sunday.

"(Bad air) typically coincides with when we have this really hot weather," air district spokesman Anthony Presto said. "It's not a rule."

Trapped pollutants

The pollution this time of year forms as sunlight reacts with tailpipe emissions, creating ground-level ozone. It hangs around, district meteorologist Shawn Ferreria said, when the wind is light or nonexistent, and if there is an inversion layer, which is high, warm air that acts like a lid, trapping pollution near the ground.

The air district this year is getting the word out earlier about Spare the Air days.

Notification comes two days before bad air days, rather than the day before, in an effort to get people to do a better job of helping to curb pollution levels, Ferreria said.

"We're taking a proactive approach," he said. "We're trying to give the community a heads-up that bad air will continue to persist."

On Spare the Air days, people are asked to postpone the use of gasoline-powered yard equipment, which goes along with another recommendation: avoid strenuous outdoor activities, such as yard work.

The declaration also brings a call to put off barbecues.

And people are asked to carpool or take mass transit or otherwise curtail driving.

Ferreria said he rode his bike to work on Monday to do his part, though he admitted that he felt ill afterward from the heat. He drove Tuesday, but stayed inside for lunch instead of getting into his car and spewing more smog, he said.

Activists plan to sue feds over San Joaquin air rule

By Mark Grossi, The Fresno Bee

Published in the Modesto Bee

July 23, 2003

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-- Tom Frantz, president of the Association of Irrigated Residents

Alleged power plant deal could have made politicians wealthy, authorities say

By Tanya Rose, San Joaquin News Service
Lodi News Sentinel
July 23, 2003

Court papers made available this week reveal the most thorough accounts so far of an alleged power plant deal that, according to authorities, could have made several local politicians rich.

A 34-page FBI search warrant affidavit catalogues several alleged e-mail messages, phone calls and clandestine meetings in 2000 and 2001 where San Joaquin County leaders and lobbyists reportedly mapped out a plan to squash one power plant bid, in favor of another from a competing company. The deal, according to federal authorities, would have netted the men a \$2 million payoff. This allegation was made public months ago and brought forth three arrests, the last of which was two months ago. But through the papers, the FBI alleges for the first time that N. Allen Sawyer, a state official, claimed to be acting on Gov. Gray Davis' behalf when he allegedly pushed for a power plant at the Port of Stockton to be built by Sunlaw Energy Corp. The San Jose-based Calpine had also bid on the project.

The papers also contain, for the first time, reports that San Joaquin County Sheriff Baxter Dunn attended secret meetings and made phone calls to a state energy agency regarding the deal -- a deal he has denied being involved with. Dunn's attorney says the affidavit is old news -- simply a rehashing of earlier allegations.

"The sheriff was voluntarily interviewed more than a year ago by investigators and he cooperated fully, as he's indicated in the past," said Orange County-based lawyer Michael Capizzi.

"He is still a potential witness in the case and doesn't want to infringe on any of the parties' right to a fair trial by commenting any further publicly." Dunn, though investigated extensively by federal authorities, has not been arrested or charged in the case.

Neither has Sawyer, though authorities continue to publicly link him to the far-reaching corruption probe. Agents searched his computer hard drive this summer, and allege he used his state government e-mail address to communicate with others about the purported energy agreement. That search -- coupled with another -- is the subject of the July search warrant affidavit. Lobbyist Monte McFall, ex-county Supervisor Lynn Bedford and his former aide J. Tyler Reves face charges related to the alleged energy deal and are awaiting a trial that is supposed to start in October. McFall has been under house arrest for the last eight months, and Bedford and Reves have been free on their own recognizance.

All three say they are innocent, and maintain they will be cleared of any wrongdoing. McFall has said publicly that if authorities were to sit down in a room with involved parties to talk the matter out, they would "see that there have been no crimes committed here."

In McFall's case, several of the charges deal with alleged extortion that took place during his tenure on a small water board. But many of the counts for all three men center on the alleged energy agreement.

According to the affidavit, Sawyer, Dunn and McFall met with Sunlaw officials and with local politicians -- many times at a cafe at the Stockton Metropolitan Airport -- to discuss squeezing Calpine out of the port so Sunlaw could build

there. McFall allegedly threatened Calpine officials, telling them he would cause bad publicity for a second Calpine plant already proposed for an Alameda County site if the company did not back out of the port site.

In a phone interview Tuesday, McFall said that's not the way it went, though he declined to give more details until he can explain publicly at the trial.

Federal authorities allege that after one of the supposed meetings, Dunn called the California Energy Commission asking about Calpine's use of ammonia at its plants. The sheriff also testified in front of the San Joaquin County Board of Supervisors, which included Lynn Bedford, about his opposition to Calpine's Alameda County plant, the East Altamont Energy Center. The energy commission is expected to vote on a possible license for that plant today.

His public complaint was that the sheriff's department would not be able to respond to emergencies involving ammonia spills -- and companies other than Calpine, he said, did not use ammonia.

The board then approved a resolution in opposition to the center, though it does not sit within the board's jurisdiction. At one point, one Calpine official told federal authorities he felt he'd been "shaken down." The affidavit also claims Reves, the county aide, approached former Ripon Mayor Don Moyer. Moyer was mayor in 2001, when the energy crisis prompted power companies to find locations across the state where they could build new plants.

Authorities say Reves asked Moyer if he would be interested in Sunlaw building a plant in Ripon. At a later meeting, according to the affidavit, McFall asked Moyer whether he wanted money out of the deal -- \$50,000 or \$100,000.

It further states Moyer replied that \$50,000 could go toward two new police officer positions for the city, but the mayor wasn't sure what McFall meant or where the money would come from.

McFall said Tuesday he believes the authorities have twisted Moyer's comments.

"I have a high degree of confidence in the integrity of Mr. Moyer," McFall said.

"And he and I both know that the FBI and the U.S. Attorney will twist any comment so that it suits their purpose. It doesn't make sense the way they have it worded," he said, referring to the allegations about promises of money.

"We're friends," he added. "This is a good man." At the later meeting, Sawyer introduced himself not as a consultant working with Sunlaw, but as executive director of the Office of Criminal Justice Planning. And according to the affidavit, Moyer believed Sawyer was there on behalf of the governor.

Port commissioners -- those ultimately in charge of decisions over plants at the port -- decided on Calpine.

Air group to warn EPA about suit

The Stockton Record

July 23, 2003

A San Joaquin Valley clean-air group is expected to tell the federal government today that the group intends to sue over an anti-pollution rule that exempts farm-caused pollution.

The Association of Irrigated Residents said the U.S. Environmental Protection Agency had a January deadline to reject a rule passed by the San Joaquin Valley

Air Pollution Control District. The rule forbids certain visible air pollution, such as dust or smokestack emissions.

Because the U.S. Clean Air Act doesn't allow exemptions for agricultural pollution sources, environmentalists have pressured the EPA to require California air districts to remove similar exemptions.

Under a separate legal settlement, the EPA agreed to give California until Nov. 14 to remove farm-pollution exemptions from state law. Legislation to do that is pending but not assured of passage.

EPA officials said Tuesday that they have been holding off making a decision on the rule because the air district was in the process of drafting a blueprint for solving the Valley's dust-pollution problem.

Now that that blueprint is before the EPA, the agency will make a decision on whether it satisfies federal law, said Kerry Drake, associate director of the EPA's air division.

The notice to sue is required to be filed at least 60 days before a lawsuit can be filed.

"EPA is supposed to ensure (air) district rules comply with the Clean Air Act. Instead of disapproving this illegal rule, the EPA is just sitting on its hands," said Tom Frantz, president of AIR.