

## **Dairy deals stir up financial stink**

### **State treasurer says funds for pollution control were released in error**

By GRETCHEN WENNER, Californian staff writer  
[Bakersfield Californian, Wednesday, Oct. 13, 2004](#)

The \$37.4 million in low-interest loans that went to nine Kern County dairymen promised one key benefit to taxpayers: keeping 155,000 tons of manure out of landfills.

But it has already been made clear that dairy waste wouldn't have gone to landfills in the first place, state authorities say.

Documents from the state Pollution Control Financing Authority, which authorized the funds, reveal more detail as to what local dairies got in the deal.

The issue erupted Monday when the *Los Angeles Times* reported that \$70 million in tax-exempt bonds OK'd by state Treasurer Phil Angelides -- money meant for pollution control efforts -- went to 18 large dairy operations in error because no waste was actually diverted from landfills.

Dairymen here, who got more than half the total funds, were also covered by about \$1.7 million worth of grants -- in other words, free money -- to pay for the administrative costs of issuing the tax-exempt state bonds.

That money came from a "small business assistance fund," which defines a small company as one with less than 500 employees.

Even though the loan dollars were meant for pollution-cutting technology, six of the nine Kern County dairies had little required of them in that regard.

That's because those half-dozen projects were "grandfathered" in under old rules. Owners did not have to go through the county's permitting process, which now calls for extensive pollution-cutting equipment.

Two of the three dairies with county permits are the twin Borba family operations south of Bakersfield.

Ted James, the county's planning chief, said both Borba facilities had to show they'd cut air pollution by 50 percent compared to standard equipment.

To do that, the dairies installed a system to "vacuum" manure and inject it into the ground, James said, rather than storing it in lagoons.

The Borba mega-dairies, as they came to be known, ushered in an era of dairy awareness here. The projects, with some 14,000 cows each, went through years of legal battles over environmental issues. The struggle started in the late 1990s; the dairies are just now gearing up for operation.

Neither George Borba nor cousin James Borba could be reached for comment Tuesday.

A third operation, the Western Sky Dairy owned by George Plantenga, also has a county permit, according to planning department records.

The other operations -- Carlos Echeverria & Sons, T&W Farms, Bidart, Poso Creek, JDS Ranch and Southern Cross -- are so-called "by right" facilities with no county permits requiring pollution control measures.

In the wake of the *Times* report, Angelides froze an additional \$24 million in approved loans for four other dairies.

One of those, the Bidart Dairy II LLC, is in Kern County. That facility was slated to get \$3 million.

Angelides spokesman Mitchel Benson said Tuesday the funds were used for pollution control, as intended, because they paid for larger manure lagoons, which are used as waste storage facilities.

"This isn't like cutting-edge environmental technology that reduces pollution," Benson said. "But the fact of the matter is, it's an environmental control -- a pollution control system."

"All of these ponds and things being financed were signed off on by regulatory authorities," Benson added.

Manure lagoons are standard for waste storage in the dairy industry.

Newer technology includes "digesters" that convert some lagoon emissions into electricity as well as special liners that keep waste in lagoons from contaminating groundwater.

Dairy issues in Kern County have made headlines in recent months. Some two dozen proposed facilities are now on the books that could bring 214,000 cows here.

County planners estimate there are already about 290,000 milk cows on 55 dairies.

## **Dust: Valley's least wanted Nut harvest hits as efforts to reduce pollution grow**

By David Castellon, Staff writer

[Visalia Times-Delta, Wednesday, Oct. 13, 2004](#)

Tulare County almond and walnut farmers have a lot to be happy about.

News of the nuts' health benefits has pushed up demand and the prices farmers can get for them. And despite some weather problems early in the year that should slightly reduce harvest totals, farmers say they still expect to bring in good-sized crops.

But a dark cloud still hangs over almond and walnut farmers across the Valley. More precisely, it's a dust cloud.

Almond and walnut farmers have long had to contend with complaints about dust from neighbors and state air quality officials, but this harvest could mark the start of a turning point in the way they do business, some growers said.

Starting this year, all large farm operations in the state are required to implement plans to reduce the dust they generate. Those changes can range from buying new heavy equipment that produces less dust to paving dirt roads and reducing tilling.

The goal is to reduce agriculture-generated dust over the Central Valley by 20 percent, about 34 tons a day on average, said Rick McVaigh, permit services manager for the San Joaquin Valley Air Pollution Control District, which coordinates and approves the farmers' plans.

All kinds of farming are affected, but almond and walnut farmers say they are feeling more pressure to show they are reducing dust. Harvesting the nuts generates more dust than any other crop in the state.

"I think there's a huge amount of pressure," said Cheryl Lehn, executive director of the Tulare County Farm Bureau.

The California Air Resources Board estimates that harvesting a single acre of almonds or walnuts generates more than 88 pounds of dust, nearly 41 pounds being particles under 10 microns in size. Those particles stay suspended in the air longer than larger ones. They can get deep into lungs and cause the most problems for people with allergies, respiratory ailments and heart problems.

No other crop comes close to the dust generated by almond and walnut harvesting, which begins in August and September and ends in October.

Harvesting cotton generates about 7.5 pounds of dust an acre; corn 6.1 pounds; and tomatoes, citrus, grapes, peaches and strawberries less than 3 pounds an acre.

Last year, Tulare County farmers harvested 49,496 acres of almonds and walnuts, which would have generated more than 2,177 tons of dust. In comparison, in 2000, the latest figure available, all of Tulare County agriculture generated an estimated 2,835 tons of dust. About 34,600 acres of almonds and walnuts were harvested 20 years ago.

### **Farmers' efforts**

Farmers say cutting down dust in walnut and almond harvesting further won't be easy.

Harvesting almonds and walnuts without generating dust is just not cost-effective, they say.

"When you get [the state] in your business telling you how much dust to produce, it's very hard for a farmer," said Charlie Pitigliano, who grows almonds and other crops at his Tipton farm. "Our backs are against the wall to buy dust-free [harvesting] equipment and larger equipment to make less passes.

"They don't understand we don't like [dust] any more than people in the city," he said. "It's not like we've been sitting on the sidelines and not doing anything about dust. I, myself, have three water trucks and have oiled roads and [laid gravel on] roads [to reduce dust]."

He even purchased 50 signs that he'll post along his dirt roads warning drivers to slow down. That's one of the dust-reduction strategies in the plan he submitted to the air district to comply with the new requirements in Conservation Management Practices Rule 4550.

Under the rule -- the first affecting the amount of dust California farms generate -- farmers had to have implemented dust-reducing practices by July 1, but they don't have to submit their plans for approval to the district until Dec. 31.

Out of about 100 methods to reduce dust, farmers have to choose five, McVaigh said.

Farmers already using some of these practices in their operations can check them off, and Lehn estimated that at least 90 percent of almond and walnut farmers in Tulare County had been trying to reduce dust before the new rule was approved in May.

Sam Sciacca, who raises walnuts on three small orchards near Visalia, said changing demographics also are playing a role in what growers do.

"Do you see that?" he said, pointing to houses under construction at the edge of his 15-acre orchard off Shirk Street and Highway 198. "When we bought this [orchard], the houses were a quarter-mile away."

### **New equipment**

Sciacca recently paid about \$100,000 for a new harvester. It picks up walnuts from the ground and blows off the grass and dirt, which generates most of the dust during harvesting.

Sciacca said he could afford the high-end harvester for his small operation because he makes a much larger income through his primary job as a real estate developer.

But even less-costly methods of keeping dust down can affect farmers' bottom lines, said Gary Hester, who owns and manages walnut farms south of Farmersville and runs a walnut harvesting business.

"It's tough to keep dust free. Trying to do that in our own property is a huge expense," particularly as most farmers don't have very large profit margins, he said. For example, "Water trucks and water are expensive, and on a 110-degree day, it's practically impossible to keep [the ground] moist."

Sciacca said he worries walnut farmers will one day have "harvest days," like burn days, when state air regulators decide the conditions are right to allow harvesting.

"Absolutely, it would be disastrous to the walnut industry" to have to put off harvesting operations for days at a time. "When [walnuts] are ready, they absolutely have to come down."

### **Technology helps nut growers reduce dust**

By David Castellon, Staff writer

[Visalia Times-Delta, Wednesday, Oct. 13, 2004](#)

With almond harvesting almost done at his family's Tipton farm, Josh Pitigliano has had lots of opportunities to see his family's new harvester in action.

But that doesn't mean he's still not fascinated watching the big blue machine blow out dust, grass and sticks from its side.

"Before, you couldn't even see down that row," he said. The old harvester would billow dust as thick as smoke, said Pitigliano, who helps run the farm.

The new harvester still generates plenty of dust, but not nearly as thick, he said. "That's probably 50 percent less dust."

"Thirty percent," said his father, Charlie Pitigliano, noting manufacturers' specifications.

The Pitiglianos are among a growing number of almond and walnut farmers who are using new technology to keep dust down in their harvesting operations.

Although shaking almonds and walnuts from trees generates some of the dust, sweeping and collecting the nuts generate more than 99 percent of the dust, according to the California Air Resources Board.

Gerald Maxwell, co-owner of H&M Equipment Repair in Tulare, which sells nut harvesting equipment, said although manufacturers haven't done much to create new sweepers that produce less dust, they have been more successful with harvesters.

In the case of the Weiss/McNair harvester he sold to Pitigliano Farms, Maxwell said it cuts down dust by having a longer "dust chain, essentially a wire-mesh conveyor belt inside the machine that rolls almonds or walnuts up to a holding bin."

That allows more dirt and bits of leaves, grass and twigs to drop to the ground before the nuts are hit with air from a vacuum blower to clean them, so there's less dust to blow into the air.

Doug Flora, who manages almond orchards in Stanislaus, Merced and Kern counties, said he is hoping he can take the process a step further.

Flora said he and a group of fellow nut farmers formed Exact Corp. two years ago, and built a series of prototype harvesters and sweepers that they hope to have on the market next year.

Although dust reduction wasn't their only goal, he said it is a major factor in the designs.

"I think the perception of a lot of folks about farming is we aren't trying to be efficient and be on the cutting edge" of farming cleaner and more efficiently, Flora said.

And with more homes butting up closer to farms, the chances for contention over dust will only grow if farmers can't bring it down, he said. "One of the purposes we [started] Exact Corp. is to be proactive before there is specific regulations" forcing farmers to make changes.

While traditional sweepers use metal and rubber "rakes" and high-powered blowers to blow nuts from around the base of trees into neat rows, Flora said his company's sweeper uses spinning polyurethane brushes and low-powered blowers to sweep the nuts with less dust.

Instead of discharging the dust, grass and sticks from side vents out into the groves, Flora said the Exact harvester places the nuts and debris into a low pressure chamber "and the dust and leaves and little branches drop onto a conveyor belt and [are dropped] off the side."

The University of California, Davis, and Texas A&M University have been hired to determine how much the machines reduce dust.

As for how much the new devices will cost, Flora wouldn't say.

## **North Bay blaze reduces visibility, breathability**

### **Where there's fire, there's smoke -- and warnings about Bay Area air quality**

Steve Rubenstein, Peter Fimrite, Pamela J. Podger, Chronicle Staff Writers  
[S.F. Chronicle, Wednesday, October 13, 2004](#)

It was hot, dry, hazy and smoky on Tuesday, a nice day for sunbathers and a crummy one for firefighters and for people who breathe air.

The high heat and northeast winds made life tough on fire crews trying to knock down a 29,500-acre wildfire in Napa and Yolo counties. And it filled the North Bay skies with pollution -- enough to make the Spare the Air people sit up and take notice.

The smoke did not produce an official Spare the Air Day, because the pollution is from smoke particles instead of high ozone levels. That doesn't make it any easier to breathe, said Bay Area Air Quality Management District spokeswoman Terry Lee, but rules are rules.

The air is smoky enough to signal an alert in the North Bay, where residents sensitive to smoke are being advised to stay inside today.

"The winds are doing their typical fall thing," Lee said. "They're coming from the northeast, not from offshore. That's bad. And there's nothing I can do about it."

The wind pattern is expected to continue today, according to district meteorologists.

"It's prudent to take precautions if your area is being affected by the fire," said Jack Broadbent, the air district's executive officer. "If it's smoky outside, limit your exposure to the smoke. It's not a good time to jog or exercise. To prevent a breathing problem, it's wise to stay indoors."

A National Weather Service advisory urged drivers to use caution because of reduced visibility in the North Bay, East Bay and San Francisco. Skies were variously brown, gray, ashen, thick and foreboding.

The Bay Area is likely to be sunny again today, with inland highs in the 90s and more pesky northeast winds. The Weather Service said temperatures will be well above seasonal normals. A red-flag warning for dangerous fire conditions in the North Bay and East Bay remains in effect until noon. That means no fires on the beach, no campfires in parks and no smoking on park trails.

"Very dry air is now in place, along with dangerously low fuel moistures," a Weather Service advisory said.

About 1,222 firefighters continued to battle the Rumsey fire, which was 5 percent contained in remote, windy areas of Napa and Yolo counties, about 18 miles south of Williams (Colusa County). Authorities said Tuesday night that they believe the fire was "intentionally caused" and an investigation was under way. The fire started Sunday morning, and there have been no injuries or structural damage, and the slot machines were clanking away as usual at Cache Creek Casino, well south of the blaze.

"You can see the thick clouds in the sky, if you go outside," said a casino receptionist. "But our guests stay inside."

The Napa County Sheriff's Department requested a voluntary evacuation of 50 homes in the Berryessa Estates area. Residents were taken to a Red Cross shelter set up at Pope Valley School.

In neighboring Sonoma County, ash swirled in the wind and the hot air was like an oppressive blanket.

Residents discovered their cars were coated with fine ash as they went on their daily commutes.

"It's nasty, but what can we do about it?" said Dan Holtman, who lives near Occidental. "People have been saying that the ash irritates their nose and throats."

Windsor resident Kevin Lopeman said the "yucky" weather motivates him to get out earlier on his morning run.

"It is very hot, and this is bad for people with asthma," Lopeman said. "The air quality has been rotten the last couple of days because of the fires."

Forecasters blamed the hot weather on flat onshore gradients, which means that things are the way they are and staying that way.

"There will be little or no change for the next few days as upper high and upper low (pressure) maintain about the same strength," the official forecast said.

The official weather report declared that the offshore flow has created a "dense pall of smoke over the North Bay and out through the Golden Gate." The smoke has been seen more than 100 miles off the coast.

The weather was generally received well by the regulars on Market Street, near Powell, in San Francisco.

"I love it the way it is, but with my work I take whatever I can get," said Owen Dias, 67, of Oakland, who has preached on Market Street against fornication for 18 years.

Wearing a black suit, white hat and spats, he held a 5-foot-high sign urging people to "quit your whoring now."

"Any day I can get the message from God out is a good day, but I like it like this, even though I've got a suit on," he said. "It's good for me, but it might not be good for other people because they are too hot-blooded."

The weather was being good to sidewalk jewelry peddler Banqui Parker, too.

"It's absolutely fantastic," said the shirtless 58-year-old as reggae music blared next to his jewelry stand. "Usually the wind on Market Street is really bad, and when it's too cold people put their heads down and close their eyes. They're looking for relief, not to buy anything. But today is like paradise with a soft summer breeze."

The hot weather was a big relief to Joseph Smith, 23.

"I just got back from Oklahoma City, and it rained all three days I was there, so anything is better than that," he said during a lunch break from his job as an assistant manager at Nordstrom.

Smith took a big drag of his cigarette, looked up and sniffed the air. "The smoke is a little irritating, though," he said, before explaining, "from the fire."

## **L.A. Port seeks contract with controversial former director**

[S.F. Chronicle, Wednesday Oct. 13, 2004](#)

LOS ANGELES (AP) -- Less than a month after the executive director of the nation's busiest port resigned amid a probe into the awarding of port contracts, officials are seeking a lucrative consulting contract with him.

Los Angeles port commissioners were scheduled on Wednesday to vote on the contract with Larry Keller, which would include a salary of as much as \$540,000 over three years, according to a draft.

Officials did not disclose the reason for Keller's Sept. 17 resignation. He ran the Port of Los Angeles for seven years, and his departure from his \$278,000-a-year job sparked speculation that he was forced out by city officials and community leaders.

Keller could not be reached for comment Tuesday.

Under the new contract, Keller would solicit business for the port and work with shippers on environmental policies. He would also develop marketing strategies.

Clean-air and community activists accused Keller of not taking seriously the concerns of area residents about the potential negative health effects of air pollution from ships, trains and trucks at the port. They want to know why the port would consider rehiring him.

A port spokesman declined Tuesday to discuss the proposed contract.

Some critics allege the contract was offered in exchange for Keller's resignation or for his silence about investigations by local and federal prosecutors.

"This is a man who's been getting paid a handsome, hefty salary. Why would he walk away from that? He's got to have had a reason, and they gave him one," said San Pedro community activist Janet Gunter. "It certainly gives appearances of hush money or of money to appease someone who has the ability to do harm if provoked."

Harbor Commission President Nicholas Tonsich said such charges were unfounded. He said he asked Keller about a consulting contract after the former director left the port.

Keller and Tonsich were among the port officials subpoenaed last spring to appear before a federal grand jury. Federal and local investigators continue to look into port and other contracts. Federal officials have not commented on their probe, but District Attorney Steve Cooley said he is looking into whether city contracts were tied to political contributions to Hahn's mayoral campaign.

Mayor James Hahn said he believed Keller could boost the port's economic success.

"Larry Keller has a lot of talent that we could use as a marketing consultant for the Port of Los Angeles," Hahn said. "I saw that firsthand when we traveled with him in Asia two years ago. He has a lot of valuable contacts. He has been a great salesman for the port. That's why we are the No. 1 port in the country."

City Councilwoman Janice Hahn, a longtime critic of Keller, said she had issues with his environmental policies but said she didn't question his marketing skills.

## **L.A. Port May Rehire Former Chief**

By Deborah Schoch

[Los Angeles Times, Wednesday, Oct. 13, 2004](#)

Less than a month after Larry Keller resigned amid criticism as executive director of the Port of Los Angeles, officials were finishing work Tuesday on a consulting contract that would pay him as much as \$540,000 over three years.

The contract, which port commissioners plan to vote on today, calls for Keller to solicit business for the port, develop marketing strategies, work with shippers to carry out environmental policies and maintain an office in Northern California or the Pacific Northwest, according to a draft.

A port spokesman declined Tuesday to make public the contract or the staff report, saying the final details were still being negotiated. Some of the port's critics, who welcomed Keller's departure, harshly criticized the plan to hire him as a consultant, saying that the contract is in exchange for Keller's Sept. 17 resignation or for keeping quiet about port matters under investigation by local and federal prosecutors.

Harbor Commission President Nicholas Tonsich adamantly denied those charges. He said that he personally approached Keller about a consulting contract sometime after Keller left the port, although he could not say when. "It was after he resigned, but it was before the agenda was published on Friday," Tonsich said.

Mayor James K. Hahn said Tuesday that he believed Keller could contribute to the port's economic success.

"Larry Keller has a lot of talent that we could use as a marketing consultant for the Port of Los Angeles," Hahn said. "I saw that firsthand when we traveled with him in Asia two years ago. He has a lot of valuable contacts. He has been a great salesman for the port. That's why we are the No. 1 port in the country."

The draft contract calls for a \$180,000 salary for Keller for one year, with two one-year renewal options.

Keller's departure from his \$278,000-a-year job last month sparked widespread speculation that he was forced out by city officials and community leaders.

Tensions had grown as harbor commissioners met privately to evaluate his performance, and Hahn two months ago rejected a major port plan to curb air pollution as inadequate, sending it back to Keller and his staff to be redone.

Clean-air and community activists blamed Keller for contributing to what they described as the port's arrogance toward area residents worried that their health was being endangered by air pollution from ships, trains and trucks.

Those same residents now are questioning why the port would rehire a former executive who had fostered so much dissent.

"This is an agreement that it's clear was orchestrated ahead of time," said San Pedro community activist Janet Gunter. "This is a man who's been getting paid a handsome, hefty salary. Why would he walk away

from that? He's got to have had a reason, and they gave him one.

"It certainly gives appearances of hush money or of money to appease someone who has the ability to do harm if provoked."

Activist Noel Park called the contract a "quid pro quo" in return for Keller's resignation, and he criticized the port for not releasing more information about the consulting arrangement before today's meeting.

"The public has no knowledge of this," he said. "It's a horrible way to do business."

Keller could not be reached Tuesday for comment.

Keller and Tonsich were among the port officials subpoenaed last spring to appear before a federal grand jury, and a federal and local investigation of port contracts is continuing.

Also, Los Angeles City Controller Laura Chick has questioned port leases.

In a written statement Tuesday, Chick took note of the last-minute negotiations. "Time and again, I have questioned the need for the city to use highly paid, outside consultants. It is disconcerting that at the eleventh hour, this deal is still being formed."

Chick, who must authorize consultant payments, promised to ensure that the port is getting its money's worth. "I will review the invoices to determine if the products and deliverables are consistent with the contract," she said.

Although the port would not make the contract terms public Tuesday, a draft "scope-of-work" reviewed by port officials last week says that consulting duties would include communicating "environmental issues and related concerns to steamship line management, as requested."

Other duties would include helping to arrange news conferences and notifying the new executive director "regarding proposed visits to the United States of dignitaries and other persons from the Contract Area who may be interested in the port."

Keller would also help "interview, contact and solicit importers, exporters, freight forwarders, manufacturers, processors, steamship lines, shippers and purchasers in the Contract Area."

In the margin is a scrawled note: "Contract Area = Northern Calif.," but a port spokesman said the contract area is the Pacific Northwest, Mexico and Asia. The draft also states, "Consultant shall maintain an office in Northern California or the Northwest United States."

A port spokesman said that the document was an old draft but declined to provide the current one. Tonsich said Keller would work out of the Bay Area part of the time and would be responsible for travel expenses between there and Los Angeles. The port would reimburse Keller for traveling outside the U.S. at the port's request, he said. Keller has family in the Bay Area, port officials said.

The port spokesman, Arley Baker, could recall only one other case of a former port chief receiving a lucrative consulting contract.

Ernest "Roy" Perry, who resigned as executive director in the early 1980s, received a \$131,000 contract for working from November 1984 to December 1985, he said.

The proposed contract stipulates that Keller must cooperate with any investigation or audit involving the harbor, and a conflict-of-interest clause would prevent him from working for a competing port, Baker said.

City Councilwoman Janice Hahn, a longtime critic of Keller, said she assumes "this is something they might have worked out prior to his resignation."

Although she said she had problems with his environmental policies, she added, "I've never questioned his marketing ability or his ability to interact in industry circles."

Port Commissioner Camilla Kocol said late Tuesday afternoon that she had not seen a written contract and could not say how she would vote. "If we feel we haven't had enough time, we'll ask that it be tabled," she said.

## **Group Says Bush Easy on Polluters**

**Government lawsuits against violators have dropped sharply, critics complain. The EPA says it is working to settle existing actions.**

By Elizabeth Shogren

[Los Angeles Times, Wednesday, Oct. 13, 2004](#)

WASHINGTON - During the first three years of the Bush administration, the number of civil lawsuits that the federal government filed against polluters dropped by 75% compared with the last three years of the Clinton administration, an environmental group reported Tuesday.

Eric Schaeffer, director of the group that compiled the data, said they showed that the administration had been weak on enforcing anti-pollution laws.

Bush administration officials defended their record, saying that the real measure of effectiveness should be whether pollution was being reduced, not the quantity of lawsuits. They said they has emphasized negotiated settlements as a speedier alternative to protracted litigation.

And they said that new anti-pollution rules proposed by the administration would bring more improvements in air quality than would legal action.

The number of lawsuits filed over alleged pollution-law violations dropped from 152 in the three years ended in January 2001 to 36 in the three years ended in January 2004, according to EPA data analyzed by the Environmental Integrity Project, an environmental watchdog group.

Schaeffer, who left his job as the head of the EPA enforcement office almost three years ago to protest what he considered the Bush administration's lax approach to cracking down on polluters, said the data showed that "my concerns were, unfortunately, justified."

But Tom Skinner, acting assistant EPA administrator in charge of enforcement, called Schaeffer's analysis "completely misleading."

"The fundamentally flawed premise seems to be that filing cases in and of themselves are beneficial to the environment," Skinner said.

Schaeffer said the administration had been particularly easy on energy companies, the nation's biggest polluters. The Justice Department filed three new lawsuits against power companies, oil companies and pipelines during the first three years of the Bush administration, compared with 28 such suits filed in the last three years of the Clinton administration, according to Schaeffer's report.

"If you're a big energy company, you're basically on holiday from enforcement," Schaeffer said.

Skinner disputed that assertion, saying the Bush administration had been busy seeking settlements in enforcement actions against refineries rather than filing lawsuits. Settlements reached so far require that new pollution controls be installed on 40% of the nation's refineries.

The administration has filed new lawsuits against coal-fired power plants for Clean Air Act violations, but

most of its effort has been focused on settling or bringing to court lawsuits filed during the Clinton administration, Skinner said.

"We've got three trials in the next 12 months. My idea of a vacation is not sitting in trial with billions of dollars at stake," Skinner said.

Schaeffer charged that the administration was letting polluters off the hook by not filing lawsuits.

In a widely reported move last November, the EPA told its regional offices to drop enforcement actions against dozens of coal-fired power plants that were under investigation for violating the Clean Air Act.

One of those plants was Allegheny Energy Inc.'s Hatfield's Ferry power plant in western Pennsylvania, near the home of Charlotte O'Rourke, a retired accountant who appeared at a news briefing here on the environmental group study.

O'Rourke told reporters that pollution from the power plant rains down on her neighborhood so heavily that sometimes the power company offers to pay to have residents' cars washed.

Her husband died of renal cell carcinoma at the age of 57, and she believes he is one of many people in her community who became sick or died of diseases caused by the pollution. She and her husband built their house in Masontown, Pa., 30 years ago, about the time the Hatfield's Ferry plant was constructed.

"You really don't have to be a scientist to put two and two together," she said. "Why doesn't our government do something about it?"

Skinner said he was not permitted to talk about ongoing enforcement actions, but said it "may not be true" that the government dropped its investigation against Allegheny Energy.

Representatives of the utility industry agreed with the administration assertion that its regulatory proposals stand to cut more emissions faster than legal action could.

"The emissions cuts achieved through EPA's new rules will be steeper and be achieved faster than are possible through" Clean Air Act lawsuits, said Dan Riedinger, spokesman for the Edison Electric Institute, the main trade group for electric utility generators.

## **We deserved better from Sacramento**

By ROBERT PRICE, Californian staff columnist  
[Bakersfield Californian, Commentary, Wednesday, Oct. 13, 2004](#)

In the annals of governmental entanglement in environmental controversy, Dairygate is no Yucca Mountain.

It may be ironic folly, but the California Bovine Relocation Program is no Iran-Contra affair, either.

But it's a doozy, with layers of incongruity.

The California Pollution Control Financing Authority, whose mission is to encourage businesses to make and keep our air and water clean, has awarded almost \$70 million in low-interest loans over the past four years to some of the state's biggest dairies.

In effect, the money has enabled many of those companies to move from the Chino area and its \$60,000-per-acre property values to the more financially and culturally inviting pastures of the Central Valley. And those dairies have done so with few of the regulatory strings one would expect, given the assigned goal of the benefactor.

Nine of those mega-dairies, accounting for more than half the value of those loans, are right here in Kern County, at the southern base of the nation's most polluted air basin. Six are in the Bakersfield area.

We've certainly Got Milk here in Kern County now, and, thanks to a report in Monday's *Los Angeles Times*, we have a better idea why.

What we don't know yet is precisely how much the San Joaquin Valley's 2 million cows -- 200,000 of them in Kern County, with approval pending for an additional 200,000-plus -- contribute to the sorry state of our air. We only suspect, with ample evidence, that the potential is big.

But until we know more, state agencies ought to refrain from passing out loans earmarked for pollution-control measures to companies that can't clearly demonstrate why they'd be appropriate recipients.

Red-faced state Treasurer Phil Angelides, whose office administers the loan fund, says (belatedly) he'll do exactly that. Maybe he'll agree that merely acquiring greater spreads of land at these lower Central Valley prices on which to spread manure shouldn't count as an anti-pollution measure.

By at least one measure, we're already the most polluted place in the United States.

Since 1999, the San Joaquin Valley has had 685 violations of the 24-hour ozone standard, more violations than any other area of the country during that time. Particulate-matter pollution, worsened by dairy-born ammonia, is also a major concern in this part of the state.

A cynic might say the Great Cow Exodus is another example of the state's major population centers shuffling the byproducts of their commerce, consumer habits and day-to-day lives off on us.

Consider our prisons, our sludge farms, our huge hazardous waste dump. Even geology conspires against us, it seems: We've got a natural smog-migration trap at the southern base of our horseshoe-shaped mountain range that captures Bay Area-bred pollution.

OK, so paranoia has set in.

Well, even the paranoids among us deserve answers.

The state pollution control financing agency agreed to lend money to 18 valley dairies because, in part, it wanted to dissuade them from using landfills. Dairies don't use landfills. Who in Sacramento dropped the ball on that one?

Did the dairymen know they were getting these loans because, in part, the state was trying to encourage them to stop using landfills? If so, it must have been hard to keep straight faces.

The sums we're talking about here would have gone a long way toward building the methane digesters, lined lagoons and dust-suppressing systems that help dairies control waste and pollution. But the state agency that granted the loans seems to have failed to require any of those.

We deserved better.

## **'Public assistance' for dairies**

**Low-interest state pollution-fighting loans were 'erroneously' given to polluting dairies to build in smoggy San Joaquin Valley.**

[Bakersfield Californian, Editorial, Wednesday, Oct. 13, 2004](#)

One word describes the use of millions of dollars in low-interest pollution cleanup loans to move mega-size dairies into the smoggy San Joaquin Valley: **Outrageous!**

State Treasurer Phil Angelides says it won't happen again. An angry state Sen. Dean Florez, D-Shafter, says he will hold hearings to investigate.

Taxpayers particularly those in Kern who are subsidizing the very dairies that will be filling our air with pollution, and gagging us on the odors and flies are entitled to answers and accountability.

- How did dairies gain access to a pollution-fighting publicly supported pot of gold?

- Why should dairies substantially enriched when they sold their land in the Chino basin qualify for "public assistance?"
- What are these relocating dairy operators doing with their windfalls? Investing the money for a higher return, while they build their new dairies with "public assistance?"
- Why did Angelides and his other buddies Controller Steve Westly and the governor's finance director who oversee the Pollution Control Financing Authority grant the loans without requiring the new dairies to install pollution-cutting innovations?
- Who is responsible for the bogus justification being used to approve the loans?

Angelides told *The Los Angeles Times* that the money for dairies was misspent the dairies should never have received the bond money.

But he contended the dairy farmers are not at fault. The blame rests with the pollution control authority Angelides and his buddies.

It's good to see a politician take the blame. But the squandering of the bond money and the squandering of a real opportunity to force dairies to clean up their act needs more than a mea culpa. It needs real answers.

Nine Kern County dairies received about \$37.4 million in state low-interest loans (about 1 percent) in the past four years.

Six of them the two Borba family operations, as well as Western Sky, Carlos Echeverria & Sons, T & W Farms and Bidart dairies are so-called "mega-dairies" south of Bakersfield.

The other three, Poso Creek Family Dairy, JDS Ranch and Southern Cross Dairy, are large operations located near Wasco, Delano and Buttonwillow.

In all, about \$70 million in tax-exempt bond money meant to support pollution control efforts was channeled to 18 valley dairies by a "staff error," according to Angelides.

Disclosure of the "staff error" and Angelides' decision to suspend awarding the loans stemmed from a Sierra Club activist blowing the whistle and *The Los Angeles Times* investigating.

Listed on the approvals of the loans was the same reason: Each new or expanded dairy would benefit the environment by diverting waste from a state landfill.

Sounds good. Too bad dairies don't send their waste to state landfills.

In return for taxpayers' generosity, farmers promised to provide an "environmentally sound method of disposing of animal waste." They contended by expanding their acreage, they would be able to better spread their manure and would have less chance of polluting the groundwater, as they have in Chino.

But Florez responded Monday, "The idea that you are reducing pollution by adding more land over which to spread the manure is ludicrous. ... it still produces the same amount of air pollution. What they aren't saying is that they have greatly expanded the number of cows in each of these dairies and that means more pollution. Period."

Angelides agreed that the reasoning was faulty and the environmental impacts of the big dairies were not scrutinized.

So how did this happen? How did a program established by the Legislature in 1972 to provide industries with money to build or expand pollution control facilities get hijacked by the dairy industry?

Dairyman David Albers told *The Los Angeles Times*, "We went through the process and got the money fair and square."

John Dunlap III, who now represents a dairy advocacy group but once was chairman of the California Air Resources Board, told *The Californian* that his group will "examine what the rules were for their use and how our industry can meet those expectations."

Angelides has frozen \$24 million in loans already approved this year for additional dairies.

## **Need to focus on air**

[Bakersfield Californian, Letter to the Editor, Wednesday, Oct. 13, 2004](#)

I see lots of concerns in this column every day, some good, some silly, some petty, but to that person, it's important. What I don't see is our number one concern that few will discuss. That is our air quality. We are all affected, from our parents down to our pets. Ask yourself how much does this bad air cut down on your health and life span?

We are building another L.A. here. They have an escape for the air, the Pacific Ocean; we have nothing. Remember, you are only as good as your next breath. Nothing else matters if you can't get it. Think about it.

-- DAN DAWSON, Bakersfield

## **Dairies hurt desert**

[Bakersfield Californian, Letter to the Editor, Wednesday, Oct. 13, 2004](#)

You are to be commended for the excellent coverage you and your reporters are giving our dairy discussions. I would argue over the phrase "squeezed out" when used to describe the dairies leaving Chino.

I attended the July meeting in Wasco chaired by Sen. Dean Florez. I sat behind a row of dairy representatives who sat with Supervisor Ray Watson's aide, Blair Knox, and behind Supervisor Watson. Such jollity between the dairy reps and Blair and Supervisor Watson.

Under patient questioning from Sen. Florez of the dairy reps, we learned they felt the time was "appropriate" to leave Chino because Chino (after having their groundwater compromised by the dairies) is asking for stricter regulations and the dairies do not wish to comply because it is too expensive and developers in Chino are offering sky-high prices for land in and around Chino to build on.

We learned that for the past year the dairy folks have already been bringing their manure/waste over the hill and dumping it in Kern County. Who knew? A preview of their idea of a good neighbor?

I would remind all that we live in a desert. It blooms and produces such bounty because we have been blessed with wonderful, sweet, pure water. If we are not good stewards of this county, it could return to desert again.

I remember the desert sand storms and tumbleweed walls. Is that really what you want to return to? Will you let our county, our way of life, be destroyed so that the dairymen can continue theirs?

-- BILLIE R. THURMAN, Bakersfield