

## **State EPA chief hears ag concerns in Madera**

By Charles McCarthy, The Fresno Bee

Tuesday, Oct. 5, 2004

MADERA — Twenty local farm representatives complained to the state's top environmental official Monday that they're forced to obey mixed signals on water, pesticides and clean air.

California Environmental Protection Agency Secretary Terry Tamminen stopped at the Madera Irrigation District offices en route to meetings in Fresno. He got an earful in Madera.

"Farmers are under attack here ... on environmental issues from all sides," said cattleman H. Clay Daulton. "What is your wish for California agriculture? Do you want it to be competitive, or do you want it to go away?"

Tamminen was told about conflicts between San Joaquin River water users and those fighting to release Friant Dam irrigation storage and restore the river's environment. Growers have been working with state and local officials to find an elusive balance.

"We realize that if we don't solve our problems, the state will," grower Jim Cobb said. Tamminen was appointed in November by Gov. Schwarzenegger. He has been involved with a litany of environmental activities and also once managed the largest sheep ranch west of the Mississippi River and started a fish-breeding business.

He said MID General Manager Stephen H. Ottemoeller warned that rising water costs each year make it more difficult to put water on crop-producing land. Madera County Supervisor Frank Bigelow told Tamminen that he served two terms as San Joaquin River Conservancy chairman. Bigelow said what once was a "local-driven" organization has become "state-driven."

"It's caused a lot of trouble," he said.

Tamminen promised to follow up on specific questions he couldn't answer immediately, and he urged the group to e-mail him in Sacramento.

## **Tehachapi residents get wind of pollution**

**Calm day allowed plume to drift into city from cement plant that had drawn complaints from man**

By MATT WEISER, Californian staff writer  
Bakersfield Californian, Tuesday, Oct. 5, 2004

One man's lonely battle against pollution from a cement plant is suddenly making sense to hundreds of Tehachapi residents, all because of a change in the weather.

On Sept. 23, always-breezy Tehachapi suddenly had a calm day. This allowed a massive plume of exhaust from the Lehigh Southwest cement plant east of town to drift westward, back toward the city, giving many residents a feel for the cloud that Gordon Jones says has been hanging over his life for some time.

"I've been complaining about this going on seven years now, because of just the total inundation of dust on our property," said Jones, who lives in rural Sand Canyon, normally downwind of the plant. "As long as it was coming out here, most townspeople thought, 'Well, gee, I'm glad we don't live in that area.'"

But dozens of people complained on that calm day, only to learn that the company received a special variance in July from the Kern County Air Pollution Control District. The variance makes that kind of pollution perfectly legal on a temporary basis.

Nevertheless, Lehigh Southwest was cited by the air district for creating a public nuisance, because the plume bothered so many people.

"It was just a huge plume of what looked like smoke coming out of the plant. The huge plume ended up migrating toward town," said Tehachapi City Manager Jason Caudle. He sent a letter to the air district the next day, demanding that the variance be revoked to protect public health.

The plume began to appear periodically starting in December 2003 at the plant, formerly known as the Monolith cement plant. Most of Jones' complaints have been about clouds of dust caused by blasting at Lehigh's adjoining open-pit limestone mine. The plume from the cement plant is a more recent concern.

Lehigh officials say the variance is needed so the company can figure out what's causing the plume.

Cement plants, they said, are sometimes afflicted with a "detached plume," meaning that detectable emissions do not form until just after exhaust leaves the smokestack. Chemicals in the plume don't combine to create a problem until after leaving the stack, so sensors inside the stack can't detect the problem.

This often occurs due to changes in the ore and other raw materials used to make cement. The ultimate cause can only be determined through exhaustive and expensive testing, said Lehigh spokesman James Simmons.

Testing by the company so far shows that the plume contains ammonia, sulfates and chloride, all potentially harmful to the public under the wrong conditions. But Simmons said none of these emissions exceed the company's operating permits.

"Right now we have no reason to think there's any health effects," Simmons said. "We're trying as hard as we can to see if we can get a solution very quickly."

The company requested the variance to avoid frequent pollution violations while testing is under way. It originally asked for a one-year variance. The air district approved a six-month variance on July 15.

"We're investigating to make sure they're complying with the provisions of the variance," said Tom Paxson, air pollution control officer.

The air district will issue a fine associated with the Sept. 23 violation, but the amount has not been determined yet. Also, Paxson has adopted a procedure to penalize Lehigh Southwest again if a similar problem occurs, and then to revoke the variance if five or more violations occur.

Caudle said Lehigh Southwest is an important part of Tehachapi's economy, but he hopes the air district is now watching it more closely.

"They're of utmost importance to the community," he said. "But you have to balance our health and safety as it relates to the importance of business."

### **EPA undercut its own lawsuits, report says Inspector general concludes that a rule change in 2003 'seriously hampered' settlement and enforcement efforts.**

By Jeff Nesmith, Cox News Service

in the O.C. Register, Sat., Oct. 2, 2004

WASHINGTON – An Environmental Protection Agency report charging that the agency undermined its own lawsuits against air polluters by changing key regulations was praised Friday by environmentalists and condemned by industry groups and the EPA.

EPA Inspector General Nikki Tinsley charged in the report that rules written by the agency in 2003 had impaired the agency's efforts to enforce clean air standards with Clinton-era lawsuits against power plant operators in the South and Midwest.

"The October 2003 rule change has seriously hampered ... settlement activities, existing enforcement cases, and the development of future cases," she declared in a report released Thursday.

She said the agency should consider changing the rule again so that it will comply with charges in the lawsuits.

Older power plants are "grandfathered" out of having to comply with some provisions of the Clean Air Act, and the rule change gave their owners new latitude in performing "routine maintenance" not subject to Clean Air Act enforcement.

The lawsuits, filed by the Justice Department and the EPA in November 1999, charged that the companies had evaded a provision known as "new source review," which prohibits expanding grandfathered plants without complying with the air pollution law.

The suits charged that the utilities had used "maintenance" as a subterfuge for expanding and modernizing the plants without complying with federal air pollution laws.

Coal-burning electric utilities have fought to get the new source review rule changed since the suits were filed.

When they issued the new, more flexible rule, EPA officials appointed by President George W. Bush said the change would not be retroactive, and therefore would not affect the lawsuits.

EPA said the inspector general report "misleads the public about agency actions to reduce pollution from coal-fired power plants."

"We vigorously enforce the Clean Air Act and have an aggressive plan to achieve immediate and dramatic pollution reductions from coal-fired power plants," the agency said.

The agency was also defended by industry groups and their supporters in Congress.

"It is intensely frustrating that EPA's own inspector general could so completely misconstrue the purpose of the new source view requirements and, simultaneously, shortchange the agency's own success in improving air quality," said the Edison Electric Institute, a utility trade group, in a news release.

The National Association of Manufacturers called the 67- page inspector general report "simplistic."

Senate Environment and Public Works Committee Chairman James Inhofe, a vocal critic of new source review, said the inspector general's report "does not deserve to be called a 'report.'"

"The inspector general's core mission is to focus on waste, fraud and abuse, which is not at issue here," he said.

But environmentalists and their supporters saw in the report confirmation of their charges that the Bush administration has tried to cripple environmental enforcement to benefit smokestack industries.

"This report confirms that top political officials at the agency charged with protecting public health had to have known that they were letting power plants off the hook for pollution that shortens lives and triggers asthma attacks," said John Walke of the Natural Resources Defense Council.

Clean air activist Frank O'Donnell said the inspector general "has peeled away the Bush administration's propaganda and shown that its 'reform' was just a naked attempt to aid big smokestack polluters."

Sen. James Jeffords, I-Vt., Inhofe's predecessor as committee chairman, said the report was "further evidence that the Bush administration has been trying to gut the enforcement of the Clean Air Act since coming into office."