

Group files suits against projects Both developers in question took steps to avoid legal challenges over pollution

By MATT WEISER, Californian staff writer
Bakersfield Californian, Wednesday, Nov. 10, 2004

Local Sierra Club members have filed two more lawsuits against new Bakersfield housing subdivisions, saying the projects fail to fully address the air pollution they will cause.

The twist on the latest cases is that both projects in question took steps to avoid just such a lawsuit.

The Hageman Northwest project was approved by the Kern County Board of Supervisors on Sept. 14. It consists of 382 homes on 160 acres at the intersection of Hageman and Heath roads. The Sierra Club filed suit against the county and the developer, Hageman Northwest limited partnership, on Oct. 27.

The second project calls for 100 homes on 29 acres in northeast Bakersfield, near Mesa Marin Raceway. The developers are Cornerstone Engineering and Arnold and Vicki Young. It was approved by the City Council on Oct. 6. The Sierra Club sued the city and the developers on Tuesday.

Both lawsuits were filed in county Superior Court.

In both cases, the Sierra Club questions the methods used to determine how much air pollution each project would cause from the vehicle trips and other activities of the people who will live there.

In the Hageman project, the developer used computer models to show that the project will add 5.7 tons of air pollution to the region annually. To cancel out these emissions, the developer planned to pay for other pollution control projects, such as crushing older-model cars and subsidizing the purchase of cleaner public fleet vehicles and agricultural equipment.

The goal was to reduce the project's pollution down to zero.

But Gordon Nipp, board member of the Sierra Club Kern-Kaweah Chapter, said those measures offer only temporary benefit, considering that the new homes will be around for at least 100 years. And in any case, he said, the project will worsen the smog problem because its analysis of air quality is flawed.

"To call this a zero-emissions strategy is absurd," said Nipp. "What they really ought to be offsetting is more like 70 tons of pollutants. Those are the pollutants that we compute are going to be associated with the project."

In the other project, Cornerstone Engineering offered to contribute \$35,000 toward pollution control projects. Nipp said they haven't done the necessary studies to show that this amount of money will help clean the air. He said the developer also failed to consider air pollution caused during construction.

The cases are part of an ongoing effort by the Sierra Club to reduce air pollution caused by housing development.

The group has reached nine settlements with developers, mainly in the fast-growing northeast. In each case, the developers have agreed to pay \$1,200 per home into a fund to pay for clean-air projects. These deals affect about 3,000 new homes, amounting to some \$3 million for pollution projects.

The fund will be overseen by a committee of community leaders, and none of the money goes to the Sierra Club.

Developers and government officials familiar with the latest lawsuits could not be reached for comment Tuesday.

Ted James, county planning director, said he could not comment on the Hageman Northwest lawsuit itself. But he said the zero-emissions strategy used in the project is a better way to reduce pollution, because the reductions are measurable.

"We've provided mitigation that goes much further than this committee concept that they've settled on with these other developers," said James.

Bakersfield has some of the nation's worst smog, and rapid housing development is a contributing factor.

Air quality continues to improve, mainly because vehicles keep getting cleaner. But studies show a tipping point may be reached in coming years where smog begins to worsen because sprawl forces people to drive more, and because the diversity of activities and consumer products associated with housing development add to the problem.

One solution is to build more compact communities, and to mix housing and commercial development so people don't have to drive a car to meet all their needs.

Both of the projects in question are on the edge of town, with no easy access to commercial development.

"The more development there is, the more air pollution there's going to be," Nipp said. "We certainly don't want it to get worse with all of this expansion."

In both lawsuits, the Sierra Club notes other problems, from inadequate surveys for endangered species to a failure to follow community planning guidelines that call for improving air quality, providing a variety of housing types, and conserving natural resources.

The group wants the court to halt further work on the projects, and to order the developers to perform more thorough environmental studies.

Program aims to convert engines Utilities' proposal seeks to get farmers to switch from diesel units to electric ones

By ERIN WALDNER, Californian staff writer
Bakersfield Californian, Wednesday, Nov. 10, 2004

Pacific Gas and Electric Co. and Southern California Edison proposed an incentive program on Tuesday that's designed to encourage farmers to replace their diesel irrigation pumps with electric models.

"I do have a diesel engine. I do plan to convert it over," said Wasco area farmer Jim Crettol, president of the Agricultural Energy Consumers Association.

Environmental groups applauded the proposal.

"It absolutely has the potential to be a significant help to our air quality. Just replacing one diesel engine can reduce about a ton of smog-forming emissions," said Dave Warner, director of permit services for the San Joaquin Valley Air Pollution Control District.

The program would establish a new electric rate schedule for participants. The proposal calls for a 20 percent reduction in applicable rates. The incentive rate would increase by 1.5 percent each of the 10 years of the program.

The proposed rate is designed to be comparable to the cost of operating a diesel engine, according to Denise Newton, a senior PG&E account manager in Bakersfield.

Currently, farmers who use electric-powered irrigation pumps have to pay demand charges to PG&E or SCE even when they're not using the pumps. Customers refer to this as a stand-by demand charge.

Crettol said he only uses his pumps during the growing season, about 30 percent of the time.

Under this program, participating PG&E customers would only be charged for using their pumps when they actually use them, according to Newton. When they don't use their pumps, they would be charged a monthly customer fee of about \$40.

Crettol said that currently, demand charges can be as high as \$700 a month, depending on the size of the pump.

SCE's stand-by demand charges would be reduced by 60 percent to 70 percent in the summer, when farmers typically use their irrigation pumps the most, according to Danny Johnson, an SCE customer services manager.

Other aspects of the proposed program include:

The retirement of air pollution emissions credits associated with diesel engines.

Enhanced line extension allowances. PG&E and SCE say this will help defray the costs of converting from diesel to electric pumps.

Pump efficiency tests to make certain the new pumps are working properly.

The program, if approved by the California Public Utilities Commission, could go into effect as early as March, according to PG&E.

The proposal comes at a time when farmers face new, more stringent requirements for operating diesel engines. PG&E spokeswoman Cindy Pollard said under this program, farmers would not have to make costly retrofits to their diesel engines.

Crettol said farmers used to prefer using diesel-powered irrigation pumps because diesel fuel was so cheap.

In the past year, though, the cost of diesel has reached record levels in the United States. In California Monday, diesel averaged \$2.39 a gallon, compared with \$1.63 a year ago, according to the U.S. Energy Information Administration.

Crettol said that in addition to cost savings, electric pumps require less maintenance than diesel pumps.

"You walk up, push a button and that's it," he said.

Wood shredding demo to showcase new technology

Tuesday, November 09, 2004

By Gary Chapla - Tribune Staff Writer - The Madera Tribune

Are you a farmer? A wood cutter or shredder? If so, put on your overalls and flannel button-up and drive out to George Andrew Ranch on Wednesday for the Almond Brush Shredding Demonstration Day.

Event organizer Dr. Brent Holtz, farmers and agriculture members will talk about and demonstrate how the newest machines and technology cut and shred orchard prunings.

Holtz, the University of California Farm Pomology Advisor, said the machines improve crop growing and selling by pulverizing brush chips. The pulverized chips should help ground-drying crop dry correctly.

He described the improvement in one word: sawdust.

"The brush turns into sawdust, basically," said Holtz. He said sawdust helps growers in a number of ways.

First is healthy soil promotion. Soil is home to microscopic worms called Nematodes. These

worms, some parasitic, some beneficial, can "clean" soil by eating bacteria instead of the tree, leaving nutrients for crop-growing trees and vines. Nutrients help trees grow stronger and bear a better crop. He said also that brush could interfere with gardening if brush is too big.

Clean-up is the second improvement. He said, because ground-dried foods dry on the ground, they risk mixing with the brush. A farmer might accidentally pick up nonrefined brush chips with his crop. If the farmer is alert, he will remove most of the brush, not all, from the crop. If that brush is turned into saw dust, brush removal doesn't exit. The saw dust then turns into organic food, Nematode fodder, once it settles into the ground.

Closely connected to clean-up is selling. Brush mixed with crop can deter customers from buying a crop.

Environmental conditioning is fourth. Simply: less burning is less air pollution.

Chipping and burning issues will be discussed, said Holtz. Wayne Clarke, of the San Joaquin Air Pollution Control District, will be on hand to talk about them.

Local air bad even in good season

By Susan Abram, Staff Writer
Los Angeles Daily News
Tuesday, November 09, 2004

SANTA CLARITA -- While much of Southern California rejoiced in the news that air quality was the best in 25 years, the Santa Clarita Valley's remained troublesome.

"It's a challenge for us," said Santa Clarita spokeswoman Gail Ortiz. She said city officials are actively seeking ways to promote healthier air within municipal boundaries, such as planting more trees, encouraging residents to use mass transit -- trains from one of the three local Metrolink stations or buses in an expanding transit program. Among destinations for the buses are Century City and the Warner Center.

Still, much of the problem requires regional effort, Ortiz and AQMD spokesman Sam Atwood agreed, and joint discussions began during a special meeting last year.

In a report released last week, cooler summers and progress in pollution-control programs were touted as the reasons for healthier air overall in the South Coast Air Quality Management District, which covers most of Los Angeles, Orange, Riverside and San Bernardino counties.

"Unlike last year, when unusually hot weather brought poor air quality, this summer's moderate temperatures helped make this the cleanest smog season on record," Barry Wallerstein, executive officer of the AQMD, wrote. "Cleaner cars, businesses and industries also have helped drive a long-term trend of air-quality improvement."

But Santa Clarita was one of the trouble spots. Local air pollution exceeded the federal ozone standard 13 times in 2004, when measured on a one-hour standard, and 48 times on an eight-hour standard. This made it the second worst in the region on one scale and third on the other -- behind the central San Bernardino mountains and the East San Bernardino basin.

However, Santa Clarita also got some air-quality benefit from the June gloom, officials said.

The previous year's smog season in Santa Clarita had been among the worst in the nation, surpassing 32 days with ozone levels in excess of the federal health standard.

The smog season typically lasts from May into October. Smog ingredients "cook" together in bright sunshine and stagnant air, Atwood said.

"In general, the worst air quality is (in) the far-inland valleys, 40 or 60 miles downwind of where the transmissions are first emitted," Atwood said. "Santa Clarita is one of those areas where the smog cloud sits and bakes."

The U.S. Environmental Protection Agency recently enacted an eight-hour ozone standard, exceeded when ozone levels rise above 0.08 parts per million on an eight-hour average, according to the AQMD. The standard is tougher than the one-hour standard, exceeded when ozone levels are above 0.12 ppm on a one-hour average.

Southern California must meet the eight-hour standard by 2021, Atwood said.

"It will make a difference, particularly in areas like Santa Clarita," Atwood said.

Meanwhile, the AQMD is still compiling an analysis of the air quality in Santa Clarita to be completed by the end of the year. The report's findings are expected to determine how much pollution is blown into the valley and how much is generated within it.

Environment Officials See a Chance to Shape Regulations With reelection of Bush, EPA plans to promote a pro-industry agenda. Critics fear an overhaul of decades-old protections.

By Elizabeth Shogren and Kenneth R. Weiss, Los Angeles Times, November 10, 2004

WASHINGTON - Emboldened by President Bush's victory, the nation's top environmental officials are claiming a broad mandate to refashion the regulation of air and water pollution and wildlife protection in ways that will promote energy production and economic development.

"The election was a validation of the philosophy and the agenda," said Mike Leavitt, administrator of the Environmental Protection Agency. Environmental protections, he said, must be done "in a way that maintains the economic competitiveness of the country."

Leavitt pointed out that four more years give administration officials an opportunity to mold the environmental agency's professional staffs to more closely reflect their priorities. Leavitt said 35% of the EPA's staff would become eligible to retire in the next four years, giving him a chance to remake from the inside out the agency that takes the lead in enforcing air and water pollution and the cleanup of toxic dumps.

Administration officials spoke of a renewed commitment to long-standing priorities. For example, James Connaughton, chairman of the White House Council on Environmental Quality, said President Bush would not reconsider regulating carbon dioxide emissions - despite scientific alarm over global warming - because such a policy would hurt the domestic coal industry and send jobs overseas.

To the administration's most vocal critics, the agenda amounts to a sweeping overhaul of the nation's 30-year-old system of environmental protections.

"They are trying to shred the environmental safety net," said Carl Pope, executive director of the Sierra Club. Pope predicted renewed efforts to weaken the Endangered Species Act, the Clean Water Act and the National Environmental Policy Act.

But Bush administration officials stressed that they are finding new ways to protect and improve the environment while increasing jobs and producing more oil, gas and electricity.

"We are identifying the environmental objectives we want to meet and working with the affected sectors to produce the policies that enable us to meet the standards in the context of growing the use of our natural resources and the [creating of] jobs," Connaughton said.

Mark Rey, assistant secretary of Agriculture who oversees the U.S. Forest Service, and Interior Secretary Gale A. Norton said that a priority for the next four years will be fulfilling the president's pledge to restore or improve 3 million acres of wetlands.

At the same time, the administration's top environmental officials, along with key allies in Congress, have made clear their intentions to push forward with controversial plans to open more of the Rocky Mountain region to gas development. They have also expressed hope that a larger Republican majority in the Senate will allow proponents of energy production to prevail in their long-running battle to open Alaska's National Wildlife Refuge to oil drilling.

They also are geared up to make industry-inspired changes to the way the government regulates air pollution from power plants and decides whether hydroelectric dams need to be altered to allow fish to pass.

With their ranks increased in both houses, Republicans in Congress said they would try to relax laws that protect species from going extinct; that compel power plants to reduce smokestack pollutants; and that require the military to abide by air and toxic pollution laws during peacetime training exercises.

But industry lobbyists caution against excessive optimism, pointing out that the 55 Senate Republicans still need five votes to overcome a Democratic filibuster of bills.

William Kovacs, a vice president of the U.S. Chambers of Commerce, said it would be "very difficult" to pass pro-industry legislation and predicted that most efforts to ease restrictions on business would have to come through changes in the regulations.

On the other hand, four more years does give the administration a chance to make a lasting impact on environmental policy through lifetime appointments to the federal courts. During Bush's first term, the courts often sided with groups that sued the federal government to compel stricter enforcement of environmental laws. But the judicial climate could change dramatically with new appointments.

"It is close to the tipping point in a number of appeals courts, particularly on the U.S. Supreme Court and the D.C. Circuit [Court of Appeals]," said Glenn Sugmeli of the environmental law firm Earthjustice.

The 12-member District of Columbia Circuit Court has broad influence over U.S. policy and law because of its authority to review rule-making by federal agencies.

Despite unrelenting criticism of the president's policies by Democrats and activists, the environment did not emerge as a prominent issue in the presidential campaign. Nor did Bush say a word about the subject in his news conference last week outlining his second-term priorities.

While environmental groups have enjoyed little access or influence during Bush's first four years in office, hunting, fishing and gun owner organizations fared better.

Gun owners voted by a 2 to 1 ratio to reelect Bush, but only after the president addressed their concerns that his policies were endangering wetlands and streams and turning prime big game habitat into massive drilling fields. In December, the president dropped plans to remove Clean Water Act protections for many streams and wetlands, and in October, he shelved a plan to drill in Montana's Rocky Mountain Front, which is prized by anglers and hunters for its spectacular scenery and abundant game and fish.

Connaughton said those groups have "played a very strong role" in establishing policies on wetlands and oil and gas development in areas that are home to wildlife. He predicted they would be "strong and lasting partners" whose influence will not dim now that their votes have been cast.

Jim Range, president of the Theodore Roosevelt Conservation Partnership, an umbrella organization of hunting and fishing groups, said he believes administration officials will continue to respond to sportsmen's interests.

"He wants to help us where it's the responsible thing to do, and he and the folks at the White House have gotten that message out to the folks in the agencies."

But environmental leaders are bracing for the worst.

"I see a lot of damage in the next four years," Pope said. "These laws are not self-enforcing. If you take the federal cop off the beat, there will be more watersheds damaged by irresponsible logging, more mercury in our fish, more cases of asthma in our elementary schools, more public lands devastated by oil and gas mining."

Environmentalists said that it will take years to see the full force of Bush's negative imprint on the nation's environment.

"There's a lag time between when decisions are made and their impact," said Eric Schaeffer, a former EPA official who heads the Environmental Integrity Project, a watchdog group. "The [Bush] administration can say the air is cleaner in many parts of the country, which is a harvest from previous decisions made in earlier administrations. The bad decisions made today will play out in future years."

Administration officials countered that a record of a cleaner environment will prove their critics wrong.

"People will look back on this period as one of the most productive periods environmentally in the nation's history, despite how people have tried to characterize it differently," Leavitt said.

Panel offers little advice on state overhaul 12-page report offers no consensus on how governor should proceed

By Tom Chorneau, AP, TriValley Herald, November 9, 2004

SACRAMENTO -- In stark contrast to the 2,500 pages of the California Performance Review, a commission's analysis and recommendation of the massive plan for reorganizing state government offered little help to Gov. Arnold Schwarzenegger on which goals to pursue. The 12-page report from the governor's 21-member commission shied away from virtually all of the controversial aspects of the plan while making only general comments about the proposal.

The California Performance Review, which the governor has hailed as a landmark analysis of state government, called for the consolidation of dozens of departments, reduction of the work force by 12,000 positions and eliminating many of the state's 118 boards and commissions.

But the commission's report, posted without notice on Friday on the CPR Web site, did not go into depth on any of the plan's recommendations and indeed mentioned only a handful of ideas.

Some commission members said the panel was unable to reach consensus on the merits of the Performance Review.

"This is not a ringing endorsement," said J.J. Jelincic, the president of the California State Employees Association, a union of public employees. "We didn't really get into the nitty gritty of the proposals; we weren't supposed to."

Ashley Snee, a spokeswoman for the governor, said the commission initially was only supposed to conduct public hearings to allow citizens to comment on the plan. But members of the commission also wanted to express their opinions and the 12-page memo to the governor represents a consensus of what a majority of the commissioners wanted to say.

Snee said the commission also analyzed hours of public testimony delivered since the plan was unveiled in August. "The commission provided a valuable service and the governor absolutely appreciates their service."

Schwarzenegger had great expectations for the reorganization plan's effect on the budget. Initially, the authors of the report said that if all 1,200 recommendations were implemented, the state could save more than \$30 billion over five years. A subsequent analysis from the Legislative Analyst's office estimated the savings at less than half that amount.

Many proposals drew criticism, and reports that corporate lobbyists and attorneys shaped many of the recommendations hurt the study's credibility, some analysts said. Unions, such as the California State Employees Association, opposed ideas for privatizing government services.

The commission's final recommendations included a call for the state to improve its technology systems and reorganize some parts of the bureaucracy. Schwarzenegger has already issued an executive order calling for the consolidation of two major computer centers, a move the state's chief information officer said could cost more than \$1 billion.

The panel noted that anything the governor can do without legislation to improve services and efficiency should be undertaken, but the group didn't list all the ideas the governor should consider.

The commission supported the creation of an Infrastructure Department to plan and oversee future needs for things such as drinking water facilities and air quality control and they supported the concept of an Office of Management and Budget.

The commission also supports the consolidation of the state's troubled prison system into one department.