

Big Rail Firms Sue Air Board

Two major railroads fight AQMD over rules saying trains cannot idle more than 30 minutes. Regulators call the industry 'recalcitrant.'

By Janet Wilson, Times Staff Writer
Los Angeles Times, March 8, 2006

Two of the nation's largest railroads sued Southern California air quality regulators Tuesday, saying new rules that ban idling near neighborhoods interfere with interstate commerce and are unconstitutional because only the federal government can regulate the rails.

"California has 35 air districts, and if [the air-quality district] is allowed to impose their rules, all air districts would be allowed to impose local variations," said Mark Stehly, Burlington Northern Santa Fe Railway Co.'s assistant vice president of environment and research and development.

"You'd have a train moving from San Diego to Sacramento going through a dozen or more air districts, possibly having to comply with different rules.... You'd never be able to move traffic."

But South Coast Air Quality Management District officials sharply disagreed, saying they had to impose the rules because the railroad industry had been "recalcitrant" and diesel locomotives were major polluters.

"It's time for the railroads to abandon their 19th century mentality that they're immune to all local regulations, and immune to the need to protect public health," said Sam Atwood, spokesman for the air district.

The suit, filed Tuesday in U.S. District Court in Los Angeles by Burlington Northern, Union Pacific and the American Assn. of Railroads, seeks to void air-district rules under which locomotives cannot idle more than 30 minutes, and railroads must keep records of idling and conduct health risk assessments. Atwood and AQMD's senior counsel, Kurt Weise, said the rules were easy to follow and would not interfere with schedules.

But rail officials said the 30-minute limit on idling, for instance, was nearly impossible to follow because crews needed to use locomotive-powered air brakes while taking lunch breaks. Otherwise, they said, they would have to spend most of their lunch breaks setting hand brakes on long trains.

Railroad officials said the air district's rules could also kill portions of a voluntary agreement with the California Air Resources Board that achieves many of the same goals. In the state pact, railroads agreed to end "nonessential" idling, equip locomotives with shut-down devices and adopt other measures. But the agreement allows idling for 60 minutes and does not require recordkeeping.

The state agreement has an escape clause, heavily criticized by the air district and environmentalists, that if a local agency passes stricter laws, the railroads can walk away from the statewide deal. Railroad officials said Tuesday they had no plans to do so "at this time."

State air board spokesman Jerry Martin said if the railroads opted out, the air board would ask the companies to do so only in the Southland.

Martin said the state board's executive director, Catherine Witherspoon, had signed a voluntary agreement with the railroads precisely because they wanted to avoid being sued, and implement air-quality improvements as soon as possible.

Rail companies sue LA area air regulators over pollution rules

Bakersfield Californian and San Francisco Chronicle, Wednesday, March 8, 2006

Los Angeles (AP) -- The Association of American Railroads and two railroad companies sued Southern California's air quality regulators Tuesday, claiming they overstepped their authority by setting rules to reduce air pollution caused by locomotives.

The association, Union Pacific Railroad and the Burlington Northern Santa Fe Railway claim in the federal lawsuit that the Clean Air Act and other federal laws largely pre-empt the South Coast Air Quality Management District from regulating interstate pollution sources such as railroads, ships and aircraft.

If the agency, which addresses clean air issues in all or parts of Los Angeles, Orange, Riverside and San Bernardino counties, was allowed to adopt its own regulations, "there would be nothing to stop every other air district ... from doing the same," according to the lawsuit. That, in turn, would "seriously adverse safety and operational consequences for the nation's rail system," the companies said.

The chairman of the district's board of directors countered that AQMD's rules, approved Feb. 3, were not illegal because they do not interfere with interstate rail operations.

"The railroads are responsible for a huge amount of air pollution, and unlike oil refineries, power plants and even the auto industry, they have done relatively little compared to other sources to reduce their emissions," William A. Burke, the district board's chairman, said in a statement.

Among other things, the new regulations bar all locomotive engines from idling for more than 30 minutes, causing what regulators call "public nuisance and serious public health concerns."

The regulations were more stringent than last June's voluntary agreement between Union Pacific Railroad, the Burlington Northern Santa Fe Railway and the California Air Resources Board, which was designed to eliminate 20 percent of pollution at rail yards by eliminating unnecessary engine idling and other pollution controls, but which was not legally binding.

Angelides Draws Scrutiny as Well as Support

Political insiders are asking if the candidate is being aggressive enough to fend off Steve Westly as the two vie for the Democratic nod in June.

By Michael Finnegan, Times Staff Writer
Los Angeles Times, March 8, 2006

California's biggest labor group is preparing to throw its support today behind state Treasurer Phil Angelides in the Democratic primary for governor, a move that would fortify his standing as the party establishment's favorite in the race.

But even with labor tilting his way, Angelides faces mounting financial pressure and questions among some party strategists about whether he has responded aggressively enough to the threat posed by his June 6 primary rival, state Controller Steve Westly.

Angelides' rapid spending pace has left him relatively tight on cash for the closing stretch of the party nomination contest. He spent \$5.5 million last year. That represented more than 60% of what he raised — easily double the normal percentage for a statewide candidate trying to save for television ads in a campaign's final weeks.

Exploiting that vulnerability, Westly, a dot-com mogul, has drawn on his personal fortune to buy early advertising in the costly San Francisco, Los Angeles and Sacramento television markets. That has led Angelides to start scooping more than \$1 million a week from his smaller campaign treasury to run his own spots, lest Westly pull ahead in a race that is just starting to capture the public's attention.

One of Westly's apparent goals is to bleed Angelides of the money he will need in April and May.

"Let him spend down his cash," Westly strategist Garry South said. "Unless he has some money tree he can shake at the end, he's going to run perilously short of money."

It is too soon to tell whether any of the candidates' opening biographical ads have made an impression on potential Democratic primary voters. Polls show most knew next to nothing about the two men before their commercials started airing little more than a week ago.

It is also too early to know whether Westly will dump enough of his personal wealth into the race to overwhelm Angelides, who has yet to dip into the millions he made as a Sacramento developer.

"Cash does not bother us right now," said Angelides pollster Paul Maslin. "We're going to have plenty of money to communicate our message."

Maslin recalled two wealthy Californians whose lavish personal spending went for naught: gubernatorial hopeful Al Checchi in 1998 and U.S. Senate contender Michael Huffington in 1994. If Westly advisors believe "it's all money, I'm sure Gov. Checchi and Sen. Huffington agree," Maslin said.

In his most recent campaign finance statement, Westly reported \$24.1 million in the bank at the end of the year, including \$20 million from the fortune he built at EBay, the Web auction company; Angelides had \$17.1 million on hand. On Friday, Westly put \$2.5 million more into his campaign account.

Some of Angelides' deficit could be offset by his support among key Democratic groups, particularly organized labor. In Oakland on Tuesday, he and Westly each addressed a private California Labor Federation gathering to plead for support, but the group is all but sure to endorse Angelides today, union leaders said. The AFL-CIO federation of more than 1,200 union locals, which represents more than 2 million members, could provide Angelides with thousands of campaign volunteers.

But questions about Angelides' campaign extend beyond money. Most striking, Angelides has largely declined to differentiate himself from Westly, instead campaigning as though he were already the Democrats' nominee to challenge Gov. Arnold Schwarzenegger in November.

Westly, on the other hand, has responded to questions about Angelides by describing him as a consummate Sacramento insider who has kept his tax returns secret, hiding his real-estate dealings from voters. He has also portrayed Angelides as an ideologue whose staunch partisanship would block him from accomplishing anything as governor. Westly aides have gone further, depicting Angelides as arrogant and abrasive.

Some Democratic strategists say Angelides is blowing his chance to start painting a similarly dark picture of Westly. Absent an overarching message that grabs public attention, Angelides needs to recognize the inevitable "trench warfare" to come and "put in place the negative story line" on Westly, said Chris Lehane, a San Francisco strategist who was a spokesman for Al Gore's presidential campaign in 2000.

For months, Lehane recalled, the vice president ignored his Democratic primary opponent, former Sen. Bill Bradley of New Jersey, only to be dragged later into a costly dogfight that drove down Gore's popularity ratings.

In this case, Angelides holds a narrow lead over Westly in early polls. But it could vanish quickly, because most voters are undecided and Westly's money gives him a chance to define Angelides in negative ways. In that environment, Lehane said, Angelides needs to do everything possible to make sure his rival "can't get off the mat."

"Angelides is the perceived front-runner, and conventional wisdom when you're a front-runner is not to engage your opponent," said Lehane, who is unaligned in the race. "The conventional wisdom is almost always wrong."

On rare occasions, the Angelides campaign has engaged Westly. In January, an Angelides spokesman mocked Westly for campaigning with Schwarzenegger for a 2004 ballot measure. But the campaign muzzled the spokesman, yanking his authority to talk to reporters.

In Bakersfield on Friday, Angelides criticized Westly's record on fighting the [air pollution](#) spawned by Central Valley dairies. On Tuesday, speaking to college Democrats at UC Berkeley, he assailed Westly for cooperating with the governor — without uttering his opponent's name.

"There are clear differences in this race," Angelides said. "There's no question about it."

But by and large, Angelides and his supporters have taken on Westly only implicitly, saving direct hits for the widely expected negative-ad battles ahead. For now, they simply describe Angelides as the only Democrat who stuck to his core beliefs and stood up to Schwarzenegger, even when the Republican governor was popular.

The unspoken subtext — that Westly did not — was apparent in a conference call that Angelides and U.S. Sen. Barbara Boxer held last week with reporters. Both dodged questions about Westly, but Boxer called Angelides "a consistent voice for what is right. I underline consistent. So many out there go with the wind."

Bob Mulholland, a senior Angelides advisor, declined to explain the campaign's muted approach to Westly. "It behooves all Democrats to talk about what they want to do for the state," he said.

Some strategists say the Angelides tactic is wise, given his broad establishment support — including backing by Boxer and Sen. Dianne Feinstein. Parke Skelton, a Democratic consultant not working on the campaign, said Angelides should "wear the presumptive nominee's hat as long as he can."

"He needs to be contrasting himself with the current administration, not get caught up in an internecine party squabble," he added.

Times staff writer Mark Z. Barabak contributed to this report.

[Sacramento Bee, Letter to the Editor, Wednesday, March, 8, 2006](#)

Governor as environmentalist

Re "Bond plan's focus ripped," Feb. 24: Gov. Arnold Schwarzenegger has a record of bold leadership on environmental causes, including protecting our wilderness, waters and coastline; setting unprecedented targets for emissions reductions; supporting the hydrogen highway initiative; reducing vehicular pollution; and improving air quality.

The governor's Strategic Growth Plan continues his commitment to improving California's environment; he is the first California governor to add air quality to the list of our vital infrastructure, dedicating \$2 billion to fight pollution, expanding transit, cutting smog; investing \$200 million in state parks, and increasing water conservation and recycling.

The administration has met with environmental groups, including groups mentioned in the article, seeking input on how to improve the environment and meet California's infrastructure needs. The governor supports smart growth, establishing the voluntary Regional Blueprint Plan program last year and allocating \$5 million for integrating planning for transportation and housing.

Californians need an infrastructure plan that will relieve congestion and improve the environment, not another decade of fruitless planning exercises.

- Terry Tamminen, Sacramento
Chief Environmental Adviser to Gov. Arnold Schwarzenegger

[Letter to the Fresno Bee, Wednesday, March 8, 2006:](#)

'State-inflicted tyranny'

It's no wonder that so many people are leaving California these days. We live in a climate of fear in this state. We live in fear of watering on the wrong day, burning on the wrong day, having someone going through our garbage to see if we put the correct trash in the correct receptacle. Are we buckling up, are we running the red light, are we talking hands-free while driving, is the child seat we are using certified?

What next, a scale at the market to stand on so that you can buy only certain foods if you're overweight? Our neighbors are encouraged to act like junior KGB agents. Does this sound like the "land of the free and the home of the brave?" Of course, they will need to keep a list to do it, there are so many offenses and so little time.

I, for one, will be among the many who will flee this state-inflicted tyranny as soon as I retire to a state where, at least, I can pretend to have some personal freedoms left.

Evelyn Ferraro, Fresno